

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1163

H.P. 797

House of Representatives, March 31, 2015

An Act To Amend the Garnishment Laws of the State

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STETKIS of Canaan.
Cosponsored by Representatives: BATTLE of South Portland, HAWKE of Boothbay Harbor,
HILLIARD of Belgrade, LYFORD of Eddington, SAWICKI of Auburn, THERIAULT of
China, WARD of Dedham.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §3127-C** is enacted to read:

3 **§3127-C. Order for payment of tax refunds**

4 **1. Order.** When it is shown upon ex parte motion and affidavit that the judgment
5 debtor has either failed to timely make 2 or more payments required by an installment
6 order under section 3126-A or when the judgment debtor has failed to appear, after
7 having been subpoenaed for a hearing provided for in this chapter, the court may approve
8 the service of an order to withhold and answer on the Treasurer of State for a judgment
9 debtor's state income tax refund. The order must state the amount owed on the judgment
10 debt, interest and costs. If the court has previously determined an installment payment
11 amount under section 3126-A, the order must state that amount. The order must demand
12 an answer under oath calculating the amount available from the judgment debtor's state
13 income tax refund to satisfy the judgment debt. The order must be served on the
14 Treasurer of State or the treasurer's designee and on the judgment debtor to the judgment
15 debtor's last known address within 60 days of the date of the order. A form answer must
16 be attached to the order when served on the Treasurer of State. The order may be served
17 by a sheriff or other officer empowered to execute a process or by certified mail, return
18 receipt requested.

19 **2. Withhold and answer.** The Treasurer of State or treasurer's designee served with
20 the order shall calculate the maximum dollar amount of the judgment debtor's state
21 income tax refund that may be applied to the debt under section 3126-A by using the
22 form answer attached to the order. Within 20 days of service of the order, the Treasurer
23 of State or treasurer's designee shall:

24 **A.** File the completed form answer with the court;

25 **B.** Serve copies of the answer on the judgment debtor and the judgment creditor in
26 the manner provided in the Maine Rules of Civil Procedure, Rule 5; and

27 **C.** Withhold from the judgment debtor and pay to the judgment creditor the amount
28 of the judgment debtor's state income tax refund that may be applied to the debt until
29 the court orders otherwise or the debt is satisfied. The Treasurer of State or
30 treasurer's designee may withhold the judgment debtor's state income tax refund for
31 consecutive years until the debt is satisfied.

32 **3. Hearing on motion.** Within 20 days of the service of the answer of the Treasurer
33 of State or treasurer's designee, the judgment debtor or the judgment creditor may request
34 by motion a hearing to determine what amount, if any, of the judgment debtor's state
35 income tax refund should be ordered payable by the Treasurer of State or treasurer's
36 designee to the judgment creditor. If a hearing is held pursuant to this subsection, the
37 court must issue an order to the Treasurer of State or treasurer's designee to hold the
38 judgment debtor's state income tax refund in escrow pending the court's decision at the
39 hearing. The motion must be served on the Treasurer of State or treasurer's designee as
40 well as the other party. After the hearing, if the court is satisfied as to the existence and
41 amount of the judgment debtor's tax refund by the Treasurer of State or treasurer's
42 designee, it may issue an order to the Treasurer of State or treasurer's designee to

1 withhold an amount, subject to the requirements of section 3126-A, from the tax refund
2 of the judgment debtor and pay the amount to the judgment creditor. If the court fails to
3 find an applicable tax refund, it may terminate the withholding required under subsection
4 2. If the court terminates withholding or reduces the amount withheld, the court may
5 order appropriate reimbursement of the judgment debtor by either the Treasurer of State
6 or the judgment creditor.

7 **4. Withholding charge.** The Treasurer of State or treasurer's designee subject to an
8 order under this section may charge a fee for the necessary costs of administering the
9 withholding of a state income tax refund pursuant to this section. This fee must be
10 deducted from the state income tax refund withheld prior to its remittance to the judgment
11 creditor.

12 **5. Enlargement of time limits.** The time limits in this section may be enlarged as
13 provided in the Maine Rules of Civil Procedure, Rule 6.

14 **SUMMARY**

15 This bill establishes a process for the garnishment of state income tax refunds for the
16 satisfaction of money judgments.