

January 29, 2009

**H 10. GARNISH WAGES TO SATISFY A JUDGMENT.** Filed 1/29/09. *TO AUTHORIZE GARNISHMENT OF THE JUDGMENT DEBTOR'S WAGES AS AN ADDITIONAL MEANS OF ENFORCING A JUDGMENT.*

Enacts a new Article 15 of GS Chapter 1C to authorize garnishment of a debtor's wages to pay a judgment creditor the portion owed from the debtor's disposable earnings that are not exempt under GS 1-362. Sets forth garnishment procedures, including superior clerk issuance of the order, service of the order, payment to the judgment creditor, duration of the order, priority of wage garnishment orders, objection by the debtor, application of received payments, and notice of satisfaction. Allows employers to deduct a maximum fee of \$5 per pay period from the garnishment amount and requires the creditor to apply the employer's fee towards satisfaction of the judgment. Requires the garnishment order to continue until one of the following events occurs: (1) the underlying judgment has been satisfied in full or (2) the debtor ceases to be employed by the employer, unless the debtor is reinstated or reemployed within 90 days from the date employment terminated. Sets forth the following order of garnishment priority, regardless of when the garnishment order was first served: (1) garnishment for child support, (2) garnishment by a governmental entity, and (3) all other garnishments. If garnishment orders of the same priority level are served on an employer, the employer must satisfy the order that was served first. Allows the debtor to serve on the creditor and employer a notice of objection at any time after the garnishment order has been issued. Applies payments received by the creditor in the following order: (1) against the record costs of the judgment and garnishment orders; (2) against the accrued interest on the unpaid balance of the judgment, including postjudgment interest; (3) against the principal amount of the judgment; and (4) against any attorneys' fees and costs awarded. Allows the clerk to set aside the garnishment order in the case of improper garnishment. Provides that earnings paid by government entities are subject to this section. Prohibits the use of a garnishment order to enforce a deficiency judgment. Makes a conforming change to GS 95-241(a).

Amends GS 1-362 to provide that a debtor's earnings for the debtor's personal services that are either (1) 30 times the federal minimum hourly weekly wage or less or (2) 75% of the debtor's net income, whichever is greater, are not subject to attachment or garnishment to satisfy a judgment (was, that earnings, for the debtor's personal service, within 60 days preceding an order could not be applied to satisfy a judgment if the debtor could show that the earnings were necessary for the use of the family). Makes technical changes.

Effective October 1, 2009, and applies to civil actions filed on or after that date.

**Intro. by Moore, Wiley.**

GS 1, 1C, 95