

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 33

(SENATE AUTHORS: LATZ)

DATE	D-PG	OFFICIAL STATUS
01/14/2013	61	Introduction and first reading Referred to Judiciary
02/21/2013	338a 342	Comm report: To pass as amended Second reading
05/08/2013	3407	HF substituted on General Orders HF80

A bill for an act

relating to judgments; providing a limitation period for actions arising out of consumer debt; prohibiting imprisonment for contempt in consumer debt cases; regulating assigned consumer debt default judgments; amending Minnesota Statutes 2012, sections 491A.02, subdivision 9; 550.011; proposing coding for new law in Minnesota Statutes, chapters 541; 548.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. ~~Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully~~
Notwithstanding section 588.02, civil contempt under this subdivision is punishable only by fine and not imprisonment.

2.1 **EFFECTIVE DATE.** This section is effective August 1, 2013.

2.2 Sec. 2. **[541.053] LIMITATION OF ACTIONS BASED ON CONSUMER DEBT.**

2.3 Notwithstanding section 541.05, subdivision 1, clause (1), actions upon an obligation
2.4 arising out of a consumer debt primarily for personal, family, or household purposes
2.5 must be commenced within six years. After its expiration, the statute of limitations is
2.6 not revived by the collection of a payment on an account, a discharge in a bankruptcy
2.7 proceeding, or an oral or written reaffirmation of the debt.

2.8 **EFFECTIVE DATE.** This section is effective August 1, 2013.

2.9 Sec. 3. **[548.101] ASSIGNED CONSUMER DEBT DEFAULT JUDGMENTS.**

2.10 A party entitled to a judgment by default in an action upon an assigned obligation
2.11 arising out of any consumer debt that is primarily for personal, family, or household
2.12 purposes and in default at the time of assignment shall apply to the court and submit, in
2.13 addition to the application for judgment:

2.14 (1) a copy of the written contract between the debtor and original creditor or, if there
2.15 was no written contract, other admissible evidence establishing the terms of the contract
2.16 between the debtor and the original creditor, including the moving party's entitlement to
2.17 the amounts described in clause (3);

2.18 (2) admissible evidence establishing that the defendant owes the debt;

2.19 (3) admissible evidence establishing that the amount claimed to be owed is accurate,
2.20 including an itemization of the balance owed at the time the debt was first assigned to
2.21 another party by the original creditor and a breakdown of post-assignment fees, interest,
2.22 and interest rates;

2.23 (4) documentation establishing a valid and complete chain of assignment of the debt
2.24 from the original creditor to the moving party, including documentation or a bill of sale
2.25 evidencing the assignment with proof that the particular debt at issue was included in the
2.26 assignment referenced in the documentation or bill of sale;

2.27 (5) proof that a summons and complaint were properly served on the debtor and that
2.28 the debtor did not serve a timely answer; and

2.29 (6) proof that the debtor was provided notice of the default judgment motion and
2.30 hearing.

2.31 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to
2.32 motions for default judgment filed on or after August 1, 2013.

3.1 Sec. 4. Minnesota Statutes 2012, section 550.011, is amended to read:

3.2 **550.011 JUDGMENT DEBTOR DISCLOSURE.**

3.3 Unless the parties have otherwise agreed, if a judgment has been docketed in district
3.4 court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney
3.5 as an officer of the court may or the district court in the county in which the judgment
3.6 originated shall, upon request of the judgment creditor, order the judgment debtor to mail
3.7 by certified mail to the judgment creditor information as to the nature, amount, identity,
3.8 and locations of all the debtor's assets, liabilities, and personal earnings. The information
3.9 must be provided on a form prescribed by the Supreme Court, and the information shall be
3.10 sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment
3.11 by way of execution on nonexempt assets and earnings of the judgment debtor. The order
3.12 must contain a notice that failure to complete the form and mail it to the judgment creditor
3.13 within ten days after service of the order may result in a citation for civil contempt of
3.14 court. ~~Cash bail posted as a result of being cited for civil contempt of court order under
3.15 this section may be ordered payable to the creditor to satisfy the judgment, either partially
3.16 or fully~~ Notwithstanding section 588.02, civil contempt under this section is punishable
3.17 only by fine and not imprisonment.

3.18 **EFFECTIVE DATE.** This section is effective August 1, 2013.