

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961
Chapter 53
RECEIVERSHIP FOR WAGE EARNERS

600.5301 Assignment of future wages; notice to creditor and employer; exception.

Sec. 5301.

Any person employed by any person, firm, corporation, a local government or agency, or the state, or an agency thereof, who is or may be working for wages or for a salary for others, including those paid on a commission basis or who are paid through any combination thereof, who has debts which he is unable to pay, may file a full and complete list of his creditors with the clerk of the district or municipal court where he lives or where he is employed. Upon making an assignment of all his future wages to the clerk of the court to continue during the pendency of the proceedings as hereinafter set forth, he may have a notice served upon each creditor. The notice shall set forth the fact that the proceedings are pending and contain a full list of his creditors and the amount alleged to be due to each creditor and shall prescribe a time within which the creditor shall file a sworn proof of claim with the clerk of the court, which time shall not be less than 10 days nor more than 20 days from the date of service of the notice upon the creditor and shall be signed by the clerk of the court. The notice shall act as an immediate stay of proceedings by every creditor so served as against the wages, salary, or commission so assigned. The clerk of the court shall thereupon also notify the employer of the pendency of the court proceedings in suitable form as prescribed by the court. The notice shall constitute a notification to the employer to pay any and all moneys due or to become due to the employee from thenceforth, to the clerk of the court, unless and until served with a notice to the contrary. The provisions of this chapter shall not apply to any city having a common pleas court.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1969, Act 341, Eff. Jan. 1, 1970 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.5305 List of creditors; contents of petition.

Sec. 5305.

The list of creditors above mentioned shall be in the form of a petition under oath and under the pains and penalties of perjury, and shall set forth whether the petitioner is a married man or not and the name, age and relationship of each person depending upon him for support and shall give the name and address of each and every creditor of the petitioner, the amount of the indebtedness, the nature of the claim, and shall contain a statement in addition to the above as to whether or not the claim is disputed by either party as to amount, and in case said claim is disputed it shall give the amount claimed by the creditor and the amount claimed by the debtor.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5311 Exemptions.

Sec. 5311.

After the filing of such petition and assignment of wages, the court shall make an order directing the clerk to pay the petitioner his legal exemptions, which shall be as follows:

(1) If the petitioner is a householder having a family, 60% but not less than \$15.00 per week for which such wages, salary or commission are due, and in addition \$2.00 per week for each person other than husband or wife under 18 years of age or incapable of self support because mentally or physically defective and legally dependent upon him for support.

(2) If the petitioner is not a householder having a family, he shall be entitled to 40% but not less than \$10.00 per week.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1972, Act 21, Imd. Eff. Feb. 19, 1972

600.5315 Exemptions by agreement; support of children.

Sec. 5315.

If all creditors sign a written agreement so to do, the debtor may be paid more than the amounts herein provided for. If the petitioner is required by an order of a court of competent jurisdiction to pay money for the support and maintenance of children, then upon the filing with the court of a certified copy of the order, there shall be exempted such further sum as may be required to comply with the order, which the clerk shall forward to the person or official named in the order to receive the same.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5321 Distribution of balance.

Sec. 5321.

The court shall further direct the clerk to pay the remainder of any moneys in his possession, over and above the exemptions of the petitioner, to the creditors, to be divided equally among all creditors listed, but the clerk shall not be obliged to make such distribution oftener than once in 60 days and then only if there is at least \$100.00 to be distributed, but when making a distribution to creditors may pay claims or unpaid balances of \$5.00 or less in full and divide the balance of the money equally among the balance of the creditors. Any money not called for by any creditor, or checks returned undelivered and remaining in the clerk's office for 6 months after the proceedings are dismissed, may be paid by the clerk to the petitioner.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5325 Clerk as agent of listed creditors; title to funds.

Sec. 5325.

The clerk of the court shall be the agent of each creditor listed, as to funds paid into court to which such creditors are entitled under the provisions of this chapter, and upon payment of any such funds to the clerk of the court the title thereto shall immediately pass to the creditors entitled thereto by the provisions of this chapter and their heirs and assigns, and shall become part of the estate of such creditors. This provision shall not apply to moneys not called for by any creditor or checks returned not delivered and remaining in the clerk's office for 6 months after a petition is dismissed.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5331 Fixing amount of claim; disputed claim; costs; intervention.

Sec. 5331.

(1) The judge shall fix the amount of each claim, regardless of whether or not it exceeds the jurisdiction of the court in civil actions, for the purpose of participating in the funds only. The fixing of these amounts shall not be

construed to be a judgment, but a creditor may at any time during the pendency of the proceeding or afterwards, take any legal action he may desire against the debtor and any means to collect any judgment secured, excepting to garnish the assigned wages. In the case of a judgment creditor who is such when the petition is filed, the amount fixed shall be the amount of the judgment with costs and legal interest, less any payments thereon. When a creditor reduces his claim to judgment during the pendency of the proceedings, the amount of his claim for participating in the funds shall thereupon be fixed at the amount of the judgment and costs, but in such case payments previously made to creditors shall not be affected.

(2) The judge, debtor, or any creditor may dispute the claim of any creditor, at any time during the pendency of the proceedings. Upon the determination of the judge to dispute a claim, or upon the filing of a written notice of intention by the debtor or creditor to do so, the judge shall cause notice of hearing to be served on the debtor, the creditor whose claim is disputed, and the objector, and have a hearing thereon, and may issue subpoenas to compel the attendance of witnesses as in civil actions therein.

(3) Any costs incurred by the hearing may be taxed against either the debtor, the objector, or the creditor whose claim is disputed, as the judge may deem just, and may be deducted from any funds in the custody of the court which would otherwise be paid to the person against whom taxed, and paid to the person in whose favor they are taxed.

(4) Any person claiming to be a creditor of any person taking advantage of this chapter who has not been listed may intervene and prove his claim the same as though his claim had been listed.

History: 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1974, Act 297, Eff. Apr. 1, 1975

600.5335 Payment of wages by employer.

Sec. 5335.

Payment by any employer to the clerk of the court in pursuance of notice from the court to him or it of the filing of a petition by an employee, shall be payment to the employee the same as if received by said employee personally. Any employer who pays any wages, salary or commission to any employee after receiving notice of said assignment, shall be liable for any sums so paid on garnishment proceedings taken by any creditor.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5341 Garnishment; effect.

Sec. 5341.

No creditor so named in this proceeding shall have any right to garnishee the petitioner therein, and it shall be the duty of the employer in any case when served with a notice of garnishment against said employee, nevertheless to pay said wages to the clerk of the court aforesaid together with notice that such wages have been garnisheed together with any other pertinent facts pertaining to the case. When and in case any creditor not listed shall garnishee any wages so assigned, he shall have the right to have his cost expended in said garnishment added to the amount due him by proof to the court that said garnishment was instituted in good faith and without knowledge of said assignment proceedings.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5345 Duration of assignment proceedings.

Sec. 5345.

Such proceedings shall be continued indefinitely until all debts of said petitioner are paid or they may be dismissed by the court after notice to interested parties upon the petition of the debtor or upon the court's own motion or upon the petition of any creditor who can show by evidence that the debtor is attempting to deceive the court or to be unfair or is in collusion with any person, persons, firm, firms, corporation or corporations, in connection with the receivership.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5351 Secured creditors.

Sec. 5351.

Nothing in this chapter shall be construed to deprive the creditor holding security from pursuing his rights under the instrument giving him such security, and no creditor shall be deprived of any remedy given him by the laws of the state except they shall not have the right to garnishee or obtain any interest in the wages, salary or commission of any person claiming the advantages of this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5355 Notices; manner of giving; change of employment.

Sec. 5355.

All notices provided for in this chapter may be given by registered mail with return receipt demanded, and if the return receipt is not received the court may order the same served as process is served in said court, and the cost thereof shall be paid by the petitioner. When and if the petitioner changes his employer he shall notify the clerk of the court and execute a new assignment of his wages and the clerk shall notify the new employer.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5361 Debts incurred after filing petition; not included.

Sec. 5361.

The petitioner shall not have the right to file or list any indebtedness incurred after the filing of the petition.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5365 Statute of limitations tolled during pendency of proceedings.

Sec. 5365.

The statute of limitations shall not run against any debt or liability of a petitioner during the pendency of the proceedings herein provided for, whether such indebtedness or liability existed at the time of the filing of the petition or was incurred afterwards.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5371 Court fees upon petition; defrayment of incidental expenses.

Sec. 5371.

Upon the filing of the petition and assignment of wages as herein provided, said petitioner shall pay to the clerk of said court the sum of 50 cents as a filing fee and the further sum of 50 cents for each creditor named in the petition and each year thereafter the sum of 50 cents for each creditor listed and not paid in full. In the event of any contest between the debtor and any creditor or 1 creditor and another creditor, the moving party in such contest shall before having same determined pay to the clerk of the court the sum of 50 cents as a hearing fee for such service and the court shall have the right to direct the clerk to retain from the exemptions of petitioners such sums as may be necessary to defray the actual costs for providing notices, stamps, clerical help in the clerk's office, and other incidental expenses of paying for the administration of this chapter, and charge the same to the petitioners. The clerk shall deduct from the exemptions of petitioners the fee of 50 cents per creditor above provided for second and subsequent years, unless the petitioner shall pay same when due. All fees herein provided for shall be for the use of the city.

History: 1961, Act 236, Eff. Jan. 1, 1963

600.5375 Repealed. 1969, Act 209, Eff. Jan. 1, 1970.

Compiler's Notes: The repealed section pertained to receivership for wage earners; cities to which applicable.