

LEGISLATIVE BILL 737

Approved by the Governor March 13, 1974

Introduced by Judiciary Committee, Luedtke, 28, Chmn.;
Stull, 49; Carpenter, 48; Barnett, 26;
Fellman, 4; Chambers, 11; DeCamp, 40;
Richendifer, 16

AN ACT to amend section 25-1056, Revised Statutes Supplement, 1972, relating to garnishment in aid of execution; to change garnishment procedures as prescribed; to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section. 1. That section 25-1056, Revised Statutes Supplement, 1972, be amended to read as follows:

25-1056. In all cases where a judgment has been entered by any court of record and the judgment creditor, his agent or attorney, shall file an affidavit setting forth the amount due on the judgment, interest, and costs in the office of the clerk of the court where the judgment has been entered, that he has good reason to and does believe that any person, partnership, or corporation, naming him or it, has property of and is indebted to the judgment debtor, the clerk shall issue a summons requiring which shall set forth the amount due on the judgment, interest, and costs as shown in the affidavit, and require such person, partnership, or corporation, as garnishee, to answer written interrogatories to be furnished by the plaintiff and to be attached to such summons respecting the matters set forth in section 25-1026. The clerk shall mail a copy of the summons to the judgment debtor at his last-known address. The summons shall be returnable within five days from the date of its issuance and shall require the garnishee to answer within ten days from the date of issuance. Except when wages are involved, the garnishee shall hold the property of every description and the credits of the defendant in his possession or under his control at the time of the service of the summons and interrogatories until the further order of the court. If the only property in the possession or under the control of the garnishee at the time of the service of the summons and interrogatories shall be credits of the defendant and the amount of such credits is not in dispute by the garnishee, then such garnishee shall only hold the credits of the defendant in his possession or under his control at the time of the service of the summons and interrogatories to the extent of the amount

~~of the judgment, interest, and costs set forth in the summons, until further order of the court.~~ When wages are involved, the garnishee shall pay to the employee all disposable earnings exempted from garnishment by statute, and any disposable earnings remaining after such payment shall be retained by the garnishee until further order of the court. Thereafter, the service of the summons and interrogatories and all further proceedings shall be in all respects the same as is provided for in sections 25-1011 and 25-1026 to 25-1031.01 unless inconsistent with the provisions of this section.

Sec. 2. That original section 25-1056, Revised Statutes Supplement, 1972, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.