

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

House Engrossed
FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 90
HOUSE BILL 2106

AN ACT

AMENDING SECTION 12-1598.10, ARIZONA REVISED STATUTES; RELATING TO
GARNISHMENT OF EARNINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-1598.10, Arizona Revised Statutes, is amended
3 to read:

4 12-1598.10. Continuing lien on earnings; order

5 A. If it appears from the answer of the garnishee that the judgment
6 debtor was an employee of the garnishee, or that the garnishee otherwise
7 owed earnings to the judgment debtor when the writ was served, or earnings
8 would be owed within sixty days thereafter and there is no timely written
9 objection to the writ or the answer of the garnishee filed, on application
10 by the judgment creditor the court shall order that the nonexempt
11 earnings, if any, withheld by the garnishee after service of the writ be
12 transferred to the judgment creditor who is entitled to such monies
13 subject to the judgment debtor's right to objection and hearing pursuant
14 to this article. The court shall further order that the garnishment is a
15 continuing lien against the nonexempt earnings of the judgment debtor.

16 B. If a timely objection is filed the court shall conduct a hearing
17 pursuant to section 12-1598.07 and shall make the following
18 determinations:

- 19 1. Whether the writ is valid against the judgment debtor.
- 20 2. The amount outstanding on the judgment at the time the writ was
21 served, plus accruing costs.
- 22 3. Whether the judgment debtor was employed by the garnishee at the
23 time the writ was served.
- 24 4. Whether earnings were owed or would be owed by the garnishee to
25 the judgment debtor within sixty days after the service of the writ.
- 26 5. Whether the debt was, at the time of service of the writ,
27 subject to an effective agreement for debt scheduling between the judgment
28 debtor and a qualified debt counseling organization.

29 C. If the court makes an affirmative determination under subsection
30 B, paragraph 1 of this section and subsection B, paragraph 3 or 4 of this
31 section and determines that the debt was not, at the time of service of
32 the writ, subject to an effective agreement between the judgment debtor
33 and a qualified debt counseling organization, the court shall order that
34 the nonexempt earnings, if any, withheld by the garnishee after service of
35 the writ be transferred to the judgment creditor and further order that
36 the garnishment is a continuing lien against the nonexempt earnings of the
37 judgment debtor. Otherwise the court shall order the garnishee discharged
38 from the writ.

39 D. A continuing lien ordered pursuant to this section is invalid
40 and of no force and effect on the occurrence of any of the following
41 conditions:

- 42 1. The underlying judgment is satisfied in full, is vacated or
43 expires.
- 44 2. The judgment debtor leaves the garnishee's employ for more than
45 sixty days OR, IF THE JUDGMENT DEBTOR IS AN EMPLOYEE OF A SCHOOL DISTRICT,

1 A CHARTER SCHOOL, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND OR
2 AN ACCOMMODATION SCHOOL AND THE JUDGMENT DEBTOR IS SUBJECT TO AN
3 EMPLOYMENT CONTRACT THAT SPECIFIES THAT PAYDAYS ARE RESTRICTED TO THE
4 SCHOOL YEAR, FOR MORE THAN NINETY DAYS.

5 3. The judgment creditor releases the garnishment.

6 4. The proceedings are stayed by a court of competent jurisdiction,
7 including the United States bankruptcy court.

8 5. The judgment debtor has not earned any nonexempt earnings for at
9 least sixty days OR, IF THE JUDGMENT DEBTOR IS AN EMPLOYEE OF A SCHOOL
10 DISTRICT, A CHARTER SCHOOL, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
11 BLIND OR AN ACCOMMODATION SCHOOL AND THE JUDGMENT DEBTOR IS SUBJECT TO AN
12 EMPLOYMENT CONTRACT THAT SPECIFIES THAT PAYDAYS ARE RESTRICTED TO THE
13 SCHOOL YEAR, FOR AT LEAST NINETY DAYS.

14 6. The court orders that the garnishment be quashed.

15 E. If no objections are filed to the answer of the garnishee and an
16 order of continuing lien is not entered within forty-five days after the
17 filing of the answer of the garnishee, any earnings held by the garnishee
18 shall be released to the judgment debtor and the garnishee shall be
19 discharged from any liability on the garnishment.

20 F. If at the hearing the court determines that the judgment debtor
21 is subject to the twenty-five ~~per cent~~ PERCENT maximum disposable earnings
22 provision under section 33-1131, subsection B and based on clear and
23 convincing evidence that the judgment debtor or ~~his~~ THE JUDGMENT DEBTOR'S
24 family would suffer extreme economic hardship as a result of the
25 garnishment, the court may reduce the amount of nonexempt earnings
26 withheld under a continuing lien ordered pursuant to this section from the
27 twenty-five ~~per cent~~ PERCENT to not less than fifteen ~~per cent~~ PERCENT.

28 G. A court order entered pursuant to this section if recorded does
29 not constitute a lien against real property pursuant to section 33-961.

30 H. The court, sitting without a jury, shall decide all issues of
31 fact and law.

APPROVED BY THE GOVERNOR MARCH 29, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2017.

Passed the House February 2, 2017

Passed the Senate March 23, 2017

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House
 Pro Tempore

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

27 day of March, 2017

at 2:21 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 29 day of

March, 2017

at 2:53 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29 day of March, 2017

at 4:59 o'clock P. M.

[Signature]
Secretary of State

H.B. 2106