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DESCRIPTION

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La Costa Rickford  
Operator's Signature

10/16/03  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1427

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10/6/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2/04/03

Tape Number	Side A	Side B	Meter #
1		x	11.7-41.6

Committee Clerk Signature

*Judith Hammer*

Minutes: **Chairman Keiser** opened the hearing on HB 1427.

**Rep. Weller**, District 30, introduced HB 1427 and distributed proposed hog house amendments.

Three things will be accomplished within this legislation:

1. The amount paid to an employer for compliance with completing garnishment paperwork is increased from \$10-\$25.
2. Employers will not longer have possible liability for employee's debts
3. A legislative study to streamline forms

**Rep. Severson:** If we're looking at a 9 month term of compliance, shouldn't we look at raising the compliance fee higher than \$25?

**Rep. Weller:** The fee does get charged back to the garnished employee

**Rep. Ekstrom:** Regarding "shall consider study" may in Section 4, doesn't attachment to a bill mandate a study?

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*10/16/03*  
Date

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House Industry, Business and Labor Committee  
Bill/Resolution Number HB 1427  
Hearing Date 2/4/03

**Rep. Weller:** I'd appreciate this committee having a closer look at that. I'd be OK with that change.

Dale Gosset, business owner of Bismarck, testified in support of HB 1427. He testified that by the time wages are garnished, credit collection agencies have exhausted their efforts. He takes the potential liability issue very seriously. As an employer, he seeks legal counsel, incurs accounting and notarizing fees. A particular item on the form that is vexing to him is procuring a "verifiable list of dependents". He requested that this process be made easier for employers to comply. This all becomes another cost of doing business.

**Rep. Ruby:** Why isn't garnishment handled like child support? That's court ordered and calculated.

**Rep. Dosch,** District 32, appeared in support of HB 1427. He announced that he was appearing on his own behalf as a local business owner and stated that he thinks this liability issue is unfair. A collection agency collects 30-50%. Banks charge \$25 for NSF checks. There are so many variables involved. This process has a huge impact on small businesses, service industries and hourly wage employees.

**Kim Rau,** representing the North Dakota Association of Collection Agencies, testified in opposition to HB 1427. (see attached # 2). NDACA favors an interim study. They are opposed to increasing the fee paid to employers. Minnesota and Montana do not pay a fee to employers. South Dakota pays \$15. The form needs to be improved. Very few employers won't comply and the court has overturned judgments against employers. She offered to work with the interim committee to improve the forms.

**Rep. Nottestad:** Where does this form originate?

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*10/16/03*  
Date

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1427

Hearing Date 2/4/03

**Kim Rau:** The Century Code is the source of the form.

**Rep. Dosch:** What would you charge me to collect a \$100 NSF check?

**Kim Rau:** We don't do NSF's but for other types of collection, we'd charge anywhere from 10-50%. 50% for out of state services.

**Chairman Keiser:** What cut would you get for a \$3000 medical bill?

**Kim Rau:** Including legal expenses, 21-40%.

**Rep. Kasper:** What kind of instructions are included with this form when it is sent to employers?

**Kim Rau:** There isn't one but we take a lot of calls and walk them through the process.

**Rep. Severson:** If I call you, you'll tell me you're not a lawyer. My attorney charges me \$125 an hour, and I only get \$10? You don't think that \$25 is fair to employers?

**Kim Rau:** We'd just like more time to determine what's fair to everybody. We charge the fee back to the debtor. A lot of times, as soon as we do the garnishment request, the employee quits.

**Chairman Keiser:** Who collects the \$10? And when is it collected? And money ends up back at your agency? As long as the garnishment occurs, you are going to get paid?

**Kim Rau:** It's included in the 110% of the garnishment, it's calculated right in there. As long as they make enough to be garnished, yes, we get paid.

As there was no one else present to testify in opposition to HB 1427, the hearing was closed.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1427

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
2	X		4714-end

Committee Clerk Signature *Elizabeth R. Linn*

Minutes: **Chair Keiser:** Opened discussion on HB 1427.

**Rep. Dosch** presented the hog house amendment.

**Rep. Keiser** told the committee the "willfully" has to be in the bill or the Governor will not sign it. After reading the current Century Code, "willfully" is currently in as it was added two years ago.

Rep. Klein moved to adopt the amendment (.0103). Seconded by Rep. Boe. Voice vote.

Amendment adopted.

Rep. Klein moved to recommend DP as amended. Rep. Boe seconded the motion.

Vote: **14 Yes 0 No 0 Absent and not voting Carrier: Boe**

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*Colista Rickford*  
Operator's signature

*10/16/03*  
Date

LR

**FISCAL NOTE**  
Requested by Legislative Council  
02/13/2003

Amendment to: HB 1427

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,800	\$0	\$1,800	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

OMB has approximately 60 garnishments per year on state payroll. The garnishment fee is deposited in the general fund. A fee increase would provide \$1,800 in additional general fund revenue per biennium.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

<b>Name:</b>	Elleen Holwegner	<b>Agency:</b>	OMB
<b>Phone Number:</b>	328-1666	<b>Date Prepared:</b>	02/14/2003

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Jo Costa Rickford 10/16/03  
Operator's Signature Date

38328.0102  
Title.

Prepared by the Legislative Council staff for  
Representative Weller  
February 3, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1427

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century Code, relating to garnishment disclosure fees and default judgments; and to provide for a legislative council study of garnishment forms.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 32-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**32-09.1-05. Service on office of management and budget - Fees.** Service upon the state of North Dakota, or any institution, department, or agency thereof, as garnishee, may be made upon the director of the office of management and budget in the manner provided by law for service in garnishment proceedings, including the fee to be tendered and paid the office of management and budget for making and filing an affidavit of disclosure in the amount of ~~ten~~ twenty-five dollars. The fee shall be paid into the state treasury.

**SECTION 2. AMENDMENT.** Section 32-09.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**32-09.1-10. Disclosure fees.** In all garnishment proceedings, the plaintiff, when the garnishee summons is served upon the garnishee, shall tender to the garnishee the sum of ~~ten~~ twenty-five dollars as the fee for making an affidavit of disclosure.

**SECTION 3. AMENDMENT.** Section 32-09.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**32-09.1-14. Default.** If any garnishee who is duly summoned ~~willfully~~ knowingly fails to serve disclosure as required in this chapter, the court, upon proof by affidavit of the creditor, may render judgment against the garnishee for an amount not exceeding the plaintiff's judgment against the defendant or one hundred ten percent of the amount which remains unpaid, whichever is the smaller, ~~but the~~. The creditor shall serve the garnishee with a copy of the affidavit and a notice of intent to take default judgment. The court upon good cause shown may remove the default and permit the garnishee to disclose on terms as may be just.

**SECTION 4. LEGISLATIVE COUNCIL STUDY - GARNISHMENT FORMS.** During the 2003-04 interim, the legislative council shall consider studying the garnishment forms under North Dakota Century Code chapter 32-09.1, and whether actions may be taken to clarify and simplify the forms and garnishment proceedings. If the study is conducted, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

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38328.0102

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