

SENATE BILL NO. 476

BY SENATOR PRESSLY

1 AN ACT

2 To amend and reenact Code of Civil Procedure Arts. 2412(A)(1) and 2413(B) and (C),
3 relative to garnishments; to provide relative to service of notice upon the garnishee;
4 to provide relative to notice of failure to answer interrogatories in certain
5 circumstances; to provide relative to civil procedure and legal delays; to provide for
6 certain notice requirements; to provide relative to effect of the garnishee's failure to
7 answer; to provide relative to cost and attorney fees; to provide relative to the
8 garnishee's failure to appear; to provide for burden of proof; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Civil Procedure Arts. 2412 (A)(1) and 2413(B) and (C) are hereby
12 amended and reenacted to read as follows:

13 Art. 2412. Method of service; delay for answering

14 A.(1) The sheriff shall serve upon the garnishee the citation and a copy of the
15 petition and of the interrogatories, together with a notice that a seizure is thereby
16 effected against any property of or indebtedness to the judgment debtor. **The notice**
17 **shall include the following statement in boldface type: "The failure to file into**
18 **the court record within thirty days your sworn answer to these interrogatories**
19 **may cause you to be personally responsible for the entire amount owed by the**
20 **judgment debtor."**

21 * * *

22 Art. 2413. Effect of garnishee's failure to answer

23 * * *

24 B.(1) Judgment shall be rendered against the garnishee on trial of the motion
25 unless he proves that he had no property of and was not indebted to the judgment
26 debtor. If on the trial of such motion, the garnishee proves the amount of such
27 property or indebtedness, the judgment against the garnishee shall be limited to the

1 delivery of the property or payment of the indebtedness, as provided in Article 2415.

2 (2) If the judgment was rendered pursuant to this Paragraph against the
3 garnishee as a result of his failure to appear after proper service, the garnishee
4 shall have thirty days from service of the judgment to move for a new trial.

5 (3) Any motion for a new trial pursuant to Subparagraph (2) of this
6 Paragraph shall be granted only if it includes an affidavit affirming the facts
7 that the garnishee is required to prove under Subparagraph (4) of this
8 Paragraph.

9 (4) At any new trial granted pursuant to this Paragraph, the garnishee
10 bears the burden of proof that he never had any property of and was never
11 indebted to the judgment debtor during the pendency of the garnishment
12 proceeding, or that he has satisfied the judgment to the full extent of the amount
13 of such property or indebtedness actually in his possession at any time after the
14 garnishment proceeding is commenced by service of the petition upon him.

15 C. Regardless of the decision on the contradictory motion, the court shall
16 render judgment against the garnishee for the costs and a reasonable attorney fee for
17 the motion. This shall include an award against the garnishee for the additional
18 costs and a reasonable attorney fee actually incurred by the judgment creditor
19 due to the fault of the garnishee in failing to initially respond.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____