

SECOND REGULAR SESSION

HOUSE BILL NO. 1166

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE THRELKELD.

Pre-filed December 20, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3958L.01I

AN ACT

To repeal section 525.030, RSMo, and to enact in lieu thereof one new section relating to garnishments, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 525.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 525.030, to read as follows:

525.030. 1. No sheriff or other officer charged with the collection of money shall, prior to the return day of an execution or other process upon which the same may be made, be liable to be summoned as garnishee; nor shall any county collector, county treasurer or municipal corporation, or any officer thereof, or any administrator or executor of an estate, prior to an order of distribution, or for payment of legacies, or the allowance of a demand found to be due by his estate, be liable to be summoned as garnishee; nor shall any person be so charged by reason of his having drawn, accepted, made or endorsed any promissory note, bill of exchange, draft or other security, in its nature negotiable, unless it be shown at the hearing that such note, bill or other security was the property of the defendant when the garnishee was summoned, and continued so to be until it became due.

2. The maximum part of the aggregate earnings of any individual for any workweek, after the deduction from those earnings of any amounts required by law to be withheld, which is subjected to garnishment may not exceed (a) twenty-five percentum, or, (b) the amount by which his **or her** aggregate earnings for that week, after the deduction from those earnings of any amounts required to be withheld by law, exceed thirty times the federal minimum hourly wage

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the
17 earnings are payable, or, (c) if the employee is the head of a family and a resident of this state,
18 ten percentum, whichever is less. **The court, and not the garnishee, shall be responsible for**
19 **determining whether a debtor is a head of family and a resident of this state.**

20 The restrictions on the maximum earnings subjected to garnishment do not apply in the
21 case of any order of any court for the support of any person, any order of any court of bankruptcy
22 under chapter XIII of the Bankruptcy Act or any debt due for any state or federal tax.

23 For pay periods longer than one week, the provisions of subsection 2(a) and (c) of this
24 section shall apply to the maximum earnings subjected to garnishment for all workweeks
25 compensated, and under subsection 2(b) of this section, the "multiple" of the federal minimum
26 hourly wage equivalent to that applicable to the earnings subject to garnishment for one week
27 shall be represented by the following formula: The number of workweeks or fractions thereof
28 $(x) \times 30 \times$ the applicable federal minimum wage. For the purpose of this formula, a calendar
29 month shall be considered to consist of $4 \frac{1}{3}$ workweeks, a semimonthly period to consist of 2
30 $\frac{1}{6}$ weeks. The "multiple" for any other pay period longer than one week shall be computed in
31 a manner consistent herewith.

32 The restrictions on the maximum amount of earnings subjected to garnishment shall also
33 be applicable to all proceedings involving the sequestration of wages of employees of all political
34 subdivisions.

35 The term "earnings" as used herein means compensation paid or payable for personal
36 services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes
37 periodic payments pursuant to a pension or retirement program.

38 3. In any proceeding of garnishment or sequestration of wages under the provisions of
39 sections 525.010 to 525.480, the maximum part of the aggregate earnings of any individual in
40 any workweek which shall be subject to garnishment or sequestration pursuant to the provisions
41 of subsection 2 of this section shall be construed to constitute all wages or earnings of the
42 defendant in the garnishee's possession or charge or to be owing by him to the defendant in that
43 week.

44 4. No notice, summons, or writ of garnishment, or sequestration of wages issued or
45 served under sections 525.010 to 525.480 shall attach or purport to attach any wages in excess
46 of the amounts prescribed in subsection 2 of this section and each such notice, summons, or writ
47 shall have clearly and legibly reproduced thereon the provisions of subsections 2, 5 and 6 of this
48 section.

49 5. No employer may discharge any employee by reason of the fact that his earnings have
50 been subjected to garnishment or sequestration for any one indebtedness.

51 6. Whoever willfully violates the provisions of subsection 5 of this section is guilty of
52 a misdemeanor.

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