

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1211

2007 HOUSE JUDICIARY

HB 1211

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1211

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/23/07

Recorder Job Number: 1722

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1211.

Jim Kohl: I am an attorney here in Bismarck and am here on my own behalf. I am in support of this bill. This bill deals with some issues that pertain to garnishment. They are in many ways are independent, and can be addressed independently. The purpose behind the bill, in my perspective, is to lessen the number of people that have to file bankruptcy solely for the purpose of protecting their paycheck. I do both debtor and creditor work. I do more work with debtors than with creditors. I'll frequently get calls from single parent or single person, or a couple with one or two children, and they literally have no property, they have nothing that can be taken by execution (when the sheriff comes out), all of their property is exempt. They have some bills, maybe medical bills, maybe credit card bills, they may be quite modest, maybe under \$10,000 or under \$5,000. The problem they have, is because the garnishment statute has not been addressed in quite a few years, is that they have to file bankruptcy or are taking some relief to protect that paycheck, where they are living paycheck to paycheck. I think that deserves some adjustment, which this bill will address in many ways. The bill is broken down into four portions of the garnishment statute. The first is that it does allow for an exemption for the debtor, which in current law is not allowed. Secondly, it changes the amount of the

exemption. Third it changes the method by which the exemptions can be claimed and finally addresses what I believe is a penalty against the debtor for not making their claim on time. Current law does not allow for an exemption. The debtor has no protection under the way the law is written now because the maximum amount of garnishment is geared towards a % of your disposable income or disposable income in excess of the minimum wage x 40 hours. It is true that if Congress changes the minimum wage, that will change that equation. At this point, with the federal minimum wage as it is now, the amount above that minimum wage, disposable income is an increasing amount and that's what we're faced with today. The debtor, by himself, does not get an exemption so his protection is only that minimum wage limitation. So my proposal would include an exemption for the debtor. I would point out that this bill does provide for the same exemption for everyone. The debtor could have a different exemption than the other persons. Second, the bill would propose a higher exemption amount. Now, in analyzing the bill, I tried to approach it from what amount is protected, a \$100 exemption. At that point in time, I was not aware what the benchmark was that the legislature had originally considered. I was able to locate as far as the hearing on HB 1580 back in March of 1989, it appeared that the exemption of \$20/week per dependent was intended to equate to approximately 125% of the poverty level. What I did in trying to review these numbers, I basically did a spread sheet calculating disposable income for a single individual with no dependents, a single person with one dependent and a married couple of 2 dependents. Fairly consistently across the board, what I discovered was, an exemption of approximately \$40 would pretty much protect that poverty level if you calculated it at 125%. I think, although I don't have the figures for cost of living, I think that is pretty consistent to what we've seen in the last 20 years in the cost of living. I think if an amendment is considered, I would say that probably the \$40 amount would come very close to protecting the 125% poverty level. The

other two amendments, they stand alone, for whatever reason, the exemption amount has not changed. I think the other issues have to be addressed. The first one is that a requirement that the exemption be claimed by a verified statement. Who in this room, except for a lawyer, knows what a verified statement is. Probably no one. That means that these people who have no money, that are really in financial hardship have to be forced to go to a lawyer to even find out how to do this, and probably pay the lawyer to do the verification. I can't think of a single reason why the list has to be verified. Verification essentially is the signature and then you sign it saying under oath, I believe this to be accurate and true and then you sign it and have it notarized. I can't think of a good reason why the claim of exemption has to be prepared in that fashion, to be verified. So what the bill proposes is basically two components to address this.

Let's make it so the debtor doesn't have to go to a lawyer and just make it a signed form. Why not show them what it is supposed to look like, so when the notice goes to the debtor, they would get a little form that says if you want to claim your exemptions, here's how you do it. You write the name and social security number, sign it and give it to your employer. At least we can separate them from having to go to the legal system to have this explained. Most people don't have the money, and so they forego that. The final part of the amendment in my opinion, is really a penalty that isn't justified by law. The statute says that if you don't have your statement of exemptions submitted in 10 days, this will conclusively presume that you don't have any exemptions. The law was changed a while back to give the creditor the right to garnish wages for 9 months, 270 days. I don't see any parity in that. I don't understand why the debtor gets 10 days to get their exemptions in, but the creditor can basically take money out of your paycheck for the next 9 months. That doesn't seem reasonable. I think a middle ground should satisfy and balance the equity is that the debtor should get their claim in within 10 days, if they want to protect their paycheck.

Rep. Klemin: So what happens if one of the debtor's dependents has got a good income. Would that person count as a dependent for purposes of garnishment.

Jim Kohl: Yes.

Rep. Klemin: Let's say the debtor's wife is working, she might be making as much as the debtor, but she could still be considered a dependent for this purpose.

Jim Kohl: I would think so. I don't think the garnishment statute talks about what is or isn't a dependent. I suppose that if a creditor would want to challenge that, it would be subject to challenge. I don't know if that is defined.

Rep. Klemin: Well you changed from \$20/week to \$100/wk plus the debtor being included on that, is quite a lot more than the \$40 you talked about.

Jim Kohl: I agree, I think that after I ran through the numbers, I realized that \$100 was too high. I assumed it was tied to the poverty level but until I read the committee's notes I didn't know what that number was.

Rep. Klemin: You looked at a family of four, under your scenario, they could exempt basically about \$20,000/yr.

Jim Kohl: Let me give you this as an example. From the perspective of the US Government, with child care credits and the way the taxes are set up, you can have two people earning \$39,000/yr and pay no income tax. Why, I assume that the federal government says that they need that money to raise that family, yet that family would be subject to a pretty substantial garnishment under our statute. I agree that a family of four could have a fair amount of money but my response to that is that to raise a family of four takes quite a bit of money. I know there are people who are making \$24-25,000/yr for a family of four, and they are basically living paycheck to paycheck. All their money goes to pay their ongoing bills.

Rep. Klemin: The verified list vs. the signed list. When we look at the W4, for example, where the employee gives the employer a W4 for income tax withholding purposes, and then indicate on there the number of dependents that they can claim. Now they're not required to sign and have that notarized or anything like that, but aren't they subject to some penalties under federal income tax law relating to filing a false W4.

Jim Kohl: They are. In fact, if that were to be the compromise, my idea was to get the person to be able to file this without having to go to an attorney or notary. But the federal law generally says the following statement made under penalty of perjury, just like the tax return says.

Rep. Klemin: You don't have it in the bill, made under the penalty of perjury if it's not verified. Are you thinking that those lists might be sufficient if we had something that says that you are making this list under penalty of perjury so you don't have to go out and find a notary or find an attorney. There's no penalty now if he puts in a few more relatives.

Jim Kohl: I'm not sure that there wouldn't be a penalty. It's a document that's filed basically in the court proceedings, I can't say that it would be penalty free. I think that under penalty of perjury would be better than the current situation, which scares people off from filing their claim or they can't file it because they don't know what it is and don't have money for an attorney. That would certainly be a good middle ground.

Rep. Klemin: If we just have list under here and sign it, how do they know that it is under penalty of perjury, because on the W4 it probably says that.

Jim Kohl: The way to address that would be to put it in there. In the amendment, it did say certify or affirm. I don't know if that's the equivalent or not. I think it would be under penalty of perjury, but it doesn't say that in those terms. That could be added to the form.

Rep. Koppelman: This looks like a pretty substantial increase with the \$100 for each dependent plus the exemption for the debtor.

Jim Kohl: I agree that after looking over that amount, that \$100 was too much; \$40 would be fine to protect a little more from the poverty level.

Rep. Koppelman: None of us want to see people penniless, on the other hand, we all understand that garnishment is a process used by creditors, usually as a last resort. If a creditor is trying to collect a debt, they try to work out something with the debtor to make payments, there isn't any need to go to this extreme measure. Aren't we dealing with folks who are basically refusing to pay a debt.

Jim Kohl: I have people calling me who basically live from paycheck to paycheck, and what they have after the federal government takes out taxes, they pay their rent, they may have incurred medical expenses, etc. Even if people have some health insurance, they have to pay a piece of that. They may get single coverage, but they have to pay for the family. I don't think it is so much of people refusing to pay, but they need the whole paycheck just to pay their rent, buy gas, etc. You have to have at least one car working in ND to get to work. The goal is not to eliminate collections like garnishments. I represent creditors. I use garnishments myself. Sometimes it is the only effective method of collecting the debt. But the idea here is to address the bill that hasn't been looked at for quite a while and of course, as inflation goes up, the creditors are still collecting money but the day-to-day needs of the debtor are consuming more and more. Let's make that a reasonable amount to protect that poverty level.

Chairman DeKrey: Thank you. Further testimony in support.

Lori Weiss: I support this as well. I am an attorney in private practice in rural ND, in Harvey. I appear in support of this. I by no means consider myself an expert or specialist in debtor/creditor law or bankruptcy law. There are two gentlemen who are attorneys who do

specialize in that, who were planning on appearing today but had conflicts with their calendar and I believe there was a request to leave the hearing open.

Rep. Kretschmar: Are you going along with the \$40 number rather than the \$100.

Lori Weiss: I would support an amendment to \$40.

Rep. Klemin: The bill as drafted, would extend not only to the debtor, but also to the debtor's dependents of \$40 per week. Do you support that also.

Lori Weiss: Yes.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition:

Mike Lefor, DCI Credit Services Inc.: (see attached testimony).

Chairman DeKrey: How do you feel about \$40.

Mike Lefor: We haven't had time to analyze what that would do. We'd be happy to come back after we analyzed it.

Chairman DeKrey: Thank you. Further testimony in opposition.

Kim Granfor, ND Collectors Association: (see attached testimony).

Rep. Koppelman: I noticed that one of the factors in current law deals with multiple of minimum wage. We all heard about various proposals on the national level, on the state level, if that occurred what would that do to these formulas.

Kim Granfor: When I did a quick number, generally it won't impact it unless they are making below \$15/hr possibly \$12/hr. Generally the minimum wage exemption doesn't come into play because it is the lower of the two. Either you get the minimum wage exemption or you get the 25% of your disposable income.

Rep. Onstad: You said that you can only garnish one at a time, is that because the debt is only owed to one person, and is there a way to look at both parents income. Has that been discussed.

Kim Granfor: Because you can only take that one person's income, whoever you are actually sending the paper too, the employer fills out the disclosure form. The employer would be unaware of what the other spouse makes.

Rep. Delmore: How many agencies you have, and how many cases of these do you handle, and out of these cases, what percentage do you take.

Kim Granfor: We have 23 members in our association. There are other agencies in the state that are not members of our association. In addition, there are some agencies from out of state that do business in ND. As far as the number of cases that we actually do, I can't give you a total, each one of us could give you a rough idea of how many legal actions that we take. I don't have the breakdown of how many of those actually go to garnishment. In my business we would probably do about 3,000 lawsuits a year. We find it is about 20% of people pay from the complaint, 20% pay from the judgment, 20% pay from the notice prior to garnishment, and some are uncollectible, because the person is no longer working or the execution is ineffective.

Chairman DeKrey: Thank you. Further testimony in opposition.

Bryan Dvirnak, President, Collection Center Inc.: I am opposed. Garnishment is used as a last resource. The services were provided by the creditor in good faith to the debtor. I can tell you that we cover 4 states with our legal action. I can tell you that we sue between 3-4000 accounts per year. I can tell you that our employees make every effort and make every attempt to work with the debtor before they are forced to go to legal action. I think the \$100 exemption is just going to destroy the business. I would ask if we shouldn't be concerned about protecting the rights of the creditor. I can tell you that on average, we will work at least a year working with a debtor before we bring legal action and it's only after repeated attempts. We don't just sue for no reason. We do all sorts of due diligence. We only bring legal action when we know, after our due diligence, that these people have the ability to pay and refuse to

pay. We try to help the debtors that we can. We are not the big bad collection agencies, don't judge us. There may be some agencies from out of state that are ruthless. Don't judge all of us by that behavior.

Rep. Klemin: In my experience, not all debtors are people who fell through the cracks.

Some are nasty and do a lot of damage to someone's property, etc. Do you get any like that.

Bryan Dvirnak: All the time. I tell people, my biggest challenge, is trying to sort through the lies to get to the truth.

Chairman DeKrey: Thank you. Further testimony in opposition. We will recess the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1211

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2910

Committee Clerk Signature

A. Remose

Minutes:

Chairman DeKrey: We will reopen the recessed hearing on HB 1211.

Rep. Griffin: Explained his amendments. This removes the debtor as an exemption, so it's only his dependents that will count. It moves it down to the \$40 amount. I personally don't think we even need to change that amount from the \$20/week amount. We also added the language of being signed under penalty of perjury.

Rep. Klemin: Where is that rule found.

Rep. Delmore: You wanted to keep the \$40 in there even though you aren't so sure it is a good idea.

Rep. Griffin: I think they handed out a sheet which was somewhat misleading, they would be making some money at \$40, and I don't think there is that much difference.

Rep. Klemin: As I understood the testimony, even the \$20/week is not allowed in many of the surrounding states.

Rep. Koppelman: I think the current plan is pretty generous to the debtor. We have exemptions and frankly I don't see the need to change that. If there are other changes on that, I'm sure I could go along with \$40, the rest of the bill if you think there are reasonable changes.

Rep. Griffin: I move the amendments.

Rep. Delmore: Second.

Chairman DeKrey: Rep. Koppelman moves to further amend to \$20/week. And change it to be signed under the penalty of perjury; which will need to be changed on page 1, line 21; page 3, line 10; page 3, line 12; page 4, line 6; page 4, line 8; and page 4, line 22.

Rep. Delmore: Why are they required to do a list, because they might hide assets.

Rep. Klemin: They already do that. The difference is that now they require a verified list, which means you have to go out and get it notarized. This would delete the requirement for a verified, but it would be stated on the form itself that I swear, under penalty of perjury, so that the person knows that even though he is not getting it notarized, he is still subject to the same penalty that he is now.

Rep. Wolf: Second.

Chairman DeKrey: We will take a voice vote. Motion carried on the amendment as amended. Motion carried. We now have bill before us as amended.

Rep. Koppelman: I move a Do Pass as amended.

Rep. Kretschmar: Second.

13 YES 1 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Griffin

PROPOSED AMENDMENTS TO H.B. 1211

Page 1, line 17, replace "one hundred dollars for the garnishment" with "forty"

Page 1, line 17, remove "debtor and one hundred"

Page 1, line ²¹~~22~~, after "signed" insert "under penalty of perjury"

Page 3, line 10, replace "one hundred" with "forty"

Page 4, line 6, replace "one hundred" with "forty"

Page 10, line 12, remove the overstrike over "Dependent" and remove "Debtor and dependent"

Page 10, line 13, replace "one hundred dollars for debtor plus" with "forty"

Page 10, line 14, remove "one hundred"

Renumber accordingly.

House Amendments to HB 1211 (70604.0101) - Judiciary Committee 02/07/2007

Page 1, line 17, remove the overstrike over "~~twenty~~" and remove "one hundred dollars for the garnishment"

Page 1, line 18, remove "debtor and one hundred"

Page 1, line 20, after "list" insert an underscoring comma

Page 1, line 21, after "signed" insert "under penalty of perjury" and after "debtor" insert an underscoring comma

House Amendments to HB 1211 (70604.0101) - Judiciary Committee 02/07/2007

Page 3, line 10, remove the overstrike over "~~twenty~~" and remove "one hundred"

Page 3, line 12, after "you" insert ", under penalty of perjury."

House Amendments to HB 1211 (70604.0101) - Judiciary Committee 02/07/2007

Page 4, line 6, remove the overstrike over "~~twenty~~" and remove "one hundred"

Page 4, line 8, after "you" insert ", under penalty of perjury."

Page 4, line 22, after "I" insert ", under penalty of perjury."

House Amendments to HB 1211 (70604.0101) - Judiciary Committee 02/07/2007

Page 10, line 12, remove the overstrike over "~~Dependent~~" and remove "Debtor and dependent"

Page 10, line 13, remove the overstrike over "~~twenty~~" and remove "one hundred dollars for debtor plus"

Page 10, line 14, remove "one hundred"

Renumber accordingly

Date: 2/6/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1211

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Koppelman Seconded By Rep. Kretschmar

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Ch. DeKrey | ✓ | | Rep. Delmore | ✓ | |
| Rep. Klemin | ✓ | | Rep. Griffin | ✓ | |
| Rep. Boehning | ✓ | | Rep. Meyer | ✓ | |
| Rep. Charging | | ✓ | Rep. Onstad | ✓ | |
| Rep. Dahl | ✓ | | Rep. Wolf | ✓ | |
| Rep. Heller | ✓ | | | | |
| Rep. Kingsbury | ✓ | | | | |
| Rep. Koppelman | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
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Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Guffin

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1211: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1211 was placed on the Sixth order on the calendar.

Page 1, line 17, remove the overstrike over "~~twenty~~" and remove "one hundred dollars for the garnishment"

Page 1, line 18, remove "debtor and one hundred"

Page 1, line 20, after "list" insert an underscored comma

Page 1, line 21, after "signed" insert "under penalty of perjury" and after "debtor" insert an underscored comma

Page 3, line 10, remove the overstrike over "~~twenty~~" and remove "one hundred"

Page 3, line 12, after "you" insert ", under penalty of perjury."

Page 4, line 6, remove the overstrike over "~~twenty~~" and remove "one hundred"

Page 4, line 8, after "you" insert ", under penalty of perjury."

Page 4, line 22, after "I" insert ", under penalty of perjury."

Page 10, line 12, remove the overstrike over "~~Dependent~~" and remove "Debtor and dependent"

Page 10, line 13, remove the overstrike over "~~twenty~~" and remove "one hundred dollars for debtor plus"

Page 10, line 14, remove "one hundred"

Renumber accordingly

2007 SENATE JUDICIARY

HB 1211

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1211

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: 4117

Committee Clerk Signature

Mona L Solberg

Minutes: Relating to garnishment of wages.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Testimony in Favor of the Bill:

Rep. Duane DeKrey, Dist. # 14 Introduced the bill speaking to the history of what the current collection amounts and the changes this bill went through ending up at the original dollar amount the present law. He spoke of what the two differences were left in the bill. The two differences are the verified lists and the no longer need to notarize.

Testimony Against the bill:

None

Testimony Neutral to the bill:

Kim Granfor, A.C.A. (meter 3:21) Spoke to the notary part in the law and the exemption process on page 1 line 18. The committee discussed the process and the garnishment. Page 4 the new garnishment form that stays at the collection agency.

Sen. Nething reviewed the two changes again. This will protect the "less' educated by allowing them a later date to notify the collection agency of additional exemptions-only in effect at the time of notification.

Sen. Lyson asked how they are informed? We do not tell them, it is the employers job to tell them. Kim continued to state that if they work with us, we help them fill out the form. We do not want them to much hardship. Spoke of how they work with them.

Sen. Nething stated what they do is not in the law. If the bill is killed there are no changes. If we pass it, the bill allows the person to file there exceptions at any time.

Senator David Nething, Chairman closed the hearing.

Sen. Nelson made the motion to Do Pass HB 1211 and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Nelson**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 28, 2007 10:17 a.m.

Module No: SR-38-4091
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1211, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1211 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1211

Mike Lefor
DCI Credit Services, Inc.
Testimony on House Bill 1211
House Judiciary Committee
January 23, 2007

Chairman DeKrey and members of the House Judiciary Committee, my name is Mike Lefor, and I am speaking on behalf of my business, DCI Credit Services, Inc. a small collection service in Dickinson. I am here to urge you to oppose House Bill 1211 for a few reasons.

First, the exemptions already in existence in the North Dakota Century Code already grant more exemptions than are allowed in the following states:

The following states (as well as the District of Columbia and Puerto Rico) have garnishment exemptions equal to federal law (30 times federal minimum wage or 75% of net weekly take home pay, whichever is greater:

| | | | |
|----------------------|-----------|-------------|-------------|
| Alabama | Idaho | Michigan | Puerto Rico |
| Arizona | Indiana | Mississippi | Tennessee |
| California | Iowa | Montana | Utah |
| Colorado | Kansas | Ohio | Virginia |
| District of Columbia | Kentucky | Oklahoma | Washington |
| Georgia | Louisiana | Oregon | Wyoming |

The following states have exemptions equal to 40 times the minimum wage:

Connecticut
Maine
Minnesota
New Mexico

North Dakota (In addition, the amount exempt from garnishment is increased each workweek by \$20 for each dependent family member residing with garnishment debtor.)

Other states have all types of differing formulas. You can see that many states have lower garnishment exemptions already given to North Dakota debtors. We feel the current law is workable. If the exemption amount would rise to \$100 per dependent living with the debtor, in a spread sheet created by our next presenter, it shows a married couple with two children could make \$47.00 per hour each and still not be garnished. Kim Granfor will go over this in her remarks after me.

I would like to give you a few points about the positive effect collection agencies have on the national economy. This information comes from the American Collectors Association:

1. There is no such thing as an unpaid bill. Built into the price of everything we buy is the cost of someone else's bad debt. If not for the work of collectors, prices would be higher.
2. Last year, the collection industry returned nearly \$40 billion to U.S. businesses, representing a 22 reduction in private sector bad debt.
3. This saved the average American household \$351 last year, representing 19 bags of groceries, 155 gallons of gas or four months of electric bills for working families. Collectors are proud to make this impact for the benefit of all consumers.
4. North Dakota's collection agencies return millions of dollars to North Dakota businesses and have ~~be~~ been making a positive economic impact for nearly 70 years.

In our business, we take legal action as a last resort, we work very hard to work with the consumer to pay their debts, some individuals we work with are poor budgeters, some are procrastinators and some simply abuse credit and have no intention of paying. Also, many individuals we are trying to collect from due have circumstantial financial difficulties such as job loss, divorce and other reasons.

We work with those individuals to help them find a way to pay their debts. We accomplish this by referring them to consumer credit counseling, applying for charity care in hospitals and advising them on other possibilities for payment. Collection agencies do not want to take legal action because it is a very costly process, including an \$80.00 filing fee as well as sheriff or process server costs, however, with some individuals there is no choice, we must take legal action to enforce payment.

If House Bill 1211 becomes law, it will not only make impossible to garnish wages in North Dakota, as credit abusers become more aware of this law, it has the potential to increase unpaid bad debt in North Dakota when they realize that businesses and collection agencies in the state can no longer have that enforcement ability that comes with garnishing wages.

House Bill 1211
Testimony
Page 3

As I said, we would prefer to work with consumers and, in the vast majority of cases, they are easy to work with and they compliment us for helping them and advising them on strategies to re-pay their debt. It is common for us to work with consumers with no issue, however, they are those who are completely uncooperative and require legal action to pay debt.

I encourage you to give House Bill 1211 a "do not" pass recommendation. I would be glad to try to answer any questions.



North Dakota Collectors Association

an association of collection specialists

**House Bill 1211
Kim Granfor
ND American Collector's Association**

TESTIMONY IN OPPOSITON

Chairman DeKrey and members of the House Judiciary Committee, my name is Kim Granfor and I am speaking on behalf of the ND American Collector's Association.

The ND American Collector's Association urges you to oppose House Bill 1211. If this proposed bill becomes law, it will eliminate the ability to garnish wages for unpaid bills (unless a family of four is making over \$100,000 per year). Keep in mind that garnishment or executions are the last options available in enforcing a judgment.

The attached spreadsheet shows what a person would be garnishable for under the current law compared to the proposed legislation. I have used two annual incomes - \$35,000 and \$100,000.

The point at which a married person, with 2 kids would be garnishable would be just under \$100,000 per year. As the spreadsheet shows at \$100,000 per year, he would be garnishable for \$9.00 per week. This is making the assumption that the tax withholdings are at 15%. At that rate, a business or medical facility would have to wait over 11 years to receive payment in full on a \$5,000 judgment.

Let's take it a step further... the same family... both husband and wife work and both make \$100,000 per year. Combined household income is now \$200,000 per year. Both husband and wife can be garnished at the same time... so now instead of \$9 per week we can obtain \$18 per week from a family that makes \$200,000 a year.

In North Dakota we are very trusting people, and I am proud of that quality. We believe that people will pay for the goods and services they receive in a timely manner. If we are unable to collect these debts, business and medical facilities will eventually be forced to obtain payment up front. Or, business and medical facilities will have to raise the cost of their goods and services in order to compensate for this lost revenue.

I will be happy to answer any questions that you may have.

HOUSE BILL 1211

Assume 52 payperiods. \$35,000 annual income

| | Current Single | Proposed Single | Current Married 2 kids | Proposed Married 2 kids |
|--|-------------------|--------------------|---------------------------|----------------------------|
| a. Total earnings in a payperiod | \$673 | \$673 | \$673 | \$673 |
| b. Federal Tax | | | | |
| c. State Tax | | | | |
| d. FICA (Social security/medicare) | | | | |
| e. Total deductions (lines b+c+d) | \$101 | \$101 | \$101 | \$101 |
| f. Disposable earnings (line a less line e) | \$572 | \$572 | \$572 | \$572 |
| g. Twenty-five percent of line f | \$143 | \$143 | \$143 | \$143 |
| h. Minimum wage exemption (minimum wage times forty hours times number of weeks in a pay period) | \$206 | \$206 | \$206 | \$206 |
| i. Line f less line h | \$366 | \$366 | \$366 | \$366 |
| j. Line g or line i (whichever is less) | \$143 | \$143 | \$143 | \$143 |
| k. Dependent exemption \$20 per week per dependent current \$100 per week per dependent - proposed | \$0 | \$100 | \$60 | \$400 |
| l. Adverse interest or setoff | \$0 | \$0 | \$0 | \$0 |
| m. total of lines k and l | \$0 | \$100 | \$60 | \$400 |
| n. Line j less line m Line n is the amount subject to garnishment- | \$143 | \$43 | \$83 | \$0 |

Assume \$100,000 per year
52 payperiods

| | Current Single | Proposed Single | Current Married 2 kids | Proposed Married 2 kids |
|--|-------------------|--------------------|---------------------------|----------------------------|
| a. Total earnings in a payperiod | \$1,923 | \$1,923 | \$1,923 | \$1,923 |
| b. Federal Tax | | | | |
| c. State Tax | | | | |
| d. FICA (Social security/medicare) | | | | |
| e. Total deductions (lines b+c+d) | \$288 | \$288 | \$288 | \$288 |
| f. Disposable earnings (line a less line e) | \$1,635 | \$1,635 | \$1,635 | \$1,635 |
| g. Twenty-five percent of line f | \$409 | \$409 | \$409 | \$409 |
| h. Minimum wage exemption (minimum wage times forty hours times number of weeks in a pay period) | \$206 | \$206 | \$206 | \$206 |
| i. Line f less line h | \$1,429 | \$1,429 | \$1,429 | \$1,429 |
| j. Line g or line i (whichever is less) | \$409 | \$409 | \$409 | \$409 |
| k. Dependent exemption \$20 per week per dependent current \$100 per week per dependent - proposed | \$0 | \$100 | \$60 | \$400 |
| l. Adverse interest or setoff | \$0 | \$0 | \$0 | \$0 |
| m. total of lines k and l | \$0 | \$100 | \$60 | \$400 |
| n. Line j less line m Line n is the amount subject to garnishment- | \$409 | \$309 | \$349 | \$9 |

States that allow for 30 x minimum wage or 75% of net weekly take home pay
Assume \$100,000 per year.

| | |
|-----------------------------------|------------|
| Weekly earnings | 1923 |
| less taxes at 15% | <u>288</u> |
| Disposable earnings | 1635 |
| Minimum wage exemption | |
| 30 hours x 5.15 = | 154.5 |
| 25% of take home pay | 408.75 |
| Garnishable for the lesser amount | \$154.50 |



North Dakota Collectors Association

an association of collection specialists

HOUSE BILL 1211
Kim Granfor
ND American Collectors Association

IN OPPOSITION

The ND American Collectors Association would like you to oppose HB 1211 as stated in our testimony from Tuesday, January 23, 2007. Per your request I am providing the House Judiciary Committee with a spreadsheet showing the effects that HB 1211 would have on the ability to garnish wages from a person who has received goods or services and has chosen to not pay the bill.

As per the Committee's request, I ran a spreadsheet showing what a person would be garnishable for using the current law, the proposed legislation of \$100 per week per dependent and also using an exemption of \$40 per week/ per dependent. To obtain the numbers attached, I had our payroll department run the numbers as if it was an actual payroll being ran. The numbers are for a family of four (4) claiming two (2) exemptions.

As you review the spreadsheet, you will see that even at a \$40 per dependent exemption, it makes it impossible to garnish until a person makes over \$40,000 per year. Keep in mind that these numbers are for an individual income vs. a household income.

We propose that the law stay at the \$20 per week per dependent. North Dakota is already allowing an exemption that Montana, Minnesota, Colorado, Nebraska, Wyoming, Kansas, Iowa do not allow. In Mike Lefor's testimony (given on January 23) you will see a more extensive list of states and their garnishment laws that are already more restrictive than the current ND law.

If I can provide more information or answer questions, please contact me at 224-9439 or on my cell phone at 471-4226.

HOUSE BILL 1211

ND medium

household income

| | \$15,800 (\$7.25/hr) | \$25,000 (\$12/hr) | \$35,000 (\$17/hr) | \$41,362 (\$19.89/hr) | \$50,000 (\$24/hr) | \$100,000 \$48/hr) |
|-------------------------|----------------------|--------------------|--------------------|-----------------------|--------------------|--------------------|
| Married 2 kids | | | | | | |
| Current law (\$20/wk) | (1) | \$30 | \$53 | \$93 | \$119 | \$152 |
| Proposed law (\$100/wk) | | \$0 | \$0 | \$0 | \$0 | \$0 |
| Amendment (\$40/wk) | | \$0 | \$0 | \$0 | \$19 | \$52 |
| | | | | | | \$233 |

**Allowed 2 exemptions.

(1) If the minimum wage is increased to \$7.25 per hour, this number would be 0