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DEBTOR AND CREDITOR Garnishment: Payment of Expenses

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DEBTOR AND CREDITOR

Garnishment: Payment of Expenses

CODE SECTIONS:	O.C.G.A. §§ 18-4-20 (amended), 18-4-66 (amended), 18-4-97 (amended), 18-4-110 (amended) and 18-4-118 (amended)
BILL NUMBER:	HB 59
ACT NUMBER:	762
SUMMARY:	The Act permits a summons of garnishment and continuing garnishment to include the defendant's social security number; it permits plaintiffs who have obtained money judgments in federal courts to use continuing garnishment procedures; and it increases the minimum deduction for the garnishee's expenses to twenty-five dollars or ten percent of the amount paid to the court.

History

In 1976 the Georgia General Assembly changed the garnishment statute to add Ga. Code Ann. § 46-507,¹ allowing for payment of expenses incurred by garnishees in garnishment proceedings.²

Subsequently in 1980, the General Assembly enacted legislation making additional important changes in Georgia's garnishment procedure,³ including the addition of a new Code Chapter entitled "Continuing Garnishment."⁴ Prior to the continuing garnishment procedure, plaintiffs were required to have the clerk issue a new summons every thirty to forty-five days to continue the garnishment process.⁵ The same act amended Ga. Code Ann. § 46-101 to apply the garnishment procedure for money judgments to federal courts sitting in Georgia as well as state courts.⁶ The language in the latter provision, however, was not included in the new Chapter creating continuing garnishment.⁷

1. 1976 Ga. Laws 1608.

2. *Id.* at 1619-20.

3. 1980 Ga. Laws 1769. *See generally* Nelms & Burton, *A Review of Georgia's New Garnishment Procedures*, 17 GA. ST. B.J. 140 (1981).

4. Ga. Code Ann. §§ 46-701 — 46-709 (Harrison Supp. 1982).

5. Nelms & Burton, *supra* note 3, at 141.

6. 1980 Ga. Laws 1769, 1770.

7. *Id.* at 1775.

HB 59

HB 59, as introduced, simply increased the minimum amount that the garnishee could deduct for actual reasonable expenses.⁸ By amending O.C.G.A. § 18-4-97, the figure was increased from fifteen dollars or ten percent of the amount paid to the court to twenty-five dollars or ten percent of the amount paid to the court.

A Floor Substitute and Floor Amendment added two other provisions which were incorporated in the Act.⁹ O.C.G.A. § 18-4-20(h) mandates including the defendant's social security number, if known, on a summons of garnishment or continuing garnishment. O.C.G.A. § 18-4-66(2) amended the forms for garnishment and continuing garnishment to provide the defendant's social security number. Under O.C.G.A. § 18-14-110, the continuing garnishment procedure has been expanded to include money judgments obtained in federal courts sitting in Georgia, as well as money judgments obtained in state courts.

8. HB 59, 1985 Ga. Gen. Assem. § 1.

9. HB 59 (FSFA), 1985 Ga. Gen. Assem. § 1 and § 4.