

Legislative Analysis



Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

GARNISHMENT

House Bill 5390

Sponsor: Rep. Kevin Cotter

House Bill 5391

Sponsor: Rep. Michael D. McCready

Committee: Commerce

Complete to 6-3-14

A SUMMARY OF HOUSE BILLS 5390 & 5391 AS INTRODUCED 3-5-14

The two bills deal with garnishment, which is defined as an order directed to a third party to withhold periodic or nonperiodic payment of assets. For example, an employer may be required to garnish wages of an employee to pay debts of that employee to a creditor, or child support payments owed, or tax liabilities.

House Bill 5390 would amend Section 4012 of the Revised Judicature Act (MCL 600.4012). House Bill 5391 would amend Public Act 390 of 1978 (MCL 408.477), which regulates the payment of wages and fringe benefits to employees. The two bills are tie-barred, meaning both must be enacted for either to take effect.

Under House Bill 5391, if an employer is ordered to pay any part of the employee's debt under Section 4012 of the Revised Judicature Act, the employer could deduct that amount from the employee's regularly scheduled wage payment without the written consent of the employee if all of the following conditions are met:

(a) The employer provides the employee with a written explanation of the deduction at least one pay period before the wage payment affected by the deduction is made.

(b) The deduction is not greater than 15% of the gross wages earned in the pay period in which the deduction is made.

(c) The deduction is made after the employer has made all deductions expressly permitted or required by law or a collective bargaining agreement, and after any employee-authorized deduction.

(d) The deduction does not reduce the regularly scheduled gross wages otherwise due the employee to a rate that is less than the greater of either the minimum rate as prescribed by minimum wage law or the minimum rate as prescribed by the federal Fair Labor Standards Act.

House Bill 5390 would amend the RJA to specify the following:

A writ of garnishment of wages, salary, commissions, or other earnings would not be valid or enforceable unless the writ is served on the garnishee (the third person, such as an employer, withholding money to pay a debt) in accordance with the Michigan Court Rules.

A garnishee under a garnishment of periodic payments that fails to timely disclose as required by statute or court rule, or do any other act as ordered by the court, would be liable for an amount up to the amount that would have been withheld had the writ of garnishment been in effect for 60 days, or \$100, whichever was greater. However, a garnishee would be able to recover that amount from future periodic payments to the defendant as provided in Section 7 of Public Act 390 of 1978.

A garnishee would not be liable for any amount described above unless both of the following occurred: (1) within 14 days after the failure, the plaintiff served a notice of the failure on the garnishee in accordance with Michigan Court Rules; and (2) the garnishee was provided seven calendar days or more in which to cure the failure.

Also under House Bill 5390, a writ of garnishment of wages, salary, commissions, or other earnings would remain in effect until the balance of the judgment is satisfied. Currently, the RJA says such a writ is in effect for 182 days. Any other garnishment would, as now, remain in effect for the period prescribed by the Michigan Court Rules.

Also, the fee paid by the plaintiff to the garnishee at the time a writ of garnishment is served would be increased from \$6 to \$35.

FISCAL IMPACT:

The bill does not appear to have significant fiscal impact on the state.

Legislative Analyst: Chris Couch
Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.