

House File 2387 - Introduced

HOUSE FILE 2387
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 584)

A BILL FOR

1 An Act providing for notice of garnishment and levy to a
2 judgment debtor.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 642.14, Code 2014, is amended to read as
2 follows:

3 **642.14 Notice.**

4 Judgment against the garnishee shall not be entered until
5 the ~~principal~~ defendant in the main action has had ten days'
6 notice of the garnishment proceedings, to be served in the same
7 manner as original notices. However, if the garnishment is to
8 earnings owed ~~the~~ such defendant by the garnishee, judgment
9 may be entered if notice to the defendant is served with the
10 notice of garnishment to the garnishee who shall deliver the
11 notice to the defendant with the remainder of or in lieu of the
12 defendant's earnings. The garnishee shall state in answer to
13 the service of notice of garnishment whether or not service of
14 notice was delivered to the defendant.

15 The notice required by this section shall contain the full
16 text of section 630.3A.

17 Sec. 2. NEW SECTION. **642.14A Notice of garnishment and**
18 **levy.**

19 1. Within seven days after execution is served upon a
20 garnishee, the sheriff shall send a notice of garnishment
21 and levy to the defendant in the main action informing the
22 defendant that certain real and personal property of the
23 defendant may be exempt from execution or garnishment and that
24 a hearing process is available for the defendant to claim such
25 exemptions.

26 2. The notice required by this section shall be served by
27 personal service or restricted certified mail to the last known
28 address of the defendant and to the defendant's attorney. The
29 judgment creditor shall provide the sheriff with the last known
30 address of the defendant and the defendant's attorney if there
31 is an attorney of record. Proof of mailing or personal service
32 by the sheriff shall be by affidavit.

33 3. The notice required by this section shall:

34 a. Inform the defendant that judgment has been entered in
35 the main action and the defendant's funds or other property is

1 subject to execution under the judgment.

2 *b.* Inform the defendant that the defendant has the right
3 to claim funds or other property exempt from execution or
4 garnishment and a right to be timely heard on those claims.

5 *c.* Inform the defendant that if the defendant does not file
6 a motion or other appropriate pleading to claim funds or other
7 property exempt from execution or garnishment under state or
8 federal law, the defendant may lose any such rights and the
9 funds or other property may be applied to the judgment against
10 the defendant.

11 *d.* Inform the defendant that state and federal laws may
12 place limits on the amount of earnings that may be garnished
13 annually and per pay period and limits on other funds and
14 property that may be garnished or levied against.

15 *e.* Contain the full text of section 630.3A.

16 *f.* State that the defendant may wish to consult a lawyer for
17 advice as to the meaning of the notice.

18 4. An additional court filing fee shall not be assessed for
19 proceedings under this section.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill provides that notice of garnishment and levy be
24 sent to a judgment debtor.

25 The bill provides that within seven days after execution
26 is served upon a garnishee, the sheriff shall send a notice
27 of garnishment and levy to the defendant in the main action
28 (also known as the judgment debtor) informing the defendant
29 that certain real and personal property and wages of the
30 defendant may be exempt from execution or garnishment and that
31 a hearing process is available for the defendant to claim such
32 exemptions. The bill specifies that the notice be served
33 personally or by restricted certified mail to the last known
34 address of the defendant and to the defendant's attorney. The
35 bill specifies the contents of the notice, including that the

1 notice include the full text of Code section 630.3A, relating
2 to the hearing procedure to determine a defendant's income.