

House Research Act Summary

CHAPTER: 104 (H.F. 80/S.F. 33)

SESSION: 2013 Regular Session

TOPIC: Default judgments on assigned consumer debt

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Overview

This bill deals with consumer debts that the original creditor has sold to a third party. The bill specifies the procedure the third party must follow to get a default judgment against the debtor.

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- 1** **[Amends 491A.02, subd. 9] Judgment debtor disclosure.** Makes a law related to judgment debtor disclosures subject to section 4 of this act.

Effective date: August 1, 2013.
- 2** **[541.053] Limitation of actions based on consumer debt.** Provides that a lawsuit to collect consumer debt for personal, family, or household purposes must be started within six years. Provides that specified events after that do not revive the debt. Makes this law apply notwithstanding section 541.31, subdivision 1.

Effective date: August 1, 2013.
- 3** **[548.101] Assigned consumer debt default judgments.** (a) Makes this bill apply to situations in which an original creditor on a consumer loan that is primarily for personal, family, or household purposes has assigned (sold) the debt to a third party, and the third party (current owner of the debt) sues to obtain a court judgment against the debtor for the amount owing on the debt. Requires the third party (current creditor) to provide the court with specified evidence in order to obtain the court judgment. (These judgments are usually granted by default.) The evidence the bill requires the creditor to provide to the court is:
 1. a copy of the written contract between the debtor and the original creditor, or in lieu of that, other admissible evidence of the terms of the original debt, including the current

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creditor's rights to the amounts described in clause (4) below;

2. admissible evidence that the debtor owes the debt;
3. the last four digits of the debtor's social security number; if known to the creditor;
4. admissible evidence of the amount owed on the debt, including the amount owed to the original creditor at the time it was sold, and a breakdown of additional debt owed to the new creditor after the debt was sold;
5. admissible evidence proving the chain of assignments of the debt;
6. in district court cases, proof that a summons and complaint was served on the debtor and that the debtor did not serve an answer to it; or in conciliation court cases, proof that the party seeking the judgment (or that party's attorney) used reasonable efforts to provide the court administrator with the debtor's address; and
7. in district court cases, proof that the creditor or the creditor's attorney mailed to the debtor a notice of intent to apply for default judgment. Specifies a detailed form for the notice.

(b) Permits admissible evidence to be used to satisfy more than one requirement under paragraph (a), clauses (1) to (5) above. Permits use of an affidavit to establish the foundation for admitting documents under paragraph (a).

(c) Permits the court to either hold a hearing before entering a default judgment or to enter an administrative default judgment without a hearing if the court determines that the evidence submitted satisfies paragraph (a) of this section.

Effective date: September 1, 2013, and applies to requests for default judgments and conciliation court cases filed on or after that date.

- 4** **[Amends 550.011] Judgment debtor disclosure.** Permits the use of cash bail posted by the debtor in connection with a civil contempt order payable to the creditor to satisfy a judgment, either partially or fully, subject to the new paragraph (b) added to section 5 of this act.

Effective date: August 1, 2013.

- 5** **[Amends 588.04] Arrest; order to show cause.** Adds a new paragraph (b) to this existing law dealing with bail required of debtors who fail to comply with judgment debtor disclosure requirements. Requires that any such bail be returned to the judgment debtor.

Effective date: August 1, 2013.