

family dwelling on the same lot. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 135D.1 is not a manufactured home, unless it has been converted to real property as provided in section 135D.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Approved May 9, 1984

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## CHAPTER 1239

### COLLECTION OF COURT ORDERED PAYMENTS

*S.F. 2268*

**AN ACT** relating to collection of court ordered payments by providing for the mandatory assignment of a person's income when the person is delinquent in paying court-ordered support and providing a penalty, and providing for the collection of unpaid alimony, and providing for limits to garnishment, and providing for the validity of garnishment notices.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 252C.1 DELINQUENT SUPPORT PAYMENTS—ASSIGNMENT OF INCOME.**

1. All orders of support shall direct the payment of the support to the clerk of the district court pursuant to section 598.22.

2. If support payments ordered under section 598.21 or 675.25 are not paid to the clerk of the district court pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the clerk or the child support recovery unit established under section 252B.2 may certify a default to the court. The court shall order the defaulting person to assign to the clerk that portion of the person's periodic earnings, trust income, or other income sufficient to pay the support obligation. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order by certified mail. The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. sec. 1673b. The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The court may modify or revoke the order upon the request of the child support recovery unit and may modify or revoke the order at any other time.

3. A person entitled by court order to receive support payments or a person responsible for enforcing such a court order may petition the court for an assignment of income. If the petition is verified and establishes that support payments are delinquent in an amount equal to the payment for one month and if the court determines, after providing an opportunity for a hearing, that notice of the mandatory assignment of income as provided in section 252C.3 has

been given, the court shall declare a default and order an assignment of income under subsection 2.

**Sec. 2. NEW SECTION. 252C.2 MOTION TO QUASH.**

1. A petitioner under section 252C.1, subsection 3 may move to quash the order of assignment at any time by asserting that the delinquency did not occur or has been paid. A person whose income has been assigned under section 252C.1 may move to quash the order of assignment by filing the motion to quash and notice of the motion to quash with the court within ten days after the employer, trustee, or other payor delivers a copy of the order of assignment to the person under section 252C.4, subsection 1. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

2. The payor shall withhold and transmit the amount specified in the order of assignment to the clerk of the district court until the notice that the motion to quash has been granted is received.

**Sec. 3. NEW SECTION. 252C.3 NOTICE OF ASSIGNMENT.** All court orders for support entered on or after the effective date of this Act shall notify the person ordered to pay support of the mandatory assignment of income required under section 252C.1 upon the person's default. However, for court orders for support entered before the effective date of this Act, the clerk of the district court, the child support recovery unit, or the person entitled by the court order to receive the support payments, shall notify each person ordered to pay support under such orders of the mandatory assignment of income required under section 252C.1 upon the person's default. The notice shall be sent by certified mail to the person's last known address or the person shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the filing of a petition under section 252C.1, subsection 3 or the entering of a default under section 252C.1, subsection 2 or 3. A person ordered to pay support may waive the right to receive the notice at any time.

**Sec. 4. NEW SECTION. 252C.4 DUTIES OF PAYOR.**

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252C.1, subsection 2 shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than one dollar from each payment as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

2. An employer who willfully discharges an employee or refuses to hire a person because of the entry of an order of assignment under this chapter is guilty of a simple misdemeanor.

**Sec. 5. NEW SECTION. 252C.5 OTHER REMEDIES.** The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing child support obligations.

**Sec. 6. NEW SECTION. 252C.6 COURT CERTIFICATION.** Upon application, the court may certify unpaid alimony payments for the support of a spouse or former spouse and direct execution, levy, and garnishment as authorized by law.

**Sec. 7.** Sections 1 through 6 of this Act apply to all support obligations which are or become delinquent on or after the effective date of this Act.

Sec. 8. NEW SECTION. 630.3A HEARING TO DETERMINE JUDGMENT DEBTOR'S INCOME. At any time after the rendition of judgment the court, upon application of the judgment creditor or the judgment debtor and upon notice to the adverse party as the court shall direct, shall conduct a hearing to determine the reasonably expected annual earnings of the judgment debtor for the current calendar year and the applicable limitation upon garnishment as provided in section 642.21. The court shall also consider in the interest of justice whether a greater amount than provided in section 642.21 shall be exempt from garnishment. In making the determination the court shall consider the age, number and circumstances of the dependents of the debtor, existing federal poverty level guidelines, the debtor's maintenance and support needs, the debtor's other financial obligations and any other relevant information. An order reducing the garnishment may be modified or vacated upon the application of a party to the court, notice to the adverse party, and a showing at a hearing of changed circumstances. An additional filing fee shall not be assessed for proceedings under this section.

Sec. 9. Section 642.5, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Do you compensate the defendant in this suit for any personal services whether denominated as wages, salary, commission, bonus or otherwise, including periodic payments pursuant to a pension or retirement program? If so, state the amount of the compensation reasonably anticipated to be paid defendant during the calendar year.

Sec. 10. Section 642.14, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notice required by this section shall contain the full text of section 630.3A.

Sec. 11. Section 642.21, subsection 1, Code 1983, is amended to read as follows:

1. The disposable earnings of an individual ~~shall be~~ are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Title III, 15 U.S.C. secs. 1671-1677. The term "Consumer Protection Act" means the Act of Congress approved May 29, 1968, 82 Stat. 163, officially cited as the "Consumer Credit Protection Act, Title III." The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in section 627.12 or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section 642.5, subsection 4. When the employee's earnings are reasonably expected to be more than twelve thousand dollars the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

a. Employees with expected earnings of twelve thousand dollars or more, but less than sixteen thousand dollars, not more than four hundred dollars may be garnished.

b. Employees with expected earnings of sixteen thousand dollars or more, but less than twenty-four thousand dollars, not more than eight hundred dollars may be garnished.

c. Employees with expected earnings of twenty-four thousand dollars or more, but less than thirty-five thousand dollars, not more than one thousand five hundred dollars may be garnished.

d. Employees with expected earnings of thirty-five thousand dollars or more, but less than fifty thousand dollars, not more than two thousand dollars may be garnished.

e. Employees with expected earnings of fifty thousand dollars or more, not more than ten percent of an employee's expected earnings.

Sec. 12. NEW SECTION. 642.22 VALIDITY OF GARNISHMENT NOTICE. A notice of

garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

1. The annual maximum permitted to be garnished under section 642.21 has been withheld.
2. The writ of execution expires.
3. The judgment is satisfied.
4. The garnishee is served with a notice that the garnishment shall cease.

Approved May 9, 1984

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**CHAPTER 1240**  
STATE INHERITANCE TAX  
*S.F. 2323*

**AN ACT** relating to the state inheritance tax by changing the due date of the tax, providing for monthly interest, providing for a period of limitations for assessments and refunds, requiring recording to give a lien preference after a release of the lien is issued, taxing gifts made within three years of death, providing that property transferred to the state or political subdivision as payment of the tax shall have been included in the decedent's gross estate, and making technical corrections.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 450.3, subsection 2, Code 1983, is amended to read as follows:

2. By deed, grant, sale, gift or transfer made in contemplation within three years of the death of the grantor or donor, and any such transfer of property made by any person within three years prior to the death of the grantor or donor shall, unless shown to the contrary, be deemed to have been made in contemplation of death which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections a and e of the Internal Revenue Code of 1954 as defined in section 422.4.

Sec. 2. Section 450.6, Code 1983, is amended to read as follows:

450.6 ACCRUAL OF TAX — MATURITY — EXTENSION OF TIME. The tax imposed (is) by this chapter accrues at the death of the decedent owner, and shall be paid to the department of revenue within nine months on or before the last day of the ninth month after the death of the decedent owner except when if otherwise provided in this chapter. When If in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding ten years from the date of last day of the month in which the death of the decedent occurred. In the case of any an extension the tax shall bear bears interest at the rate in effect under section 421.7 from the expiration of nine months from the date of the last day of the ninth month after the decedent's death. Interest shall be computed on a monthly basis with a fraction of a month counted as a full month.