

§3126-A. Installment payments

Following a disclosure hearing, the court shall determine the amount, if any, of the installment payments that the judgment debtor must make to the judgment creditor. [PL 1999, c. 587, §3 (NEW).]

1. Definition. For purposes of this section, "exempt income" means the debtor's right to receive:

A. A social security benefit, unemployment compensation or a local public assistance benefit; [PL 1999, c. 587, §3 (NEW).]

B. A veteran's benefit; [PL 1999, c. 587, §3 (NEW).]

C. A disability, illness or unemployment benefit; [PL 1999, c. 587, §3 (NEW).]

D. Alimony, support or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependents of the debtor; and [PL 1999, c. 587, §3 (NEW).]

E. A payment or account under a stock bonus, pension, profit sharing, annuity, individual retirement account or similar plan to the extent described in section 4422, subsection 13, paragraph E. [PL 1999, c. 587, §3 (NEW).]

[PL 1999, c. 587, §3 (NEW).]

2. Installment payment order not permitted. The court may not order a judgment debtor to make installment payments if the judgment debtor is receiving or will receive money or earnings only from a source or sources exempt from attachment and execution under sections 4421 to 4426. [PL 1999, c. 587, §3 (NEW).]

3. Maximum amount of earnings subject to installment payment order. In the case of a judgment debtor who is an individual, the maximum amount of earnings for any workweek that is subject to an installment order may not exceed the least of:

A. Twenty-five percent of the sum of the judgment debtor's disposable earnings and exempt income for that week; [PL 1999, c. 587, §3 (NEW).]

B. The amount by which the sum of disposable earnings and exempt income for that week exceeds 40 times the minimum hourly wage prescribed by 29 United States Code, Section 206(a)(1) or the state minimum hourly wage prescribed by Title 26, section 664, whichever is higher at the time the earnings are payable; or [PL 2021, c. 382, §1 (AMD).]

C. The total amount of disposable earnings. [PL 1999, c. 587, §3 (NEW).]
[PL 2021, c. 382, §1 (AMD).]

4. Factors to consider in determining amount of installment payment order. In determining the amount of installment payments, the court may take into consideration:

A. The reasonable requirements of the judgment debtor and the judgment debtor's dependents; [PL 1999, c. 587, §3 (NEW).]

B. Any payments the judgment debtor is required to make to satisfy other judgment orders or wage assignments; [PL 1999, c. 587, §3 (NEW).]

C. Other judgment orders or wage assignments that have priority; [PL 1999, c. 587, §3 (NEW).]

D. The amount due on the judgment; [PL 1999, c. 587, §3 (NEW).]

E. The amount of money or earnings being or to be received; and [PL 1999, c. 587, §3 (NEW).]

F. Any other factors the court considers material and relevant. [PL 1999, c. 587, §3 (NEW).]
[PL 1999, c. 587, §3 (NEW).]

5. Manner of making payments. The court may prescribe the time, place and manner in which payments are to be made.

[PL 1999, c. 587, §3 (NEW).]

6. Certain orders not subject to limitations. The limitations set forth in subsection 3 do not apply to:

A. An order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure if the administrative procedure is established by state law, affords substantial due process and is subject to judicial review; [PL 1999, c. 587, §3 (NEW).]

B. An order of any court of the United States having jurisdiction over cases under 11 United States Code, chapter 13; or [PL 1999, c. 587, §3 (NEW).]

C. A debt due for state or federal tax. [PL 1999, c. 587, §3 (NEW).]

[PL 1999, c. 587, §3 (NEW).]

7. Maximum earnings subject to garnishment. The maximum part of the aggregate disposable earnings of an individual for any workweek that is subject to garnishment to enforce an order for the support of any person may not exceed:

A. When the individual is supporting a spouse or dependent child, other than a spouse or child with respect to whose support such order is used, 50% of that individual's disposable earnings for that week; and [PL 1999, c. 587, §3 (NEW).]

B. When the individual is not supporting such a spouse or dependent child described in paragraph A, 60% of that individual's disposable earnings for that week. [PL 1999, c. 587, §3 (NEW).]

If the support order being enforced is made with respect to a period that is prior to the 12-week period that ends with the beginning of that workweek, the percentage of disposable earnings subject to the garnishment is 55% under paragraph A and 65% under paragraph B.

[PL 1999, c. 587, §3 (NEW).]

8. Order to Department of Labor. When it is shown upon ex parte motion and affidavit that the judgment debtor has failed to make 2 or more payments required by an installment payment order under this section, the court shall order the Department of Labor to provide the judgment creditor with the name and address of the current or most recent employer of the judgment debtor, if any, together with the date the employer last reported wage information concerning the judgment debtor. The affidavit must specify the manner of application of all payments made pursuant to the installment payment order. An order directed to the Department of Labor under this section may be served by the judgment creditor by ordinary mail, accompanied by a reasonable fee set by the Department of Labor calculated to cover the full labor, overhead and other costs of administering the order pursuant to state rules and federal regulations. The Department of Labor shall respond to the judgment creditor within 20 days after receipt of the court order.

[PL 2015, c. 275, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 587, §3 (NEW). PL 2015, c. 275, §1 (AMD). PL 2021, c. 382, §1 (AMD).

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