

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1676

BY: HUDSON

AS INTRODUCED

AN ACT RELATING TO CIVIL PROCEDURE; AMENDING 12 O.S. 1981, SECTION 1178, AS LAST AMENDED BY SECTION 6, CHAPTER 248, O.S.L. 1990 (12 O.S. SUPP. 1990, SECTION 1178), WHICH RELATES TO GARNISHMENT OF WAGES; REQUIRING CERTAIN FORWARDING OF GARNISHMENT SUMMONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1981, Section 1178, as last amended by Section 6, Chapter 248, O.S.L. 1990 (12 O.S. Supp. 1990, Section 1178), is amended to read as follows:

Section 1178. A. For the purposes of this section, "wages" or "earnings" means any form of periodic payment to an individual including, but not limited to, salary, commission or other compensation, but does not include reimbursement for travel expenses for state employees.

B. Where the garnishment summons is on wages and is issued under Section 1173 of this title, then unless the garnishee shall make the affidavit provided for in Section 1176 of this title, he shall, within seven (7) days after the end of defendant's present pay period or thirty (30) days from the service of the summons, whichever is earlier, file an affidavit with the clerk of the court

in which the action is pending and deliver or mail a copy thereof to the plaintiff or the plaintiff's attorney of record. The affidavit shall state:

1. Whether he was the employer of or indebted or under any liability to the defendant named in the notice in any manner or upon any account for earnings or wages, specifying the beginning and ending dates of the pay period existing at the time of the service of the garnishee summons, the total amounts earned in the entire pay period, and all the facts and circumstances necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness he may set forth all the facts and circumstances concerning the same, and submit the question to the court;

2. If the garnishee shall claim any setoff, defense, any other indebtedness, liability, any lien, or claim to such property, he shall set forth the facts and circumstances in the affidavit;

3. The garnishee may, but shall have no obligation to, state any claim of exemption from execution on the part of the defendant, or other objection known to him against the right of the plaintiff to apply upon his demand the indebtedness or property disclosed;

4. If the garnishee shall disclose any indebtedness or the possession of any property to which the defendant, and any other person as well, makes claim, he may set forth the names and residences of such other claimants and, so far as known, the nature of their claims;

5. The garnishee shall state that he has mailed or hand-delivered a copy of the notice of garnishment and exemptions, and application for hearing, as required by Section 1172.2 of this title and state the manner and date of compliance; and

6. The answer of the garnishee shall be on a form prescribed by the Administrative Office of the Courts.

C. If any corporation, entity, or individual who has work performed by any person in which they pay another corporation, entity, or individual for the services of that individual, which is commonly known as a leasing arrangement, then the corporation, entity, or individual receiving services of a "leased" person shall immediately forward any garnishee summons received to the company from which they have "leased" said person for services. The "leasing company" shall then be under a duty to answer any garnishee summons received as required by this section.

SECTION 2. This act shall become effective September 1, 1991.

43-1-5593

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