

process continues for each succeeding garnishment order on the employee received by the employer in the sequence in which they are received.

If a garnishment order ceases to be in effect and the debt has not been fully paid off, then the creditor must start the process over again from the beginning. The creditor may not re-file a garnishment on a specific judgment while its garnishment is either being processed or is being held in the stacking procedure.

An employer may not discharge an employee solely because of a garnishment by only one creditor within any one-year.

## **BACKGROUND**

In House Bill 294 of the 123<sup>rd</sup> Ohio General Assembly, the Ohio Judicial Conference was requested to create a guide to help employers with the processing of continuous orders of garnishment.

In 1999, the Ohio General Assembly created the continuous order of garnishment of personal earnings. This revised order enabled a garnishment to continue until either the total amount due was paid in full, or the order was no longer in effect. A "stacking" mechanism was created that allows garnishment orders to be stacked in order of when they were filed, or by priority, as determined by statute. Also, the fee paid to the employer was increased to compensate for complying with the new continuous orders. These changes replaced proceedings that were inefficient and costly.

However, H.B. 294 contains further revisions, improving the continuous order of garnishment. This simple guide describes the process for employers and should help answer questions regarding the operation of the new law.

## **WAIVER OF LIABILITY**

An employer who acts, or attempts to act, in accordance with Chapter 2716 of the Ohio Revised Code, the provisions for garnishment, is not liable for damages in any civil action for any action taken pursuant to that chapter in good faith or any omission made in good faith. However, failure to comply could be grounds for contempt proceedings.

## **EMPLOYER PROCESSING FEE**

The employer may deduct a \$3 dollar fee for processing from the amount withheld from the judgment debtor's personal disposable earnings for each pay period that an amount of earnings was withheld for that order and for which an *Interim Report and Answer of the Garnishee* was filed. If no money is withheld and/or a report is not filed, then no fee may be deducted out by the employer. The employer is never required to deduct this fee for processing.

## **TERMS**

**Garnishment** - a legal proceeding where a creditor seeks to satisfy a debt by claiming money owed to a debtor, usually in the possession of the debtor's employer.

**Garnishee** - the person whom has possession of money owed to a debtor, which has been claimed or attached by a creditor. The garnishee is the employer. An employer is defined as a person who is required to withhold taxes out of payments of personal earnings made to a judgment debtor.

**Garnishor** - the person who initiates or begins a garnishment proceeding in order to reach the debtor's money held by another person, usually the debtor's employer. The garnishor is the creditor.