



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1712

Introduced 2/25/2005, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

735 ILCS 5/12-803
735 ILCS 5/12-808

from Ch. 110, par. 12-803
from Ch. 110, par. 12-808

Amends the Code of Civil Procedure. Provides that wages, salary, commissions and bonuses subject to collection under a deduction order, for any work week shall be the lesser of the listed amounts (instead of the maximum wages, salary, commission and bonuses subject to collection shall not exceed the lesser of the listed amounts). Provides that an order shall be entered compelling the employer to deduct from wages of the judgment debtor subject to collection under a deduction order an amount which is (instead of an amount not to exceed) the lesser of the listed amounts.

LRB094 11366 LCB 42233 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Sections 12-803 and 12-808 as follows:

6 (735 ILCS 5/12-803) (from Ch. 110, par. 12-803)

7 Sec. 12-803. Wages ~~Maximum wages~~ subject to collection. The
8 ~~maximum~~ wages, salary, commissions and bonuses subject to
9 collection under a deduction order, for any work week shall be
10 ~~not exceed~~ the lesser of (1) 15% of such gross amount paid for
11 that week or (2) the amount by which disposable earnings for a
12 week exceed 45 times the Federal Minimum Hourly Wage prescribed
13 by Section 206(a)(1) of Title 29 of the United States Code, as
14 amended, in effect at the time the amounts are payable. This
15 provision (and no other) applies irrespective of the place
16 where the compensation was earned or payable and the State
17 where the employee resides. No amounts required by law to be
18 withheld may be taken from the amount collected by the
19 creditor. The term "disposable earnings" means that part of the
20 earnings of any individual remaining after the deduction from
21 those earnings of any amounts required by law to be withheld.

22 (Source: P.A. 87-569.)

23 (735 ILCS 5/12-808) (from Ch. 110, par. 12-808)

24 Sec. 12-808. Duty of employer.

25 (a) An employer served as herein provided shall pay the
26 employee the amount of his or her exempt wages.

27 (b) To the extent of the amount due upon the judgment and
28 costs, the employer shall hold, subject to order of court, any
29 non-exempt wages due or which subsequently come due. The
30 judgment or balance due thereon is a lien on wages due at the
31 time of the service of summons, and such lien shall continue as

1 to subsequent earnings until the total amount due upon the
2 judgment and costs is paid, except that such lien on subsequent
3 earnings shall terminate sooner if the employment relationship
4 is terminated or if the underlying judgment is vacated or
5 modified.

6 (b-5) If the employer is a federal agency employer and the
7 creditor is represented by an attorney, then the employer, upon
8 service of summons and to the extent of the amount due upon the
9 judgment and costs, shall commence to pay over to the attorney
10 for the judgment creditor any non-exempt wages due or that
11 subsequently come due. The attorney for the judgment creditor
12 shall thereafter hold the deducted wages subject to further
13 order of the court and shall make answer to the court regarding
14 amounts received from the federal agency employer. The federal
15 agency employer's periodic payments shall be considered a
16 sufficient answer to the interrogatories.

17 (c) Except as provided in subsection (b-5), the employer
18 shall file, on or before the return date or within the further
19 time that the court for cause may allow, a written answer under
20 oath to the interrogatories, setting forth the amount due as
21 wages to the judgment debtor for the payroll periods ending
22 immediately prior to the service of the summons and a summary
23 of the computation used to determine the amount of non-exempt
24 wages. Except as provided in subsection (b-5), the employer
25 shall mail by first class mail or hand deliver a copy of the
26 answer to the judgment debtor at the address specified in the
27 affidavit filed under Section 12-805 of this Act, or at any
28 other address or location of the judgment debtor known to the
29 employer.

30 A lien obtained hereunder shall have priority over any
31 subsequent lien obtained hereunder, except that liens for the
32 support of a spouse or dependent children shall have priority
33 over all other liens obtained hereunder. Subsequent summonses
34 shall be effective in the order in which they are served.

35 (d) The Illinois Supreme Court may by rule allow an
36 employer to file answers to interrogatories by facsimile

1 transmission.

2 (e) Pursuant to answer under oath to the interrogatories by
3 the employer, an order shall be entered compelling the employer
4 to deduct from wages of the judgment debtor subject to
5 collection under a deduction order an amount which is ~~not to~~
6 ~~exceed~~ the lesser of (i) 15% of the gross amount of the wages
7 or (ii) the amount by which disposable earnings for a week
8 exceed 45 times the Federal Minimum Hourly Wage prescribed by
9 Section 206(a)(1) of Title 29 of the United States Code, as
10 amended, in effect at the time the amounts are payable, for
11 each pay period in which statutory exemptions under Section
12 12-804 and child support garnishments, if any, leave funds to
13 be remitted. The order shall further provide that deducted
14 wages shall be remitted to the creditor or creditor's attorney
15 on a monthly basis.

16 (Source: P.A. 89-28, eff. 6-23-95; 90-677, eff. 1-1-99.)