

The Senate Committee on Judiciary offered the following substitute to SB 194:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to garnishment proceedings, so as to change the maximum part of disposable earnings subject to garnishment and conform the form used therewith; to clarify various provisions; to change provisions relating to serving the defendant; to change provisions relating to the introduction of evidence and how judgments are paid; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to garnishment proceedings, is amended by revising subparagraph (a)(1)(B) and paragraph (2) of subsection (a) of Code Section 18-4-5, relating to the maximum part of disposable earnings subject to garnishment, as follows:

"(B) The amount by which the defendant's disposable earnings for that week exceed ~~\$217.00~~ \$217.50.

(2) In case of earnings for a period other than a week, ~~a~~ the proportionate fraction or multiple of 30 hours per week at \$7.25 per hour shall be used."

**SECTION 2.**

Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section 18-4-7, relating to the required information on summons of garnishment or attachment thereto, form usage, and failure to use correct form, as follows:

"(2) The form for a ~~A~~ summons of garnishment on a financial institution shall not be used for a continuing garnishment or continuing garnishment for support. A summons of garnishment on a financial institution, or an attachment thereto, shall also state with particularity the defendant's account, identification, or tracking numbers known to the plaintiff used by the garnishee in the identification or administration of the defendant's

funds or property; provided, however, that if such summons is filed with a court, the court filing shall be redacted in accordance with Code Section 9-11-7.1 or 15-10-54, as applicable. The defendant's account, identification, or tracking numbers shall be made known to the garnishee and defendant in accordance with Code Section 9-11-7.1 or 15-10-54, as applicable, to the extent such information is known to the plaintiff."

### SECTION 3.

Said chapter is further amended by revising subparagraph (b)(1)(C) of Code Section 18-4-8, relating to required documents and service thereof, as follows:

"(C) To be sent to the defendant by regular mail at the address at which the defendant accepted service in the action resulting in the judgment, identified as his or her residence in any pleading in the action resulting in the judgment, or was served as shown on the return of service in the action resulting in the judgment when it shall appear by affidavit to the satisfaction of the clerk of the court that the defendant resides out of this state, has departed this state, cannot, after due diligence, be found within this state, or has concealed his or her place of residence from the plaintiff. A certificate of such mailing shall be filed with the clerk of the court in which the garnishment is pending by the person mailing such notice."

### SECTION 4.

Said chapter is further amended by revising subsection (b) of Code Section 18-4-9, relating to periodic summonses and original filing date limiting extension, as follows:

"(b) No new summons of garnishment on the same affidavit of garnishment shall be issued after two years from the date of the original filing of such affidavit. After two years, the ~~The~~ garnishment proceeding based on such affidavit shall automatically stand dismissed unless there are funds remaining in the registry of the court or a new summons of garnishment has been issued in the preceding 30 days."

### SECTION 5.

Said chapter is further amended by revising subsections (c) and (d) of and adding a new subsection to Code Section 18-4-19, relating to order of trial, introduction of evidence, and expenses, to read as follows:

"(c) When the defendant, garnishee, or third-party claimant prevails upon the trial of his or her claim:

(1) That the plaintiff does not have a judgment against the defendant or that the plaintiff's affidavit of garnishment is untrue or is legally insufficient, the garnishment case shall be dismissed by the court, and any money or other property belonging to the defendant in

the possession of the court shall be restored to the defendant unless another claim or traverse thereto has been filed;

(2) That the amount shown to be due on the plaintiff's affidavit of garnishment is incorrect, the court may allow the summons of garnishment to be amended to the amount proven to be owed, and if such amount is less than the amount shown to be due by the plaintiff, any money or other property belonging to the defendant in the possession of the court in excess of the amount due shall be restored to the defendant unless another claim or traverse thereto has been filed;

(3) That the money or other property belonging to the defendant in the possession of the court is exempt from garnishment, such exempt money or other property shall be restored directly to the defendant. The court shall order such restoration within 48 hours; and

(4) Based on any legal or statutory defense or that money or other property in the possession of the court may be subject to a claim held by a third party that is superior to the judgment described in the affidavit of garnishment, the court shall determine the disposition of the money or other property belonging to the defendant in the possession of the court.

(d) On the trial of the plaintiff's traverse, if the court finds the garnishee has failed to respond properly to the summons of garnishment, the court shall disallow any expenses demanded by the garnishee and shall enter a judgment for any money or other property ~~paid or delivered to the court with the garnishee's answer, plus any money or other property~~ the court finds subject to garnishment which the garnishee has failed to pay or deliver to the court; provided, however, that the total amount of such judgment shall not exceed the amount shown to be due by the plaintiff, together with the costs of the garnishment proceeding.

(e) A defendant shall not be allowed to present evidence, make an argument, or prevail on a claim that money or other property in a garnishment may be subject to a claim by a third party. When a claim of exemption or defense to a garnishment proceeding belongs to a defendant, a third-party claimant shall not be allowed to present evidence, make an argument, or prevail on any such claim."

## SECTION 6.

Said chapter is further amended by revising Code Section 18-4-82, relating to the notice to defendant of right against garnishment of money, including wages, and other property, as follows:

93"18-4-82.

94'IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY

95STATE OF GEORGIA

96)

97Plaintiff:)

98\_\_\_\_\_) )

99Name\_\_\_\_\_) )

100\_\_\_\_\_) )

101Plaintiff's contact information:)

102\_\_\_\_\_) )

103Name\_\_\_\_\_) )

104\_\_\_\_\_) ) Civil Action File No.

105Street Address\_\_\_\_\_) )

106\_\_\_\_\_) ) \_\_\_\_\_

107City State ZIP Code\_\_\_\_\_) )

108\_\_\_\_\_) )

109E-mail Address\_\_\_\_\_) )

110\_\_\_\_\_) )

111Phone Number\_\_\_\_\_) )

112\_\_\_\_\_) )

113Bar Number\_\_\_\_\_) )

114\_\_\_\_\_) )

115v.) )

116\_\_\_\_\_) )

117Defendant:)

118\_\_\_\_\_) )

119Name\_\_\_\_\_) )

120\_\_\_\_\_) )

121Street Address\_\_\_\_\_) )

122\_\_\_\_\_) )

123Garnishee:)

124\_\_\_\_\_) )

125Name\_\_\_\_\_) )

126\_\_\_\_\_) )

127Street Address\_\_\_\_\_) )

128\_\_\_\_\_) )

129City State ZIP Code\_\_\_\_\_) )

**NOTICE TO DEFENDANT OF RIGHT AGAINST  
GARNISHMENT OF MONEY, INCLUDING WAGES, AND  
OTHER PROPERTY**

You received this notice because money, including wages, and other property belonging to you have been garnished to pay a court judgment against you. **HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY, INCLUDING WAGES, OR OTHER PROPERTY.**

**READ THIS NOTICE CAREFULLY.**

State and federal law protects some money, including wages, from garnishment even if it is in a bank. Some common exemptions are benefits from social security, supplemental security income, unemployment, workers' compensation, the Veterans' Administration, state pension, retirement funds, and disability income. This list of exemptions does not include all possible exemptions. A more detailed list of exemptions is available at the Clerk of Court's office located at \_\_\_\_\_ (Name of Court), \_\_\_\_\_ (Address), \_\_\_\_\_ (City), Georgia \_\_\_\_\_ (ZIP Code), and on the website for the Attorney General ([www.law.ga.gov](http://www.law.ga.gov)).

Garnishment of your earnings from your employment is limited to the lesser of 25 percent of your disposable earnings for a week or the amount by which your disposable earnings for a week exceed ~~\$217.00~~ \$217.50. More than 25 percent of your disposable earnings may be taken from your earnings for the payment of child support or alimony or if a Chapter 13 bankruptcy allows a higher amount.

**TO PROTECT YOUR MONEY, INCLUDING WAGES, AND OTHER PROPERTY  
FROM BEING GARNISHED, YOU MUST:**

1. Complete the Defendant's Claim Form as set forth below; and
2. File this completed claim form with the Clerk of Court's office located at \_\_\_\_\_ (Name of Court), \_\_\_\_\_ (Address), \_\_\_\_\_ (City), Georgia \_\_\_\_\_ (ZIP Code).

**FILE YOUR COMPLETED CLAIM FORM AS SOON AS POSSIBLE.** You may lose your right to claim an exemption if you do not file your claim form within 20 days after the Garnishee's Answer is filed or if you do not mail or deliver a copy of your completed claim form to the Plaintiff and the Garnishee at the addresses listed on this notice.

The Court will schedule a hearing within ten days from when it receives your claim form. The Court will mail you the time and date of the hearing at the address that you provide on your claim form. You may go to the hearing with or without an attorney. You will need to give the Court documents or other proof that your money is exempt.

The Clerk of Court cannot give you legal advice. IF YOU NEED LEGAL ASSISTANCE, YOU SHOULD SEE AN ATTORNEY. If you cannot afford a private attorney, legal services may be available.

**DEFENDANT'S CLAIM FORM**

**I CLAIM EXEMPTION from garnishment. Some of my money or property held by the garnishee is exempt because it is: (check all that apply)**

- ☐ 1. Social security benefits.
- ☐ 2. Supplemental security income benefits.
- ☐ 3. Unemployment benefits.
- ☐ 4. Workers' compensation.
- ☐ 5. Veterans' benefits.
- ☐ 6. State pension benefits.
- ☐ 7. Disability income benefits.
- ☐ 8. Money that belongs to a joint account holder.
- ☐ 9. Child support or alimony.
- ☐ 10. Exempt wages, retirement, or pension benefits.
- ☐ 11. Other exemptions as provided by law.

Explain: \_\_\_\_\_  
\_\_\_\_\_

I further state: (check all that apply)

- ☐ 1. The Plaintiff does not have a judgment against me.
- ☐ 2. The amount shown due on the Plaintiff's Affidavit of Garnishment is incorrect.
- ☐ 3. The Plaintiff's Affidavit of Garnishment is untrue or legally insufficient.

Send the notice of the hearing on my claim to me at:

Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

198 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the  
199 Garnishee in the foregoing matter with a copy of this pleading by depositing it in the  
200 United States Mail in a properly addressed envelope with adequate postage thereon.

202 \_\_\_\_\_  
203 Defendant or Defendant's Attorney'''

205 This Act shall become effective upon its approval by the Governor or upon its becoming law  
206 without such approval.

208 All laws and parts of laws in conflict with this Act are repealed.