



Sub. H.B. 294

123rd General Assembly
(As Passed by the General Assembly)

Reps. Willamowski, DePiero, Grendell, Hollister, Krebs, Pringle, Taylor, Terwilleger, Barrett, Salerno, Flannery, Amstutz, Jolivette, Mead, Vesper, Maier, Core, Tiberi, Buchy

Sens. Latta, Cupp, Spada, Mumper, Drake

Effective date: August 29, 2000

ACT SUMMARY

Collection of court costs

- Supplements continuing law's execution procedures for the recovery of taxed court costs with a "certificate of judgment" collection mechanism under which an entry of judgment that includes a grant of judgment for costs constitutes an order authorizing the clerk of a court to issue in a specified manner set forth in the act a certificate of judgment for all costs, including the total cost of collection of and any interest due on the judgment for costs, against the person who is liable for the payment of the costs (R.C. 2335.19(B) and (C)).
- Authorizes the clerk of a court to enter into contracts with one or more public agencies or private vendors for the collection of amounts due under judgments for costs after complying with the competitive bidding procedures of the County Commissioners Law and obtaining the approval of the contract terms by the legislative authority associated with the court (R.C. 2335.24(B)).

Check cashing business loan fees

- Clarifies that a check-cashing business that is licensed to make loans under R.C. 1315.35 to 1315.44 and that makes a loan under those sections may receive damages, costs, and disbursements to which the

business may be entitled to by law in connection with any civil action to collect the loan after default (R.C. 1315.40(C)).

- Prohibits a check-cashing business that is licensed to make loans under R.C. 1315.35 to 1315.44 from collecting treble damages in connection with a civil action based on the commission of a theft offense to collect a loan from an individual borrower after a default due to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds and specifies that the treble damage provisions of the law that applies to a civil action brought by a property owner to recover damages for a theft offense do not apply to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that is returned or dishonored for insufficient funds and that was presented by an individual borrower to a check-cashing business licensed to make loans (R.C. 1315.41(D) and 2307.61(A)(1)(b)(ii)).

Collection agent for Department of Job and Family Services or child support enforcement agency

- Clarifies that, if the Department of Job and Family Services or a child support enforcement agency contracts with a collection agent for the collection of support arrearages, the collection agent is not required to be licensed as a private investigator under R.C. Chapter 4749. (R.C. 2301.35(C)).

Garnishment

- Authorizes a judgment debtor, when responding to a Notice of Garnishment/Payment to Avoid Garnishment, to verify the true statement of earnings by submitting copies of the two pay stubs for the two pay periods immediately prior to the receipt of the Notice (R.C. 2716.02(A)).
- Prohibits a judgment creditor or its attorney from issuing before the expiration date of the debtor's present pay period another notice of court proceeding to collect debt if the judgment debtor has properly completed a Payment to Avoid Garnishment and returned it with the required funds to the creditor or its attorney (R.C. 2716.02(B)).
- Creates an Affidavit of Current Balance Due to be filed by a judgment creditor or judgment creditor's attorney that contains the current balance

of the judgment upon which the judgment debtor is paying. The Affidavit must be filed once a year and may be filed at any time. The act specifies the information that must be included in the Affidavit and rules for service of the Affidavit. No court costs may be charged for filing the Affidavit. A judgment debtor is entitled to a hearing upon receipt of the Affidavit if the judgment debtor disputes any of the information contained therein, and the act specifies the procedure for requesting, giving notice of, and requesting the hearing. The act specifies the form of the Affidavit. (R.C. 2716.031.)

- Specifies that the amount of personal earnings to be withheld from a judgment debtor's pay must be calculated each pay period at the statutory percentage commencing with the first full pay period beginning after the garnishee receives the order (R.C. 2716.041(B)).
- Permits a judgment creditor to file with a court a written request to terminate an order of garnishment and release the judgment debtor from the mandate of the order (R.C. 2716.041(C)(1)(b)).
- Permits a garnishee to electronically perform the filing of documents and payment of funds to a court in relation to a garnishment order if the court permits such filings and payments (R.C. 2716.041(C)(4)(c)).
- Permits a garnishee to not file an interim report if the garnishee did not withhold any earnings of the judgment debtor during that pay period (R.C. 2716.041(C)(4)(d)).
- Replaces the one time garnishee's fee of \$10 with a garnishee's processing fee of up to \$3 per withholding period (R.C. 2716.041(C)(4)(e) and 2716.04).
- Requires the garnishee to be served, at the same time as being served with three copies of the order of garnishment, with one copy of the employee guide to processing continuous orders of garnishment (R.C. 2716.05).
- Restructures the formula for calculating the amount to be withheld from a judgment debtor each pay period to a uniform maximum of 25% regardless of the duration of the judgment debtor's pay period (R.C. 2716.07).

- Permits the clerk of a court, upon the request of a judgment creditor or judgment creditor's attorney, to disburse money collected pursuant to a garnishment order on a less frequent basis than otherwise provided by in statute (R.C. 2716.09(B)).
- Provides a "good faith" exemption from liability for a garnishee who acts or attempts to act in accordance with the Garnishment Law (R.C. 2716.21(F)(2)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-09-99	p. 389
Reported, H. Civil & Commercial Law	06-09-99	p. 805
Passed House (99-0)	06-10-99	p. 818
Reported, S. Judiciary	04-11-00	pp. 1579-1580
Passed Senate (33-0)	04-11-00	pp. 1583-1584
House concurred in Senate Amendments (94-0)	04-12-00	pp. 1807-1808

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