

No. 1996-5

AN ACT

HB 908

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for exceptions relating to attachment of personal earnings.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 8127 of Title 42 of the Pennsylvania Consolidated Statutes is amended to read:

§ 8127. Personal earnings exempt from process.

(a) *General rule and exceptions.*—The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

- (1) Under 23 Pa.C.S. Pt. IV (relating to divorce).
- (2) For support.
- (3) For board for four weeks or less.

(3.1) *For damages awarded to a judgment creditor-landlord arising out of a residential lease upon which the court has rendered judgment which is final. However, the amount subject to attachment shall have deducted from it any security deposit held by the judgment creditor-landlord and forfeited by the judgment debtor-tenant under section 511.1 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, unless the security deposit has been applied to payment of rent due on the same premises for which the judgment for attachment has been entered. The judgment creditor-landlord shall have the burden of proving that such security deposit has been applied to payment of rent due on the premises herein described. The sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less. For the purposes of this paragraph, "net wages" shall mean all wages paid less only the following items:*

- (i) *Federal, State and local income taxes.*
- (ii) *F.I.C.A. payments and nonvoluntary retirement payments.*
- (iii) *Union dues.*
- (iv) *Health insurance premiums.*

(3.2) *In the case of wage attachment for damages arising out of a residential lease, to implement the wage attachment, the judgment creditor-landlord shall comply with the Pennsylvania Rules of Civil*

Procedure and any applicable local rules. The judgment of the district justice, magistrate or any other court having jurisdiction over landlord and tenant matters or a judgment before the court of common pleas shall reflect that portion of the judgment which is for damages arising out of a residential lease.

(4) Under the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act.

(b) Priority.—An order of attachment for support shall have priority over any other attachment, execution, garnishment or wage assignment.

(c) Duty of employer.—

(1) For any wage attachment for damages arising out of a residential lease, the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding \$5 of the amount of money so collected. If an employer is served with more than one attachment for damages arising out of a residential lease against the same judgment debtor, then the attachments shall be satisfied in the order in which they were served. Each prior attachment shall be satisfied before any effect is given to a subsequent attachment, subject to subsection (a)(3.2). Upon receipt of the wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

(2) For any wage attachment other than for damages arising out of a residential lease, the employer shall send the attached withheld wages to the prothonotary of the court of common pleas to be recorded, and upon receipt, the wages shall be sent to the creditor.

(d) Duty of judgment creditor-landlord.—

(1) Any judgment creditor-landlord who has received satisfaction of any judgment pursuant to this section shall enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(2) A judgment creditor-landlord who shall fail or refuse for more than 30 days after receiving satisfaction to comply with paragraph (1) shall pay to the judgment debtor-tenant as liquidated damages 1% of the original amount of the judgment for each day of delinquency beyond such 30 days but not more than 50% of the original amount of the judgment. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.

(e) Prohibition against discharge.—The employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.

(f) Victim of abuse.—This section shall not apply and no wage attachment shall be issued against an abused person or victim, as defined in 23 Pa.C.S. § 6102 (relating to definitions), for damages related to residential leases when said person has obtained a civil protection order pursuant to 23 Pa.C.S. § 6101 et seq. (relating to protection from abuse), or has obtained a protective order pursuant to 18 Pa.C.S. § 4954 (relating to protective orders), or is a victim-witness as defined by 18 Pa.C.S. § 4951 (relating to definitions), in a criminal proceeding against a family or household member, as defined in 23 Pa.C.S. § 6102, and it is determined by the court that the damages were caused by the family or household member.

(g) Application of section.—This section shall apply to all judgments which remain unsatisfied or arise on or after the effective date of this subsection.

(h) Definition.—For purposes of this section, “damages” shall mean the abuse of the physical makeup of the leasehold premises. Damages shall include, but not be limited to, the abuse of walls, floors, ceilings or any other physical makeup of the leasehold premises.

Section 2. This act shall take effect immediately.

APPROVED—The 15th day of February, A.D. 1996.

THOMAS J. RIDGE