

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-25-79

Time 3:15 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979



ENROLLED

HOUSE BILL No. 1248

(By Mr. Warner)



Passed March 8, 1979

In Effect Ninety Days From Passage



No. 1248

ENROLLED

H. B. 1248

(By MR. WARNER)

[Passed March 8, 1979; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article five-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article five-b of said chapter, all relating to obtaining a suggestee execution without first having an execution returned unsatisfied; and conforming said section to federal statutory requirements.

Be it enacted by the Legislature of West Virginia:

That section three, article five-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article five-b, of said chapter, be amended and reenacted, all to read as follows:

ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.

§38-5A-3. Application for suggestee execution against salary or wages; extent of lien and continuing levy; exemption; priority among suggestee executions.

1 A judgment creditor may apply to the court in which the
2 judgment was recovered or a court having jurisdiction of the
3 same, without notice to the judgment debtor, for a suggestee
4 execution against any money due or to become due within
5 one year after the issuance of such execution to the judgment

6 debtor as salary or wages arising out of any private employ-
7 ment. If satisfactory proof shall be made, by affidavit or
8 otherwise, of such facts and the fact that the amount due or to
9 become due as salary or wages after the deduction of all state
10 and federal taxes exceeds in any week thirty times the federal
11 minimum hourly wage then in effect, the court, if not a court
12 of record, or if a court of record, the clerk thereof, shall issue
13 a suggestee execution against the salary or wages of the judg-
14 ment debtor and upon presentation of such execution by the
15 officer to whom delivered for collection to the person or per-
16 sons from which such salary or wages are due and owing or
17 thereafter may become due and owing to the judgment debtor,
18 the execution and the expenses thereof shall become a lien and
19 continuing levy upon the salary or wages due or to become
20 due to the judgment debtor within one year after the issuance
21 of the same, unless sooner vacated or modified as hereinafter
22 provided, to an amount equal to twenty per centum thereof
23 and no more, but in no event shall the payments in satisfaction
24 of such an execution reduce the amount payable to the judg-
25 ment debtor to an amount per week that is less than thirty
26 times the federal minimum hourly wage then in effect. Only
27 one such execution shall be satisfied, at one time, except that
28 in the event two or more such executions have been served
29 and satisfaction of the one having priority is completed without
30 exhausting the amount of the salary or wages then due
31 and payable that is subject to suggestion under this article the
32 balance of such amount shall be paid in satisfaction, in the
33 order of their priority, of junior suggestee executions against
34 such salary or wages theretofore served.

**ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL SUB-
DIVISIONS; GARNISHMENT AND SUGGESTION OF
PUBLIC OFFICERS.**

**§38-5B-2. Application for suggestee execution against money from
state, state agency or political subdivision; extent of
lien and continuing levy; priority among suggestee
executions.**

1 A judgment creditor may apply to the court in which the
2 judgment was recovered or a court having jurisdiction of the
3 same, without notice to the judgment debtor, for a sug-

4 gestee execution against any money due or to become due
5 within one year after the issuance of the same to the judgment
6 debtor from the state, a state agency, or any political sub-
7 division of the state. If satisfactory proof shall be made, by
8 affidavit or otherwise, of such facts, and, where the execution
9 is sought against salary or wages, of the fact that the amount
10 due or to become due as salary or wages after the deduction of
11 state and federal taxes exceeds in any week thirty times the
12 federal minimum hourly wages then in effect, the court, if
13 not a court of record, or if a court of record, the clerk thereof,
14 shall issue a suggestee execution against such money due or to
15 become due to the judgment debtor, and there shall be entered
16 on the face thereof the day and hour of issuance.

17 Such execution and the expenses thereof shall, when served
18 by the officer to whom delivered for collection in the manner
19 hereinafter provided, upon the state, a state agency or political
20 subdivision from which such money is due or may thereafter
21 become due to the judgment debtor, become a lien and con-
22 tinuing levy upon the sums due or to become due to the
23 judgment debtor within one year after the issuance of the
24 same (but not to exceed twenty per centum of the salary or
25 wages due to such judgment debtor or reduce the amount
26 received by him per week to an amount less than thirty times
27 the federal minimum hourly wage then in effect) unless sooner
28 satisfied and paid, vacated or modified as hereinafter provided.

29 Where more than one suggestee execution shall have been
30 issued pursuant to the provisions of this section against
31 the same judgment debtor, they shall be satisfied in the
32 order of priority in which they are served upon the state,
33 state agency or political subdivision from which such money
34 is due or shall become due. For purposes of determining
35 such priority the time that an execution served by mail, as
36 hereinafter provided shall be received, and not the time of
37 admission of service shall control. In the case of two or
38 more executions received in the same mail delivery priority
39 shall be accorded the one first issued.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Lawrence C. Johnston
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. P. Allouge
Clerk of the Senate

W. Blumhagen
Clerk of the House of Delegates

W. D. Robertson
President of the Senate

Clayton M. Lee, Jr.
Speaker House of Delegates

The within is approved this the 25
day of March, 1979.

John D. Ralston
Governor

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OFFICE OF THE GOVERNOR

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EDM. J. STATE