

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 37

Introduced by Harr, 8.

Read first time January 05, 2017

Committee:

1 A BILL FOR AN ACT relating to garnishment; to amend sections 25-1056,
2 25-1552, 36-213, and 43-3334, Reissue Revised Statutes of Nebraska;
3 to adopt the Uniform Wage Garnishment Act; to harmonize provisions;
4 to provide an operative date; to provide severability; to repeal the
5 original sections; and to outright repeal section 25-1558, Reissue
6 Revised Statutes of Nebraska.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 23 of this act shall be known and may be
2 cited as the Uniform Wage Garnishment Act.

3 Sec. 2. In the Uniform Wage Garnishment Act:

4 (1) Creditor means a person that has an enforceable money judgment
5 against a debtor. The term includes a successor in interest.

6 (2) Debtor means an individual against whom a creditor has an
7 enforceable money judgment.

8 (3) Disposable earnings means earnings remaining after deductions
9 for any amount required by law to be withheld.

10 (4) Earnings means compensation owed or to be owed by an employer to
11 an employee for personal services. The term includes a wage, salary,
12 commission, bonus, profit-sharing distribution, severance payment, fee,
13 and periodic pension or disability payment.

14 (5) Electronic means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic, or similar
16 capabilities.

17 (6) Employee means an individual, including a former employee who is
18 owed earnings, who:

19 (A) is treated by an employer as an employee for federal-employment-
20 tax purposes; or

21 (B) receives earnings from an employer through periodic payments and
22 is not treated by the employer as an employee for federal-employment-tax
23 purposes.

24 (7) Employer means a person that owes or will owe earnings to an
25 employee.

26 (8) Garnishee means:

27 (A) a person served with an affidavit under subdivision (b)(2) of
28 section 5 of this act; or

29 (B) a person whose registered agent is served with an affidavit
30 under subdivision (b)(2) of section 5 of this act.

31 (9) Garnishment means an ordered deduction for payment to a creditor

1 under a garnishment action.

2 (10) Garnishment action means a court proceeding in which a
3 garnishment is sought.

4 (11) Ordered deduction means a deduction by an employer from the
5 earnings of an employee for payment to another person under a garnishment
6 action, support order, order to recover federal, state, city, or local
7 taxes, or administrative order issued by a federal or state agency. The
8 term does not include a deduction with the consent of the employee or for
9 current tax obligations.

10 (12) Payday means a regularly scheduled day on which an employer
11 pays earnings to an employee for a pay period or, if the day of payment
12 is uncertain or less often than once a month, the day on which the
13 employer pays earnings to the employee.

14 (13) Periodic payments means recurring payments on set intervals.

15 (14) Person means an individual, estate, business or nonprofit
16 entity, public corporation, government or governmental subdivision,
17 agency, or instrumentality, or other legal entity.

18 (15) Record means information that is inscribed on a tangible medium
19 or that is stored in an electronic or other medium and is retrievable in
20 perceivable form.

21 (16) Send means to:

22 (A) deposit a record in the United States mail to the last-known
23 address of the intended recipient with first-class postage provided;

24 (B) deliver a record by any other usual means of communication to
25 the last-known address of the intended recipient with the cost of
26 transmission, if any, provided; or

27 (C) cause a record to be received in any other way within the time
28 it would have arrived if sent under subdivision (A) of this subdivision.

29 (17) Sign means, with present intent to authenticate or adopt a
30 record:

31 (A) to execute or adopt a tangible symbol; or

1 (B) to attach to or logically associate with the record an
2 electronic symbol, sound, or process.

3 (18) State means a state of the United States, the District of
4 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
5 or insular possession subject to the jurisdiction of the United States.
6 The term includes a federally recognized Indian tribe.

7 (19) Support order means a judgment, decree, order, decision, or
8 directive, whether temporary, final, or subject to modification, issued
9 in a state or foreign country for the benefit of a child, spouse, or
10 former spouse, which provides for monetary support, health care,
11 arrearages, retroactive support, or reimbursement for financial
12 assistance provided to an individual obligee in place of child support.
13 The term includes related costs and fees, interest, income withholding,
14 automatic adjustment, reasonable attorney's fees, and other relief.

15 Sec. 3. (a) The Uniform Wage Garnishment Act applies only to a
16 garnishment action.

17 (b) The act does not apply to any remedy available to a creditor
18 under law of this state other than the act.

19 (c) Except as otherwise provided in section 14 of this act, the act
20 does not apply to an ordered deduction that is not a garnishment,
21 including an ordered deduction:

22 (1) under an order of a bankruptcy court;

23 (2) for a debt due for a federal, state, city, or local tax; or

24 (3) under a support order.

25 Sec. 4. (a) Except as otherwise provided in subsection (b) of this
26 section, the court shall dismiss or stay a garnishment action if the
27 debtor's principal place of work is not in this state when the action is
28 commenced.

29 (b) The court is not required to dismiss or stay a garnishment
30 action under subsection (a) of this section if the employer is subject to
31 personal jurisdiction in this state but not in the state of the debtor's

1 principal place of work.

2 (c) In a garnishment action subject to subsection (b) of this
3 section, the Uniform Wage Garnishment Act applies, except that the debtor
4 is entitled to the exemptions from and limits on garnishment provided by
5 the law of the jurisdiction of the debtor's principal place of work.

6 Sec. 5. (a) A creditor may commence a garnishment action by filing
7 an affidavit in a civil action containing the information in subsection
8 (c) of this section and a statement that the affiant has good reason to
9 and does believe that the employer owes earnings to the debtor. Upon the
10 filing, any district court or county court may direct the clerk to issue
11 a summons and order requiring the employer to comply with the Uniform
12 Wage Garnishment Act. All responses must be given in writing but do not
13 need to be verified or given under oath. All responses will be deemed to
14 be true and subject to all of the penalties of perjury in the event of
15 willful falsification.

16 (b) The affidavit under subsection (a) of this section must be
17 served:

18 (1) on the registered agent if the employer against which the
19 garnishment is sought has a registered agent that can be served with
20 reasonable diligence under section 25-509.01, 25-511.02, or 25-3307; or

21 (2) if subdivision (b)(1) of this section does not apply, on the
22 employer.

23 (c) The affidavit under subsection (a) of this section must include:

24 (1) the name of the debtor;

25 (2) the last-known physical and mailing addresses of the debtor or a
26 statement that the information is not known;

27 (3) the amount the creditor claims is owed by the debtor and
28 information sufficient to identify the judgment on which the garnishment
29 action is based;

30 (4) a completed notice that satisfies section 10 of this act;

31 (5) a Notice of Nebraska Rules About Garnishment that satisfies

1 section 11 of this act;

2 (6) the name of and contact information for the creditor's agent to
3 which the garnishee is required by subdivisions (1) and (2)(A) of section
4 6 of this act and subsection (c) of section 9 of this act to send
5 information; and

6 (7) the mailing address to which the garnishee must send the amount
7 withheld and, at the creditor's option, a statement of other reasonable
8 means of sending the amount to the creditor.

9 (d) The affidavit served under subsection (b) of this section must
10 be accompanied by a separate document provided only to the garnishee and
11 not filed with the court which:

12 (1) provides the debtor's date of birth and full social security
13 number or states that the date or number is not known; and

14 (2) if the debtor's full social security number is not known,
15 provides other identifying information known to the creditor or states
16 that no other identifying information is known.

17 Sec. 6. Not later than ten days after being served with an
18 affidavit in a garnishment action:

19 (1) if one of the following grounds applies, the garnishee shall
20 send to the agent named under subdivision (c)(6) of section 5 of this act
21 a notice stating the applicable ground:

22 (A) the debtor is not an employee of the garnishee;

23 (B) the debtor's principal place of work is not in this state and
24 the employer is subject to jurisdiction in the state of the debtor's
25 principal place of work;

26 (C) the affidavit does not contain all information required by
27 subsection (c) of section 5 of this act; or

28 (D) the affidavit is not accompanied by the separate document
29 required by subdivision (d)(1) of section 5 of this act or the document
30 does not contain all the required information; or

31 (2) if subdivision (1) of this section does not apply, the garnishee

1 shall:

2 (A) send to the agent named under subdivision (c)(6) of section 5 of
3 this act a notice that includes:

4 (i) a statement that the named debtor is an employee of the
5 garnishee;

6 (ii) the pay frequency of the employee and the date of the next
7 payday;

8 (iii) the name of and contact information for the garnishee's agent
9 to which the creditor must send information if required by subsection (d)
10 or (f) of section 8 of this act or subdivision (a)(2) of section 15 of
11 this act; and

12 (iv) if the employee's earnings are subject to other ordered
13 deductions, the number of other deductions and the priority of each
14 deduction, including the priority of the garnishment sought by the
15 affidavit; and

16 (B) send to the employee a copy of the notices provided to the
17 garnishee under subdivisions (c)(4) and (5) of section 5 of this act.

18 Sec. 7. If subdivision (2) of section 6 of this act applies, the
19 employer shall begin garnishment on the first payday that occurs at least
20 thirty days after the employer sends the employee the notices under
21 subdivision (2)(B) of section 6 of this act.

22 Sec. 8. (a) Not later than five business days after withholding an
23 amount from the earnings of an employee under a garnishment action, the
24 employer shall send the amount to the creditor at the mailing address
25 specified under subdivision (c)(7) of section 5 of this act or, at the
26 employer's option, by another means specified by the creditor under such
27 subdivision.

28 (b) If an employer withholds earnings from more than one employee
29 for the same creditor and specifies the amount attributable to each
30 employee, the employer may combine the amounts in one payment to the
31 creditor.

1 (c) An employer shall notify an employee of any amount withheld as a
2 garnishment in the same manner that the employer notifies the employee of
3 other withholdings from earnings.

4 (d) Before termination under subsection (b) of section 9 of this act
5 of a garnishment action, the creditor may send the employer a notice
6 requiring the employer to change its records to indicate an increase or
7 decrease in the amount owed. The creditor shall send the notice to the
8 agent named under subdivision (2)(A)(iii) of section 6 of this act.

9 (e) The employer that receives a notice under subsection (d) of this
10 section shall send the employee a copy of the notice or a completed
11 calculation worksheet under section 12 of this act.

12 (f) For each payday on which a garnishment occurs, the employer
13 shall maintain a record sufficient to prepare for each creditor a
14 calculation worksheet under section 12 of this act. At any time, the
15 employee or creditor may request in a record a completed calculation
16 worksheet. The creditor shall send the request to the agent named under
17 subdivision (2)(A)(iii) of section 6 of this act. Not later than five
18 business days after receipt of a request, the employer shall send without
19 charge a calculation worksheet for the most recent payday. The employer
20 is not required to provide:

21 (1) the employee more than one calculation worksheet for each
22 creditor for any payday; or

23 (2) the creditor more than four calculation worksheets for each
24 employee during a calendar year.

25 Sec. 9. (a) Not later than twenty-one days after receiving notice
26 under subdivision (1) of section 6 of this act, the creditor shall seek
27 dismissal of the garnishment action or a prompt hearing under section 18
28 of this act to determine whether the garnishee is required to proceed
29 under subdivision (2) of section 6 of this act.

30 (b) A garnishment begun under section 7 of this act terminates when:

31 (1) the garnishee's records indicate that the amount owed by the

1 employee has been paid in full; or

2 (2) the debtor is no longer an employee of the garnishee.

3 (c) Not later than twenty-one days after the first day on which a
4 debtor is no longer an employee of the garnishee, the garnishee shall
5 send the agent named under subdivision (c)(6) of section 5 of this act
6 notice of the cessation of employment.

7 (d) A creditor shall seek dismissal of a garnishment action not
8 later than twenty-one days after the earlier of the time:

9 (1) the amount owed by the debtor is paid in full; or

10 (2) the creditor receives the notice required by subsection (c) of
11 this section.

12 Sec. 10. (a) In this section, original creditor means a person to
13 which a debtor originally owed the obligation for which a garnishment is
14 sought.

15 (b) The notice required by subdivision (c)(4) of section 5 of this
16 act must be in substantially the following form:

17 Notice of Garnishment

18 Money Will Be Taken from Your Pay If You Fail to Act

19 1. Why Am I Getting This Notice? You are getting this notice because (name of
20 creditor) says you owe them money.

21 • (Name or shortened name of creditor) has started a
22 legal process called "garnishment." The process
23 requires that money be taken from your pay and given
24 to them to pay what you owe. The person who pays you
25 does not keep the money.

26 • (Name or shortened name of creditor) filled out
27 this form. The law requires the person who pays you
28 to give you this form.

29 • If the line below is checked, (name or shortened
30 name of creditor) is not the creditor you originally
31 owed money to. If that is the case, knowing the name

1 of the original creditor might help you understand
2 why money will be taken from your pay.

3 The amount you owe originally comes from a debt you
4 owed to (name of original creditor).

5 2. How Much Do I (Name or shortened name of creditor) says you
6 Owe? currently owe \$(state amount). The amount could go
7 up if there are more court costs or additional
8 interest. The amount also could go down if you make
9 payments to (name or shortened name of creditor).

10 3. How Will The The person who pays you will soon be required to
11 Amount I Owe Be start taking money from your pay. Money will
12 Paid? continue to be taken from your pay until the total
13 amount you owe on this dept is paid.

14 The rules about how much of your pay can be taken
15 are explained in the Notice of Nebraska
16 Rules About Garnishment that you received
17 with this notice.

18 At any time, you can get a report that shows how the
19 amount taken from your pay was calculated. To
20 receive this report, you must write or email the
21 person who pays you.

22 You have three options:
23 Talk with a lawyer. A lawyer can explain the
24 situation to you and help you decide what to do.

25 This office can help you find a lawyer:
26 (insert name and contact information for legal aid
27 or lawyer referral service)

28 Contact (insert name or shortened name of creditor).
29 4. What Options Do If you can work something out with them, money might
30 I Have?

1 not have to be taken from your pay. This is the
2 creditor's contact information:

3 (Insert creditor's contact information)

4 Request a court hearing. A hearing could be helpful
5 if there are any disagreements about the
6 garnishment, for example, if you don't think you owe
7 money. For help in requesting a hearing, contact:
8 (insert name and address of appropriate entity)

9 5. What If I Don't If you don't do anything, the law requires that
10 Do Anything? money be taken out of your pay every payday and
11 given to (name or shortened name of creditor). This
12 process continues until you have paid off your debt.

13 Sec. 11. The notice required by subdivision (c)(5) of section 5 of
14 this act must:

15 (1) have a heading stating that it is the "Notice of Nebraska Rules
16 About Garnishment"; and

17 (2) reasonably inform an employee of:

18 (A) the limit on wage garnishment under section 13 of this act;

19 (B) exemptions from and limits on garnishment under law of this
20 state other than the Uniform Wage Garnishment Act; and

21 (C) the process for claiming exemptions from and limits on
22 garnishment, if any.

23 Sec. 12. A calculation worksheet required under subsection (e) or
24 (f) of section 8 of this act must be in substantially the following form:

25 Garnishment: Calculation of Amount

26 Debtor:

27 Creditor:

28 For earnings paid on:

29 Calculation of Amount Garnished for this Payday

30 Disposable earnings:

1 1. Gross earnings paid to debtor: \$ _____

2 2. Amounts withheld:

3 a. Federal social security tax: \$ _____

4 b. Federal medicare tax: \$ _____

5 c. Federal income tax: \$ _____

6 d. State income tax: \$ _____

7 e. City or local tax: \$ _____

8 f. Railroad retirement tax: \$ _____

9 g. Other: \$ _____

10 3. Total amounts withheld: \$ _____

11 (Sum of items in lines 2.a. through 2.g.)

12 4. Disposable earnings: \$ _____

13 (Line 1 minus line 3)

14 Garnishment calculation:

15 5. 20% of disposable earnings (line 4): \$ _____

16 6. Exemption amount: \$ _____

17 7. Line 4 minus line 6 (if less than \$0, enter \$0): \$ _____

18 8. Enter smaller of line 5 or line 7: \$ _____

19 9. Amounts of other current garnishments with higher

20 priority (if none, enter \$0): \$ _____

21 10. Subtract line 9 from line 8 (if less than \$0,

22 enter \$0): \$ _____

23 11. Enter the number of other current garnishments

24 with the same priority, plus one:

25 _____

26 12. Divide line 10 by line 11: \$ _____

27 The amount on line 12 is the garnishment amount for

28 this pay period.

29 Statement of Amount Due and Paid

30 13. Total amount currently claimed by creditor: \$ _____

1 14. Amounts paid through garnishment:
2 a. Prior garnishments: \$ _____
3 b. This garnishment: \$ _____
4 (Line 12)
5 c. Total garnishments: \$ _____
6 15. Net amount owed after garnishments to date: \$ _____
7 (Line 13 minus line 14.c.)

8 Sec. 13. (a) The amount of earnings subject to garnishment may not
9 exceed the lesser of:

10 (1) twenty percent of disposable earnings for a workweek; or
11 (2) the amount by which disposable earnings for a workweek exceed
12 forty times the federal minimum wage required by section 6(a) of the Fair
13 Labor Standards Act, 29 U.S.C. 206(a)(1).

14 (b) For a pay period greater than one week, the amount in
15 subdivision (a)(2) of this section must be adjusted to be the appropriate
16 multiple of thirty times the federal minimum wage. In calculating the
17 multiple, a pay period of one calendar month is deemed to be four and
18 one-third weeks.

19 Sec. 14. (a) If more than one ordered deduction is in effect
20 against an employee of a garnishee, the following rules apply:

21 (1) For an ordered deduction with higher priority than a
22 garnishment, the garnishee shall send withheld earnings to the person
23 entitled to the deduction before sending any withheld earnings under
24 subdivision (2) or (3) of this subsection. The garnishee shall send any
25 amounts remaining after payment under this paragraph in accordance with
26 subdivisions (2) and (3) of this subsection.

27 (2) For an ordered deduction with the same priority as a
28 garnishment, the garnishee shall send an equal amount of the withheld
29 earnings to each person entitled to a deduction without regard to the
30 time the deduction became effective, the amount of the debt, or any other
31 factor.

1 (3) For an ordered deduction with a lower priority than a
2 garnishment, the garnishee shall send the amount due under subdivisions
3 (1) and (2) of this subsection before any payment is made on the
4 deduction.

5 (b) Priority of an ordered deduction is determined under law of this
6 state other than the Uniform Wage Garnishment Act.

7 Sec. 15. (a) A garnishee is not liable for a sanction under section
8 16 of this act unless:

9 (1) the debtor or creditor files a motion with the court which
10 states with specificity the nature of the garnishee's failure to comply
11 with the Uniform Wage Garnishment Act;

12 (2) if the creditor files the motion under subdivision (1) of this
13 subsection and an agent has been named under subdivision (2)(A)(iii) of
14 section 6 of this act, the creditor sends a copy of the motion to the
15 agent; and

16 (3) the garnishee fails:

17 (A) to send the information required by subdivision (1) or (2) of
18 section 6 of this act not later than ten business days after the earlier
19 of the time the garnishee receives a copy of the motion under subdivision
20 (1) or (2) of this subsection;

21 (B) to begin garnishment under section 7 of this act not later than
22 twenty-one days after the earlier of the time the garnishee receives a
23 copy of the motion under subdivision (1) or (2) of this subsection or, if
24 no payday occurs at least six and not later than twenty-one days after
25 receiving the copy, to begin garnishment on the next payday later than
26 twenty-one days after the earlier of the time the garnishee receives a
27 copy; or

28 (C) to remit to the creditor, not later than five business days
29 after receiving a copy, the amount that has been withheld from the
30 earnings of the debtor since garnishment began under section 7 of this
31 act but not properly remitted to the creditor under subsection (a) of

1 section 8 of this act.

2 (b) For good cause, the court may excuse payment of all or part of
3 an amount due under section 16 of this act.

4 Sec. 16. Subject to section 15 of this act, the following rules
5 apply:

6 (1) A garnishee that fails to comply with section 6 of this act is
7 liable to the creditor for twenty dollars for each day beginning eleven
8 days after service of the affidavit:

9 (A) until the garnishee sends the information required by
10 subdivision (1) of section 6 of this act; or

11 (B) until the earlier of the day the garnishee sends the information
12 required by subdivision (2) of section 6 of this act or garnishment is
13 required to begin under section 7 of this act.

14 (2) A garnishee that fails to comply with section 7 of this act is
15 liable to the creditor for the amount under that section that should have
16 been withheld and sent to the creditor.

17 (3) A garnishee that fails to comply with subsection (a) of section
18 8 of this act is liable to the creditor for:

19 (A) any amount withheld from the earnings of the employee which the
20 creditor did not receive because of the garnishee's failure to send the
21 amount properly; and

22 (B) twenty dollars for each day beginning six business days after a
23 payday on which the amount was or should have been withheld and ending
24 the day before the amount is sent to the creditor.

25 (4) A garnishee that fails under subsection (e) of section 8 of this
26 act to send a calculation worksheet or a copy of the notice received from
27 the creditor is liable to the employee for five dollars for each day
28 beginning on the payday when the worksheet or notice should have been
29 sent and ending the day before the garnishee sends the worksheet or
30 notice.

31 (5) A garnishee that fails to comply with a request by the employee

1 or creditor under subsection (f) of section 8 of this act for a
2 calculation worksheet is liable to the requesting employee or creditor
3 for five dollars for each day beginning six business days after the
4 request and ending the day before the garnishee sends the worksheet.

5 (6) A garnishee that fails to comply with subsection (c) of section
6 9 of this act is liable to the creditor for five dollars for each day
7 beginning twenty-two days after the first day on which the debtor is no
8 longer an employee of the garnishee and ending the day the notice is
9 sent.

10 (7) A creditor shall apply any amount paid by a garnishee to the
11 creditor under this section toward reduction of the amount owed by the
12 debtor to the creditor. The maximum amount paid by a garnishee under this
13 section may not exceed the total amount owed by the debtor in the
14 garnishment action.

15 (8) A reduction of the amount owed by the debtor to the creditor
16 under subdivision (7) of this section does not entitle the garnishee to
17 any right of reimbursement, indemnity, or subrogation against the debtor.
18 This subdivision may not be varied by agreement.

19 Sec. 17. (a) If the court determines that a creditor acted in bad
20 faith in seeking a garnishment under the Uniform Wage Garnishment Act,
21 the court may find the creditor liable for:

22 (1) an amount not to exceed one thousand dollars;

23 (2) any amount due under subsection (c) of this section; and

24 (3) reasonable attorney's fees of the garnishee and individual whose
25 earnings the creditor sought to garnish.

26 (b) A garnishee or individual whose earnings the creditor sought to
27 garnish may send to the creditor a notice in a record stating the reason
28 that the garnishment is wrongful. If the creditor is represented by an
29 attorney, the garnishee or individual shall send the notice to the
30 attorney. The creditor acts in bad faith if it fails not later than seven
31 business days after receiving the notice:

1 (1) to take appropriate action to stop the garnishment and return
2 any earnings garnished during the sixty days preceding receipt of the
3 notice and send to the garnishee or individual a notice in a record
4 indicating that it has done so; or

5 (2) to file a motion with the court requesting an expedited hearing
6 to determine whether the garnishment was wrongful.

7 (c) A creditor that fails to comply with subsection (b) of this
8 section is liable for fifty dollars per day beginning on the eighth
9 business day after receiving the notice provided for in subsection (b) of
10 this section and ending the day before the creditor complies with
11 subdivision (b)(1) of this section.

12 (d) A court may allocate an amount awarded under subsection (a) of
13 this section, other than attorney's fees, between the garnishee and the
14 individual whose earnings the creditor sought to garnish, taking into
15 consideration which person filed the claim alleging bad faith or sent the
16 notice alleging wrongful garnishment, the extent of each person's
17 participation in the proceedings, and the harm suffered by each person.

18 (e) For good cause, the court may excuse payment of all or part of
19 an amount due under this section.

20 (f) This section does not limit any other remedy available under law
21 of this state other than the Uniform Wage Garnishment Act to a garnishee
22 or an individual whose earnings a creditor sought to garnish.

23 Sec. 18. (a) A garnishee, creditor, or debtor may request the court
24 to hold a hearing to determine an issue arising under the Uniform Wage
25 Garnishment Act.

26 (b) A debtor may request the court to hold a hearing to claim an
27 exemption from or limit on garnishment under law of this state other than
28 the Uniform Wage Garnishment Act.

29 (c) The court shall promptly hold a hearing requested under this
30 section. The court may enjoin a garnishment until the hearing can be
31 held.

1 Sec. 19. (a) An employer may not discharge or take other adverse
2 action against an employee because of a garnishment or attempted
3 garnishment.

4 (b) Subsection (a) of this section is enforceable by the powers,
5 remedies, and procedures used to enforce the Nebraska Fair Employment
6 Practice Act.

7 Sec. 20. The Uniform Wage Garnishment Act is the exclusive
8 procedure for garnishments in this state, except that subsection (3) of
9 section 25-1010 and sections 25-1559 to 25-1563 also apply. The Uniform
10 Wage Garnishment Act does not apply to ordered deductions other than
11 garnishments or to any remedy or ordered deduction excluded from the act
12 under subsections (b) and (c) of section 3 of this act.

13 Sec. 21. In applying and construing the Uniform Wage Garnishment
14 Act, consideration must be given to the need to promote uniformity of the
15 law with respect to its subject matter among states that enact this
16 uniform act.

17 Sec. 22. The Uniform Wage Garnishment Act modifies, limits, or
18 supersedes the federal Electronic Signatures in Global and National
19 Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or
20 supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize
21 electronic delivery of any of the notices described in section 103(b) of
22 that act, 15 U.S.C. 7003(b).

23 Sec. 23. The Uniform Wage Garnishment Act does not affect the
24 validity or effect of a garnishment action for summons served under
25 subsection (a) of section 5 of this act prior to January 1, 2018. For
26 such summons, the procedures and exemptions of the law governing
27 garnishments prior to January 1, 2018, apply until that garnishment
28 action has been completed. The uniform Wage Garnishment Act applies to
29 all garnishment actions for which summons are served under subsection (a)
30 of section 5 of this act on or after January 1, 2018.

31 Sec. 24. Section 25-1056, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 25-1056 (1) Except in cases covered by the Uniform Wage Garnishment
3 Act, ~~In all cases~~ when a judgment has been entered by any court of record
4 and the judgment creditor or his or her agent or attorney has filed an
5 affidavit setting forth the amount due on the judgment, interest, and
6 costs in the office of the clerk of the court where the judgment has been
7 entered and that he or she has good reason to and does believe that any
8 person, partnership, limited liability company, or corporation, naming
9 him, her, or it, has property of and is indebted to the judgment debtor,
10 the clerk shall issue a summons which shall set forth the amount due on
11 the judgment, interest, and costs as shown in the affidavit and require
12 such person, partnership, limited liability company, or corporation, as
13 garnishee, to answer written interrogatories to be furnished by the
14 plaintiff and to be attached to such summons respecting the matters set
15 forth in section 25-1026. The summons shall be returnable within ten days
16 from the date of its issuance and shall require the garnishee to answer
17 within ten days from the date of service upon him or her. Except when
18 wages are involved, the garnishee shall hold the property of every
19 description and the credits of the defendant in his or her possession or
20 under his or her control at the time of the service of the summons and
21 interrogatories until the further order of the court. If the only
22 property in the possession or under the control of the garnishee at the
23 time of the service of the summons and interrogatories is credits of the
24 defendant and the amount of such credits is not in dispute by the
25 garnishee, then such garnishee shall only hold the credits of the
26 defendant in his or her possession or under his or her control at the
27 time of the service of the summons and interrogatories to the extent of
28 the amount of the judgment, interest, and costs set forth in the summons
29 until further order of the court. ~~When wages are involved, the garnishee~~
30 ~~shall pay to the employee all disposable earnings exempted from~~
31 ~~garnishment by statute, and any disposable earnings remaining after such~~

1 ~~payment shall be retained by the garnishee until further order of the~~
2 ~~court. Thereafter, the service of the summons and interrogatories and all~~
3 ~~further proceedings shall be in all respects the same as is provided for~~
4 ~~in sections 25-1011 and 25-1026 to 25-1031.01 unless inconsistent with~~
5 ~~this section.~~

6 ~~(2) If it appears from the answer of the garnishee that the judgment~~
7 ~~debtor was an employee of the garnishee, that the garnishee otherwise~~
8 ~~owed earnings to the judgment debtor when the garnishment order was~~
9 ~~served, or that earnings would be owed within sixty days thereafter and~~
10 ~~there is not a successful written objection to the order or the answer of~~
11 ~~the garnishee filed, on application by the judgment creditor, the court~~
12 ~~shall order that the nonexempt earnings, if any, withheld by the~~
13 ~~garnishee after service of the order be transferred to the court for~~
14 ~~delivery to the judgment creditor who is entitled to such earnings.~~
15 ~~Except for garnishments in support of a person, the payments may be made~~
16 ~~payable to the judgment creditor or assignee and shall be forwarded to~~
17 ~~the issuing court to record the judgment payment prior to the court~~
18 ~~delivering the payment to the judgment creditor or assignee. The court~~
19 ~~shall, upon application of the judgment creditor, further order that the~~
20 ~~garnishment is a continuing lien against the nonexempt earnings of the~~
21 ~~judgment debtor. An order of continuing lien on nonexempt earnings~~
22 ~~entered pursuant to this section shall require the garnishee to continue~~
23 ~~to withhold the nonexempt earnings of the judgment debtor for as long as~~
24 ~~the continuing lien remains in effect.~~

25 ~~Beginning with the pay period during which the writ was served and~~
26 ~~while the continuing lien remains in effect, the garnishee shall deliver~~
27 ~~the nonexempt earnings to the court from which the garnishment was issued~~
28 ~~for each pay period or on a monthly basis if the garnishee so desires and~~
29 ~~shall deliver to the judgment debtor his or her exempt earnings for each~~
30 ~~pay period.~~

31 ~~(3) A continuing lien ordered pursuant to this section shall be~~

1 ~~invalid and shall have no force and effect upon the occurrence of any of~~
2 ~~the following:~~

3 ~~(a) The underlying judgment is satisfied in full or vacated or~~
4 ~~expires;~~

5 ~~(b) The judgment debtor leaves the garnishee's employ for more than~~
6 ~~sixty days;~~

7 ~~(c) The judgment creditor releases the garnishment;~~

8 ~~(d) The proceedings are stayed by a court of competent jurisdiction,~~
9 ~~including the United States Bankruptcy Court;~~

10 ~~(e) The judgment debtor has not earned any nonexempt earnings for at~~
11 ~~least sixty days;~~

12 ~~(f) The court orders that the garnishment be quashed; or~~

13 ~~(g) Ninety days have expired since service of the writ. The judgment~~
14 ~~creditor may extend the lien for a second ninety-day period by filing~~
15 ~~with the court a notice of extension during the fifteen days immediately~~
16 ~~prior to the expiration of the initial lien, and the continuing lien in~~
17 ~~favor of the initial judgment creditor shall continue for a second~~
18 ~~ninety-day period.~~

19 ~~(2)(a) (4)(a)~~ To determine priority, garnishments and liens shall
20 rank according to time of service.

21 (b) Garnishments, liens, and wage assignments which are not for the
22 support of a person shall be inferior to wage assignments for the support
23 of a person. Garnishments which are not for the support of a person and
24 liens shall be inferior to garnishments for the support of a person.

25 ~~(3) Except as provided in the Uniform Wage Garnishment Act, only (5)~~
26 ~~only~~ one order of continuing lien against earnings due the judgment
27 debtor shall be in effect at one time. If an employee's wages are already
28 being garnished pursuant to a continuing lien at the time of service of a
29 garnishment upon an employer, the answer to garnishment interrogatories
30 shall include such information along with the date of termination of such
31 continuing lien and the title of the case from which such garnishment is

1 issued. Except as provided in subsection (2) ~~(4)~~ of this section, a
2 continuing lien obtained pursuant to this section shall have priority
3 over any subsequent garnishment or wage assignment.

4 (4)(a) ~~(6)(a)~~ In any case involving service of a garnishment summons
5 on a financial institution where deposits are received within this state,
6 the financial institution shall (i) if its main chartered office is
7 located in this state, designate its main chartered office for the
8 service of summons or (ii) if its main chartered office is located in
9 another state, designate any one of its offices or branches or its agent
10 for service of process in this state for service of summons. The
11 designation of a main chartered office or an office or branch or the
12 agent for service of process under this subdivision shall be made by
13 filing a notice of designation with the Department of Banking and
14 Finance, shall contain the physical address of the main chartered office
15 or the office or branch or the agent for service of process designated,
16 and shall be effective upon placement on the department web site. The
17 department shall post the list of such designated main chartered offices
18 and offices or branches or agents for service of process on its web site
19 for access by the public. A financial institution may modify or revoke a
20 designation made under this subdivision by filing the modification or
21 revocation with the department. The modification or revocation shall be
22 effective when the department's web site has been updated to reflect the
23 modification or revocation, except that the judgment creditor may rely
24 upon the designation that was modified or revoked during the thirty-day
25 period following the effective date of the modification or revocation if
26 the summons is timely served upon the financial institution. The
27 department shall update its web site to reflect a filing by a financial
28 institution pursuant to this subdivision or a modification or revocation
29 filed by a financial institution pursuant to this subdivision within ten
30 business days following the filing by the financial institution. The
31 department web site shall reflect the date its online records for each

1 financial institution have most recently been updated.

2 (b) If a financial institution where deposits are received has
3 designated its main chartered office or one of its offices or branches or
4 its agent for service of process for the service of summons, service made
5 on the main chartered office or the office or branch or the agent for
6 service of process so designated shall be valid and effective as to any
7 property or credits of the defendant in the possession or control of the
8 main chartered office of the financial institution in this state and any
9 of the financial institution offices or branches located within this
10 state. If service of summons is not made on the main chartered office or
11 the office or branch or the agent for service of process designated by
12 the financial institution, but instead is made at another office or
13 branch of the financial institution located in Nebraska, the financial
14 institution, in its discretion, and without violating any obligation to
15 its customer, may elect to treat the service of summons as valid and
16 effective as to any property or credits of the defendant in the
17 possession or control of the main chartered office of the financial
18 institution in this state and any of the financial institution offices or
19 branches located within this state. In the absence of such an election,
20 the financial institution shall file a statement with the interrogatories
21 that the summons was not served at the financial institution's designated
22 location for receiving service of summons and, therefore, was not
23 processed, and shall provide the address at which the financial
24 institution is to receive service of summons.

25 (c) For purposes of this subsection, financial institution means a
26 bank, savings bank, building and loan association, savings and loan
27 association, or credit union whether chartered by the United States, the
28 Department of Banking and Finance, or a foreign state agency.

29 (d) The notice of designation, modification, or revocation shall be
30 made by a financial institution on forms prescribed by the department.

31 (e) The Department of Banking and Finance, any employee of the

1 department, or any person acting on behalf of the department shall be
2 immune from civil and criminal liability for any acts or omissions which
3 occur as a result of the requirements of this subsection.

4 Sec. 25. Section 25-1552, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 25-1552 Each natural person residing in this state shall have exempt
7 from forced sale on execution the sum of two thousand five hundred
8 dollars in personal property, except wages. The provisions of this
9 section do not apply to the exemption of wages, that subject being fully
10 provided for by the Uniform Wage Garnishment Act ~~section 25-1558~~. In
11 proceedings involving a writ of execution, the exemption from execution
12 under this section shall be claimed in the manner provided by section
13 25-1516. The debtor desiring to claim an exemption from execution under
14 this section shall, at the time the request for hearing is filed, file a
15 list of the whole of the property owned by the debtor and an indication
16 of the items of property which he or she claims to be exempt from
17 execution pursuant to this section and section 25-1556, along with a
18 value for each item listed. The debtor or his or her authorized agent may
19 select from the list an amount of property not exceeding the value exempt
20 from execution under this section according to the debtor's valuation or
21 the court's valuation if the debtor's valuation is challenged by a
22 creditor.

23 Sec. 26. Section 36-213, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 36-213 Except as provided in the Income Withholding for Child
26 Support Act, every assignment of the wages or earnings of the head of a
27 family and every contract or agreement intending or purporting to have
28 the effect of such assignment shall be void unless such contract,
29 agreement, assignment, or transfer is executed and acknowledged by both
30 husband and wife in the same manner that conveyances of real estate are
31 required to be signed and acknowledged by the laws of this state and

1 shall be limited to a percentage of the wages of the head of household
2 not greater than that subject to the operation of attachment, execution,
3 and garnishee process as provided in the Uniform Wage Garnishment Act
4 ~~section 25-1558~~. Nothing contained in this section shall be construed to
5 void payroll deductions by the employer if such wages or earnings so
6 deducted are for (1) purchase of government bonds, (2) contributions to
7 charity, or (3) payment of employee organization dues, of group or
8 individual insurance premiums, of pension assessments, to credit unions,
9 or for a savings plan, in accordance with a written order of the employee
10 which has been accepted by the employer. Every such assignment shall
11 specify the employer who will pay the wages that are the subject of the
12 assignment, and the assignment shall be valid only as to wages due from
13 the employer or employers so specified. It shall be unlawful for any
14 person, firm, corporation, company, partnership, limited liability
15 company, or business institution to cause any employer by any such void
16 assignment or by notice of any such void assignment to withhold the
17 payment of any wages due the head of a family.

18 Sec. 27. Section 43-3334, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 43-3334 (1) The department may send a payor an order to withhold and
21 deliver specifically identified property of any kind due, owing, or
22 belonging to an obligor if (a) the department has reason to and does
23 believe that there is in the possession of the payor property which is
24 due, owing, or belonging to an obligor, (b) payment on a support order is
25 in arrears, (c) the department sent a notice of arrearage to the obligor
26 pursuant to section 43-3333 at least thirty days prior to sending the
27 notice to withhold and deliver, and (d) no hearing was requested or after
28 a hearing the department determined that an arrearage did exist or that
29 there was no mistake of fact.

30 (2) The order to withhold and deliver shall state that notice has
31 been mailed to the obligor in accordance with the requirements of

1 subdivision (1)(c) of this section and that the obligor has not requested
2 a hearing or, after a hearing, the department has determined that an
3 arrearage exists or that there was no mistake of fact, the amount in
4 arrears, the social security number of the obligor, the court or agency
5 to which the property is to be delivered, instructions for transmitting
6 the property, and information regarding the requirements found in
7 subsection (3) of this section. The order shall include written questions
8 regarding the property of every description, including whether or not any
9 other person has an ownership interest in the property, and the credits
10 of the obligor which are in the possession or under the control of the
11 payor at the time the order is received.

12 (3) Upon receipt of an order to withhold and deliver, a payor shall:

13 (a) Hold property that is subject to the order and that is in the
14 possession or under the control of the payor at the time the order to
15 withhold and deliver was received, to the extent of the amount of the
16 arrearage stated in the order until the payor receives further notice
17 from the department;

18 (b) Answer all of the questions asked of the payor in the order,
19 supply the name and address of any person that has an ownership interest
20 in the property sought to be reached, and return such information to the
21 department within five business days after receiving the order; and

22 (c) Upon further notice from the department, deliver any property
23 which may be subject to the order to the court or agency designated in
24 the order or release such property or portion thereof.

25 (4) An order to withhold and deliver shall have the same priority as
26 a garnishment for the support of a person pursuant to subsection (2) ~~(4)~~
27 of section 25-1056.

28 (5) If the payor is a financial institution, such financial
29 institution may deduct and retain a processing fee from any amounts
30 turned over to the department under this section. The processing fee
31 shall not exceed ten dollars for each account turned over to the

1 department.

2 Sec. 28. This act becomes operative on January 1, 2018.

3 Sec. 29. If any section in this act or any part of any section is
4 declared invalid or unconstitutional, the declaration shall not affect
5 the validity or constitutionality of the remaining portions.

6 Sec. 30. Original sections 25-1056, 25-1552, 36-213, and 43-3334,
7 Reissue Revised Statutes of Nebraska, are repealed.

8 Sec. 31. The following section is outright repealed: Section
9 25-1558, Reissue Revised Statutes of Nebraska.