

IN THE SENATE

SENATE BILL NO. 1047

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO GARNISHMENT FOR PAYMENT OF STATE INCOME TAXES; AMENDING SECTION
2 11-207, IDAHO CODE, TO LIMIT THE AMOUNT OF A GARNISHMENT FOR PAYMENT OF
3 STATE AND FEDERAL INCOME TAXES, PENALTIES AND INTEREST AND TO MAKE TECH-
4 NICAL CORRECTIONS; AMENDING SECTION 63-105, IDAHO CODE, TO LIMIT THE
5 AMOUNT OF A GARNISHMENT FOR PAYMENT OF STATE AND FEDERAL INCOME TAXES,
6 PENALTIES AND INTEREST AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
7 TION 63-3050, IDAHO CODE, TO LIMIT THE AMOUNT OF A GARNISHMENT FOR PAY-
8 MENT OF STATE AND FEDERAL INCOME TAXES, PENALTIES AND INTEREST AND TO
9 MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-4006, IDAHO CODE,
10 TO LIMIT THE AMOUNT OF A GARNISHMENT FOR PAYMENT OF STATE AND FEDERAL IN-
11 COME TAXES, PENALTIES AND INTEREST.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 11-207, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 11-207. RESTRICTION ON GARNISHMENT -- MAXIMUM. (1) Except as provided
17 in subsection (2) of this section, the maximum amount of the aggregate dis-
18 posable earnings of an individual for any work week ~~which that~~ is subjected
19 to garnishment shall not exceed (a) twenty-five ~~per cent~~ percent (25%) of his
20 disposable earnings for that week, or (b) the amount by which his disposable
21 earnings for that week exceed thirty (30) times the federal minimum hourly
22 wage prescribed by 29 U.S.C.A. 206(a) (1) in effect at the time the earnings
23 are payable, whichever is less. In the case of earnings for any pay period
24 other than a week, the director of the Idaho commissioner department of labor
25 shall by ~~regulation rule~~ rule prescribe a multiple of the federal minimum hourly
26 wage equivalent in effect to that set forth in (b) of this subsection.

27 (2) (a) The restrictions of subsection (1) of this section shall not
28 apply in the case of any order of any court for the support of any per-
29 son, any order of any court of bankruptcy under chapter XIII of the
30 ~~B~~bankruptcy ~~A~~act, or any debt due for any state or federal tax.

31 (b) The maximum part of the aggregate disposable earnings of an indi-
32 vidual for any work week ~~which that~~ is subject to garnishment to enforce
33 any order for the support of any person shall not exceed:

34 ~~1-~~(i) Where such individual is supporting his spouse or dependent
35 child, other than a spouse or child with respect to whose support
36 such order is used, fifty ~~per cent~~ percent (50%) of such individ-
37 ual's disposable earnings for that week; and

38 ~~2-~~(ii) Where such individual is not supporting such a spouse or
39 dependent child described in ~~paragraph 1-~~ subsection (1) of this
40 section, sixty ~~per cent~~ percent (60%) of such individual's dispos-
41 able earnings for that week;

1 except that with respect to the disposable earnings of any individ-
 2 ual for any work week, the fifty ~~per cent percent~~ (50%) specified in
 3 ~~paragraph 1. subsection (1) of this section~~ shall be deemed to be
 4 fifty-five ~~per cent percent~~ (55%) and the sixty ~~per cent percent~~ (60%)
 5 specified in ~~paragraph 2. subsection 2 of this section~~ shall be deemed
 6 to be sixty-five ~~per cent percent~~ (65%), if and to the extent that such
 7 earnings are subject to garnishment to enforce a support order with
 8 respect to a period ~~which that~~ is prior to the twelve (12) week period
 9 ~~which that~~ ends with the beginning of such work week.

10 (3) If the garnishment is for payment of state income tax, penalties and
 11 interest, no more than twenty-five percent (25%) of a person's gross wages
 12 may be garnished for the purposes of paying the state income tax, penalties
 13 and interest and paying federal income tax, penalties and interest notwith-
 14 standing any other provision of this section.

15 SECTION 2. That Section 63-105, Idaho Code, be, and the same is hereby
 16 amended to read as follows:

17 63-105. POWERS AND DUTIES -- GENERAL. In addition to all other powers
 18 and duties vested in it, the state tax commission shall have the power and
 19 duty:

20 (1) To assess and collect all taxes and administer all programs relat-
 21 ing to taxes ~~which that~~ are the responsibility of the state tax commission.

22 (2) To make, adopt and publish such rules as it may deem necessary and
 23 desirable to carry out the powers and duties imposed upon it by law, provided
 24 however, that all rules adopted by the state tax commission prior to the ef-
 25 fective date of this 1996 amendatory act shall remain in full force and ef-
 26 fect until such time as they may be rescinded or revised by the state tax com-
 27 mission.

28 (3) To maintain a tax research section to observe and investigate the
 29 effectiveness and adequacy of the revenue laws of this state and to assist
 30 the executive and legislative departments in estimation of revenue, analy-
 31 sis of tax measures and determination of the administrative feasibility of
 32 proposed tax legislation.

33 (4) To prescribe forms and to specify and require information with re-
 34 lation to any duty or power of the state tax commission except as provided in
 35 section 63-219, Idaho Code.

36 (5) To ensure that statutory penalties are enforced, and proper com-
 37 plaint is made against persons derelict in duty under any law relating to as-
 38 sessment or equalization of taxes.

39 (6) To sue and be sued in the name of the state tax commission.

40 (7) To summon witnesses to appear before it or its agents to testify
 41 and/or produce for examination such books, papers, records or other data re-
 42 lating to any matter within its jurisdiction. However, no person shall be
 43 required to testify outside the county wherein he resides or the principal
 44 place of his business is located. Such summons to testify shall be issued
 45 and served in like manner as a subpoena to witnesses issued from the district
 46 court and shall be served without fee or mileage charge by the sheriff of the
 47 county, and return of service shall be made by the sheriff to the state tax
 48 commission. Persons appearing before the state tax commission or its agents
 49 in obedience to such a summons, shall, in the discretion of the state tax com-

1 mission, receive the same compensation as witnesses in the district court,
2 to be paid upon claims presented against the state from any appropriation
3 made for the administration of the provisions of this title, in the same man-
4 ner as other claims against the state are presented and paid.

5 (8) To administer oaths and take affirmations of witnesses appearing
6 before it. The power to administer oaths and take affirmations is vested in
7 each member of the state tax commission, and its duly constituted agents. In
8 case any witness shall fail or refuse to appear and testify before the state
9 tax commission or its agents upon being summoned to appear as herein pro-
10 vided, the clerk of the district court of the county shall, upon demand of the
11 state tax commission, any member thereof, or agent, issue a subpoena recit-
12 ing the demand therefor and summoning the witness to appear and testify at a
13 time and place fixed; and violation of such subpoena or disobedience thereto
14 shall be deemed and punished as a violation of any other subpoena issued from
15 the district court.

16 (9) To report to the governor from time to time, and to furnish to the
17 governor such assistance and information as may be required.

18 (10) To recommend to the governor in a report at least sixty (60) days
19 before and to the legislature ten (10) days prior to the meeting of any reg-
20 ular session of the legislature such amendments, changes and modifications
21 of the various tax laws necessary to remedy injustice and irregularities in
22 taxation and to facilitate assessment and collection of taxes in the most
23 economical and efficient manner.

24 (11) To garnish a person's wages for payment of state income tax, penal-
25 ties and interest provided that not more than twenty-five percent (25%) of
26 a person's gross wages may be garnished for the purposes of paying the state
27 income tax, penalties and interest and paying federal income tax, penalties
28 and interest.

29 SECTION 3. That Section 63-3050, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 63-3050. ACTION TO COLLECT UNPAID TAX OR DEFICIENCY. Any tax owed the
32 state tax commission, any interest, penalty, additional amount, or addi-
33 tion to such tax, and any tax or any interest, penalty, additional amount,
34 or addition to such tax ~~which that~~ has been erroneously refunded and any de-
35 ficiency shall constitute a debt to the state of Idaho and may be collected by
36 lien foreclosure or sued for and recovered in any proper form of action, in
37 the name of the state of Idaho, in any court having jurisdiction over the tax-
38 payer or property owned by or in which the taxpayer has an interest. The rem-
39 edy herein shall be in addition to any and all other existing remedies. The
40 state tax commission may garnish a person's wages for payment of state income
41 tax, penalties and interest provided that not more than twenty-five percent
42 (25%) of a person's gross wages may be garnished for the purposes of paying
43 the state income tax, penalties and interest and paying federal income tax,
44 penalties and interest.

45 SECTION 4. That Section 63-4006, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 63-4006. UNFAIR PRACTICES. A revenue officer may not use unfair or
2 unconscionable means to collect or attempt to collect any tax obligation.
3 Without limiting the general application of the foregoing, the following
4 conduct is a violation of the provisions of this section:

5 (1) The collection of any amount, including interest, penalty, fee,
6 charge, or expense incidental to the principal obligation, unless such
7 amount is permitted by law.

8 (2) The solicitation and acceptance by a revenue officer from any per-
9 son of a check or other payment instrument postdated by more than five (5)
10 days unless such person is notified in writing of the revenue officer's in-
11 tent to deposit such check or instrument not more than ten (10) nor less than
12 three (3) business days prior to such deposit.

13 (3) The solicitation by a revenue officer of any postdated check or
14 other postdated payment instrument for the purpose of threatening or insti-
15 tuting criminal prosecution.

16 (4) Threatening to deposit any postdated check or other postdated pay-
17 ment instrument prior to the date on such check or instrument.

18 (5) Causing charges to be made to any person for communications by con-
19 cealment of the true purpose of the communication. Such charges include, but
20 are not limited to, collect telephone and telegram fees.

21 (6) Taking or threatening to take any nonjudicial action to effect dis-
22 possession or disablement of property if:

23 (a) There is no present right to possession of the property claimed as
24 collateral through an enforceable security interest;

25 (b) There is no present intention to take possession of the property; or

26 (c) The property is exempt by law from such dispossession or disable-
27 ment.

28 (7) Communicating with a taxpayer regarding a tax obligation by post-
29 card.

30 (8) Garnishing a person's wages more than twenty-five percent (25%) for
31 the purposes of paying the state income tax, penalties and interest and pay-
32 ing federal income tax, penalties and interest.