Uniform Law Commission
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THE UNIFORM WAGE GARNISHMENT ACT

- A Summary -

The Uniform Wage Garnishment Act (UWGA) provides a standard process for wage garnishment to collect debt after a creditor obtains a judgment. Current state laws vary widely and are often outdated, imposing significant burdens on courts and unnecessary costs on creditors, employers, and employees. Sometimes they also fail to provide adequate notice to employees of their rights and obligations. The UWGA creates a standard system for wage garnishments that is largely removed from the courts, operates efficiently thereby reducing costs, and provides employees with a plain-language notification of their rights and obligations as well as providing them with other protections.

The UWGA applies only to what is sometimes called a “debt garnishment,” meaning a garnishment by a creditor with a money judgment. It does not apply to other procedures that are sometimes called garnishments but are known collectively under the UWGA as ordered deductions. Examples are procedures to collect under a support order; an order of a bankruptcy court; or a debt owed for a federal, state, city, or local tax.

As under current law, a garnishment action commences in court with the filing of a complaint or motion (the procedure differs from state to state) which is served on the employer using the normal rules of civil procedure. That is the last time the court will be involved unless an employee, employer, or creditor seeks its protection. The employer’s answer is made directly to the creditor and amounts deducted from the employee’s earnings are remitted directly to the creditor.

The complaint or motion must provide sufficient information to permit the employer to readily identify the employee, designate an agent with whom the employer must communicate, specify the total amount to be deducted over time, and specify how deducted funds are to be remitted to the creditor. The employer’s answer must indicate whether the named debtor is in fact an employee and must designate an agent with whom the creditor must communicate.

Under current law, a garnishment action may proceed in any jurisdiction in which the employer can be served. The UWGA gives the employee better access to the court by generally requiring that it be located in the jurisdiction where the employee works. The UWGA also extends protection to a cadre of individuals who are classified as independent contractors but who are virtually indistinguishable from employees. It also requires that anyone whose earnings are to be garnished be given a plain-language notification that explains garnishment and provides other helpful information about how to deal with the situation. Wage deductions cannot begin until the first regular payday that occurs 30 or more days after the notification is sent. The act also creates a procedure that encourages creditors to stop wrongful garnishments promptly and return any funds wrongfully garnished.

The UWGA protects creditors by permitting a single garnishment to remain in place until the entire amount owed on the judgment is paid, and it resolves multiple-garnishment issues by requiring creditors to share equally in available funds. The act also promotes efficiency by permitting the creditor and employer to agree to modern payment methods and by permitting an employer that has more than one employee being garnished by the same creditor to send a single, combined payment to the creditor.

The Act provides appropriate penalties for employers that fail to follow required procedures and for creditors that engage in bad-faith conduct. Although most garnishments will proceed entirely outside the court system, creditors, employers, and employees may request a hearing at any time to determine any issue arising under the Act.

For more information about the UWGA, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.