

**GARNISHMENT AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jack R. Draxler**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill allows a person who is wrongfully served with a writ of garnishment to recover from the plaintiff.

**Highlighted Provisions:**

This bill:

- ▶ allows a person wrongfully served with a writ of garnishment to ask the court for redress from the plaintiff in an amount up to \$1,000; and
- ▶ provides guidelines for the court to determine whether the plaintiff was diligent in determining the identity and location of the judgment debtor.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-2-216**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78A-2-216** is amended to read:

**78A-2-216. Fees for writ of garnishment -- Single or continuing.**

(1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:

30 (a) \$10 for a single garnishment; and

31 (b) \$25 for a continuing garnishment.

32 (2) The creditor shall pay the fee directly to the garnishee.

33 (3) If a plaintiff attempts to garnish the property of a person other than the defendant by  
34 servicing a garnishment on a garnishee, that person may recover from the plaintiff an amount not  
35 to exceed \$1,000 if the person demonstrates to the court that the plaintiff failed to exercise  
36 reasonable diligence in determining that the person and defendant were the same individual.

37 (4) The following factors may be taken into consideration by the court in determining  
38 whether the plaintiff exercised reasonable diligence in determining whether the person garnished  
39 and the defendant were the same individual:

40 (a) similarities between the person and the actual judgment debtor, including:

41 (i) the spelling of each person's name;

42 (ii) addresses;

43 (iii) physical descriptions;

44 (iv) identifying information, including Social Security number or driver license number;

45 and

46 (v) family status;

47 (b) whether previous contact was made to determine whether the person was the  
48 judgment debtor;

49 (c) how the determination of who the judgment debtor was, was made; and

50 (d) what information the plaintiff had access to or was provided with regarding the  
51 actual judgment debtor from all available sources.

52 (5) An employer who receives a written request for verification of employment, which  
53 includes a copy of the judgment and judgment information statement, shall provide verification  
54 within ten days. The response shall indicate whether or not the defendant identified in the  
55 documentation is a current employee.

56 (6) A plaintiff is not liable for a violation of Subsection (3) regarding a wage  
57 garnishment if the plaintiff transmitted a written request for verification of employment.

58 including a copy of the judgment and judgment information statement, to an employer and the  
59 employer did not respond.