

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1440

(SENATE AUTHORS: LATZ)

DATE	D-PG	OFFICIAL STATUS
05/18/2011	2209	Introduction and first reading Referred to Judiciary and Public Safety

1.1A bill for an act

1.2relating to judiciary; providing a limitation period to bring an action arising out

1.3of consumer debt; providing requirements for applications for default judgments

1.4in actions upon obligations of consumer debt; setting the bail amount in cases

1.5of consumer debt; amending Minnesota Statutes 2010, sections 491A.02,

1.6subdivision 9; 550.011; 588.04; proposing coding for new law in Minnesota

1.7Statutes, chapters 541; 548.

1.8BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9Section 1. Minnesota Statutes 2010, section 491A.02, subdivision 9, is amended to

1.10read:

1.11Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in

1.12rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a

1.13conciliation court judgment or a judgment of district court on removal from conciliation

1.14court has been docketed in district court, the judgment creditor's attorney as an officer of

1.15the court may or the district court in the county in which the judgment originated shall,

1.16upon request of the judgment creditor, order the judgment debtor to mail to the judgment

1.17creditor information as to the nature, amount, identity, and locations of all the debtor's

1.18assets, liabilities, and personal earning. The information must be provided on a form

1.19prescribed by the Supreme Court, and the information shall be sufficiently detailed to

1.20enable the judgment creditor to obtain satisfaction of the judgment by way of execution

1.21on nonexempt assets and earnings of the judgment debtor. The order must contain a

1.22notice that failure to complete the form and mail it to the judgment creditor within ten

1.23days after service of the order may result in a citation for civil contempt of court. Cash

1.24bail 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,
subject to section 588.04, paragraph (b).

EFFECTIVE DATE. This section is effective August 1, 2011.

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

Notwithstanding section 541.05, subdivision 1, clause (1), actions upon an obligation arising out of a consumer debt primarily for personal, family, or household purposes shall be commenced within six years. A payment made on the consumer debt after the expiration of the limitation period does not restart the limitation period.

EFFECTIVE DATE. This section is effective August 1, 2011.

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

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

(1) evidence of the amount of the assigned debt;

(2) the bill of sale or other evidence of the proof of ownership of the assigned account; and

(3) the judgment debtor's redacted Social Security number, if known.

(b) A party entitled to a judgment by default in an action upon an assigned obligation arising out of a consumer debt open-end credit plan that is primarily for personal, family, or household purposes and in default at the time of assignment shall apply to the court and submit in addition to the application for judgment:

(1) evidence of the assigned debt which may be a monthly or periodic statement for the debt;

(2) the bill of sale or other evidence of the proof of ownership of the assigned account; and

(3) the judgment debtor's redacted Social Security number, if known.

(c) Nothing in this section amends the rules of evidence.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to claims arising from debts created on or after August 1, 2011.

Sec. 4. Minnesota Statutes 2010, section 550.011, is amended to read:

550.011 JUDGMENT DEBTOR DISCLOSURE.

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, 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 by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. 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, subject to section 588.04, paragraph (b).

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 588.04, is amended to read:

588.04 ARREST; ORDER TO SHOW CAUSE.

(a) In cases of constructive contempt, an affidavit of the facts constituting the contempt shall be presented to the court or officer, who may either issue a warrant of arrest to bring the person charged to answer or, without a previous arrest, upon notice, or upon an order to show cause, which may be served by a sheriff or other officer in the same manner as a summons in an action, may commit the person to jail, impose a fine, or both, and make such order thereupon as the case may require.

(b) When the underlying case is about an obligation arising out of a consumer debt primarily for personal, family, or household purposes, and results in a judgment of not more than \$15,000, the bail shall be set at ten percent of the judgment balance but not less than \$300. Otherwise the bail shall be an amount set by the court after considering aggravating and mitigating factors. Bail posted under this section shall be returned to the judgment debtor unless the court in its discretion orders the bail applied to the remaining judgment balance.

EFFECTIVE DATE. This section is effective August 1, 2011.