

# HOUSE BILL No. 5071

September 21, 1989, Introduced by Reps. Profit and DeMars and referred to the Committee on Judiciary.

A bill to amend section 4011 of Act No. 236 of the Public Acts of 1961, entitled as amended  
"Revised judicature act of 1961,"  
being section 600.4011 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4011 of Act No. 236 of the Public Acts  
2 of 1961, being section 600.4011 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 4011. (1) Subject to the conditions in ~~subsections~~  
5 ~~(2), (3), (4), (5), (6), and (7)~~ THIS SECTION, the circuit court  
6 ~~shall have power~~ MAY by garnishment ~~to~~ apply the following  
7 property or obligation, or both, to the satisfaction of a claim  
8 evidenced by contract, judgment of this state, or foreign  
9 judgment, whether or not the state has jurisdiction over the  
10 person against whom the claim is asserted:

1 (a) Personal property belonging to the person against whom  
2 the claim is asserted but which is in the possession or control  
3 of a third person if the third person is subject to the judicial  
4 jurisdiction of the state and the personal property to be applied  
5 is within the boundaries of this state.

6 (b) An obligation owed to the person against whom the claim  
7 is asserted if the obligor is subject to the judicial jurisdic-  
8 tion of the state.

9 (2) The court may exercise the jurisdiction granted in this  
10 section only if action is taken in accordance with rules adopted  
11 by the supreme court to protect the parties. Except as otherwise  
12 provided by court rule, ~~the~~ THIS state ~~of Michigan~~ and every  
13 governmental unit ~~therein~~ IN THIS STATE, including but not  
14 limited to a public, municipal, quasi-municipal, or governmental  
15 corporation, unincorporated board, public body, or political sub-  
16 division, may be proceeded against as garnishees in the same  
17 manner and with like effect as individuals.

18 (3) A writ of garnishment may be issued before judgment only  
19 as provided in this subsection. Upon ex parte application show-  
20 ing that the person against whom the claim is asserted is not  
21 subject to the judicial jurisdiction of the state or, after dili-  
22 gent effort, cannot be served with process as required to subject  
23 him OR HER to the judicial jurisdiction of the state, a copy of  
24 the writ of garnishment shall be served upon the person against  
25 whom the claim is made in the same manner as provided by rules of  
26 the supreme court for service of process in other civil actions  
27 in which personal jurisdiction over the defendant is not

1 required. Upon rendition of judgment in the principal action,  
2 the obligation or property garnished shall be applied to the sat-  
3 isfaction of the judgment.

4 (4) A garnishment proceeding shall not be commenced against  
5 ~~the~~ THIS state ~~of Michigan~~ or any governmental unit ~~therein~~  
6 IN THIS STATE, including but not limited to a public, municipal,  
7 quasi-municipal, or governmental corporation, unincorporated  
8 board, public body, or political subdivision, until after the  
9 plaintiff's claim has been reduced to judgment.

10 (5) A garnishment proceeding shall not be commenced against  
11 any person for money owing to a principal defendant on account of  
12 labor performed by the principal defendant until after the  
13 plaintiff's claim has been reduced to judgment.

14 (6) A sheriff or other public officer is not subject to gar-  
15 nishment for any money or things received or collected by him OR  
16 HER by virtue of an execution or other legal process in the favor  
17 of the principal defendant or because of any money in his OR HER  
18 hands for which he OR SHE is accountable merely as a public offi-  
19 cer to the principal defendant.

20 (7) A garnishment proceeding shall not be commenced if the  
21 commencement of such a proceeding is forbidden by a statute of  
22 this state.

23 (8) IF AN OBLIGATION TO PAY WAGES OR SALARY TO THE PRINCIPAL  
24 DEFENDANT IS GARNISHEED, THE WRIT OF GARNISHMENT REMAINS EFFEC-  
25 TIVE, AND SHALL NOT BE DISSOLVED, UNTIL EITHER OF THE FOLLOWING  
26 OCCURS:

1       (A) THE AMOUNT WITHHELD BY THE GARNISHEE DEFENDANT AND PAID  
2 OVER TO THE CLERK OF THE COURT EQUALS OR EXCEEDS THE AMOUNT OF  
3 THE JUDGMENT, INTEREST, AND COSTS, OR, IF THE GARNISHEE DEFENDANT  
4 DOES NOT PAY THE INDEBTEDNESS TO THE COURT, THE AMOUNT REQUIRED  
5 TO BE WITHHELD BY THE GARNISHEE DEFENDANT EQUALS OR EXCEEDS THE  
6 AMOUNT OF THE JUDGMENT, INTEREST, AND COSTS.

7       (B) THE CHANGED FINANCIAL CONDITION OF THE GARNISHEE  
8 DEFENDANT WARRANTS THE DISSOLUTION OF THE WRIT OF GARNISHMENT.  
9 THE GARNISHEE DEFENDANT HAS THE BURDEN OF PROVING TO THE COURT  
10 HIS OR HER CHANGED FINANCIAL CONDITION FOR PURPOSES OF THIS  
11 SUBDIVISION.