

NEW SECTION. Sec. 32. Sections 1 through 22 of this act shall constitute a new chapter in Title 30 RCW.

NEW SECTION. Sec. 33. The following acts or parts of acts are each repealed:

- (1) Section 30.20.010, chapter 33, Laws of 1955 and RCW 30.20.010;
- (2) Section 30.20.015, chapter 33, Laws of 1955, section 6, chapter 280, Laws of 1961, section 5, chapter 133, Laws of 1967 and RCW 30.20.015;
- (3) Section 30.20.020, chapter 33, Laws of 1955, section 2, chapter 280, Laws of 1961, section 39, chapter 117, Laws of 1974 ex. sess., section 28, chapter 234, Laws of 1977 ex. sess. and RCW 30.20.020;
- (4) Section 30.20.030, chapter 33, Laws of 1955, section 49, chapter 154, Laws of 1973 1st ex. sess. and RCW 30.20.030;
- (5) Section 1, chapter 347, Laws of 1955 and RCW 30.20.035;
- (6) Section 5, chapter 280, Laws of 1961, section 19, chapter 278, Laws of 1975 1st ex. sess. and RCW 30.20.100;
- (7) Section 32.12.030, chapter 13, Laws of 1955, section 7, chapter 280, Laws of 1961, section 4, chapter 176, Laws of 1963 and RCW 32.12.030;
- (8) Section 12, chapter 176, Laws of 1963, section 20, chapter 278, Laws of 1975 1st ex. sess. and RCW 32.12.110;
- (9) Section 40, chapter 235, Laws of 1945 and RCW 33.20.030;
- (10) Section 1, chapter 165, Laws of 1975 1st ex. sess., section 3, chapter 107, Laws of 1979 and RCW 33.20.035;
- (11) Section 43, chapter 235, Laws of 1945, section 50, chapter 154, Laws of 1973 1st ex. sess. and RCW 33.20.050;
- (12) Section 45, chapter 235, Laws of 1945 and RCW 33.20.070; and
- (13) Section 46, chapter 235, Laws of 1945, section 6, chapter 246, Laws of 1963, section 41, chapter 117, Laws of 1974 ex. sess. and RCW 33.20.080.

NEW SECTION. Sec. 34. This act shall take effect on July 1, 1982.

Passed the Senate February 27, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 193

[Engrossed Senate Bill No. 3183]

PROCEEDINGS AFTER JUDGMENT

AN ACT Relating to proceedings after judgment; amending section 351, page 91, Laws of 1869 as last amended by section 355, Code of 1881 and RCW 6.04.100; amending section 24, chapter 133, Laws of 1893 as amended by section 2, chapter 93, Laws of 1899 and RCW 6.32.240; amending section 4, chapter 264, Laws of 1969 ex. sess. as amended by section 1, chapter 55, Laws of 1977 ex. sess. and RCW 7.33.040; amending section 11, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.110; amending section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 8, chapter 292, Laws of 1971 ex.

sess. and RCW 7.33.130; amending section 28, chapter 264, Laws of 1969 ex. sess. as last amended by section 1, chapter 6, Laws of 1971 and RCW 7.33.280; and repealing section 23, chapter 133, Laws of 1893 and RCW 6.32.230.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 351, page 91, Laws of 1869 as last amended by section 355, Code of 1881 and RCW 6.04.100 are each amended to read as follows:

When the writ of execution is against the property of the judgment debtor, (~~it shall be executed by~~) the sheriff shall serve on the debtor, in the same manner as service of a summons in a civil action, a copy of the writ, together with copies of RCW 6.12.010, 6.12.050, 6.12.060, 6.16.020, and 6.16.090, each as now existing or hereafter amended, and shall execute the writ as follows:

(1) If property has been attached, he shall indorse on the execution, and pay to the clerk forthwith the amount of the proceeds of sales of perishable property or debts due the defendant received by him, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in his custody, he shall sell the same, or sufficient thereof to satisfy the judgment.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, he shall levy on the property of the judgment debtor, sufficient to satisfy the judgment.

(4) Property shall be levied on in like manner and with like effect as similar property is attached.

(5) Until a levy, personal property shall not be affected by the execution. When property has been sold or debts received by the sheriff on execution, he shall pay the proceeds thereof, or sufficient to satisfy the judgment, as commanded in the writ.

(6) When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor without delay. If after satisfying the judgment any property, or the proceeds thereof, remain in the custody of the sheriff, he shall deliver the same to the judgment debtor.

Sec. 2. Section 24, chapter 133, Laws of 1893 as amended by section 2, chapter 93, Laws of 1899 and RCW 6.32.240 are each amended to read as follows:

Special proceedings under this chapter may be instituted and prosecuted before the superior or district court of the county in which the judgment was entered or any judge thereof, or before the superior or district court of any county to the sheriff of which an execution has been issued or in which a transcript of said judgment has been filed in the office of the clerk of said court or before any judge thereof.

Sec. 3. Section 4, chapter 264, Laws of 1969 ex. sess. as amended by section 1, chapter 55, Laws of 1977 ex. sess. and RCW 7.33.040 are each amended to read as follows:

Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, (a) that the garnishee, stating his name and residence, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or (b) that he has in his possession, or under his control, personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law, and shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the justice court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

Sec. 4. Section 11, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.110 are each amended to read as follows:

Said writ shall be substantially in the following form:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF

..... ,
Plaintiff, No.
vs.
..... ,
Defendant WRIT OF
GARNISHMENT
..... ,
Garnishee

THE STATE OF WASHINGTON TO:
Garnishee

AND TO:
Defendant

The above-named plaintiff claims that the above-named defendant is indebted to plaintiff and that the amount of dollars should be held to satisfy that indebtedness and has applied for a writ of garnishment against you.

You are hereby commanded to answer this writ by filling in the attached form according to the instructions thereon, and you must mail or deliver the original of such answer to the court, one copy to the plaintiff or his attorney, and one copy to the defendant within twenty days after the service of the writ upon you.

If you owe the defendant any wages, salary or other compensation for personal services, then you shall do as follows:

(1) For each week of such wages, salary or other compensation for personal services you owe the defendant, deduct twenty-five percent of the disposable earnings of defendant, or the amount by which his disposable earnings exceed dollars for each week, whichever shall be less.

(2) The total amount deducted above is subject to garnishment, and all other sums shall be paid to the defendant on the day you would customarily pay him such wages, salary or other compensation.

(3) Do not make any deduction if the defendant's wages, salary or other compensation does not exceed dollars for each week of such wages, salary or other compensation you owe the defendant. This weekly amount is exempt by law from garnishment and must be paid to the defendant.

Unless directed by the court, do not pay any debt, whether wages subject to this garnishment or any other debt, owed the defendant when this writ was served, or deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control when this writ was served; any such payment, delivery, sale or transfer is void as to so much of the debt, property or shares as are necessary to satisfy plaintiff's claim and costs for this writ with interest.

In the event that you owe to defendant a debt payable in money and subject to this garnishment in excess of the amount set forth in the first paragraph of this garnishment, hold only the amount set forth in said first paragraph of this garnishment and release all additional funds or property to defendant.

WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR DEFENDANT'S CLAIMED DEBT TO PLAINTIFF.

NOTICE TO DEFENDANT: THE LAW MAY PROTECT CERTAIN TYPES AND AMOUNTS OF YOUR INCOME AND PROPERTY FROM GARNISHMENT. TO CLAIM SUCH EXEMPTIONS, YOU MUST FILE A SWORN STATEMENT WITH THE COURT WITHIN TWENTY DAYS AFTER THE GARNISHEE ANSWERS THIS WRIT.

Witness, the Honorable, Judge of the Superior Court, and the seal thereof, this day of, 19 . . .

[Seal]

.....
Attorney for
Plaintiff (or
Plaintiff,
if no attorney)

.....
Clerk of
Superior
Court

.....
Address

.....
By

Sec. 5. Section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 8, chapter 292, Laws of 1971 ex. sess. and RCW 7.33.130 are each amended to read as follows:

Service of the writ of garnishment is invalid unless there is served therewith (1) Four answer forms as provided in RCW 7.33.150 together with stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if he has no attorney), and the defendant; and (2) Cash, or a check made payable to the garnishee in the amount of ten dollars. The writ of garnishment may be mailed to the garnishee by certified mail, return receipt requested, ((or it may)) addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the second business day following the time as set forth on the return receipt. The writ may also be served by the sheriff of the county in which the garnishee lives or it may be served by any citizen of the state of Washington eighteen years of age or over and not a party to the action in which it is issued in the same manner as a summons in an action is served: **PROVIDED, HOWEVER,** That where the writ is directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by certified mail, return receipt requested, to, or by leaving a copy of the writ with, the manager or any other officer or cashier or assistant cashier of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other personal property belonging to the defendant. In every case where a writ of garnishment is served by an officer, such officer shall make his return thereon showing the time, place and manner of service and that the writ was accompanied by answer forms and addressed envelopes and cash or a check as required by this section, and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit showing his qualifications to make such service, and that the writ was accompanied by answer forms and addressed envelopes and cash deposit or a check as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor.

Sec. 6. Section 28, chapter 264, Laws of 1969 ex. sess. as last amended by section 1, chapter 6, Laws of 1971 and RCW 7.33.280 are each amended to read as follows:

(1) If the garnishee is an employer owing the defendant wages, salary, or other compensation for personal services, then for each week of such wages, salary, or other compensation ~~((; the following amounts))~~ an amount shall be exempt from garnishment ~~((: The greater of (1)))~~ which is the greatest of the following:

(a) Forty times the state hourly minimum wage; or

~~((2))~~ (b) Seventy-five percent of the disposable earnings of the defendant; or

(c) Such amount as may be exempt under federal law.

(2) Such exemption shall apply whether such earnings are paid, or to be paid, weekly, monthly, or at other intervals, and whether there be due the defendant earnings for one week, a portion thereof, or for a longer period.

(3) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld: PROVIDED, That amount deducted from an employee's compensation as contributions toward a participating pension or retirement program established pursuant to a collective bargaining agreement shall not be considered a part of disposable earnings. Unless directed otherwise by the court, the garnishee shall determine and deduct the amount exempt under this section and shall pay this amount to the defendant ~~((: PROVIDED FURTHER, That the foregoing))~~.

(4) The exemptions under this section shall not apply in the case of a garnishment for child support if (a) the garnishment is based on a judgment or other court order; (b) the amount stated on the writ does not exceed the amount of two months support payments; and (c) the following language is conspicuously added to the writ of garnishment: "This garnishment is based on a judgment or court order for child support. Hold all funds you owe the defendant up to the amount stated above without regard to any statutory exemption".

(5) No money due or earned as earnings as defined in RCW 7.33.010 (3) shall be exempt from garnishment under the provisions of RCW 6.16.020, as now or hereafter amended.

NEW SECTION. Sec. 7. Section 23, chapter 133, Laws of 1893 and RCW 6.32.230 are each repealed.

Passed the Senate March 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.