

Frequently Asked Questions: Wage Assignment & Consumer Protections Bill SB2804 / HB5776 - Sponsors: Senator Biss & Representative Welch

What is a wage assignment?

Wage Assignments are a method used by non-traditional lenders, such as payday lenders, to access a borrower's wages when they default on a loan. Unlike a wage garnishment, a lender using a wage assignment does not go through the courts. Rather the lender sends a notice directly to a borrower letting them know that they will be taking a portion of their wages.

What does the legislation do?

Under federal law, a borrower must be able to stop a wage assignment at any time for any reason. However, wage assignment notices in Illinois are misleading and out of line with federal law. This bill cleans up the notice language to ensure that borrowers know their rights under federal law to stop a wage assignment.

What is the difference between wage garnishment and wage assignment?

A wage garnishment is processed through the court system. After judgment, a lender goes to court and requests a Wage Deduction Order. Wage assignments, however, occur outside of the court system entirely. A wage assignment clause is included in the loan contract. A wage assignment begins after a borrower defaults, and the lender sends a notice to the borrower, informing them that they are going to start taking a portion of their wages.

What lenders tend to use wage assignments?

Wage assignments are used by non-traditional lenders, including payday lenders, used car sellers, rent-to-own stores, and the like. More traditional lenders, such as banks and credit unions, do not usually use the wage assignment process. Rather, traditional lenders tend to use the wage garnishment process, which provides borrowers the right to due process.

Does federal law regulate wage assignments?

Yes. Under the Federal Trade Commission Credit Practices Rule, irrevocable wage assignment clauses are prohibited – meaning that borrowers must be able to stop a wage assignment at any time and for any reason.

How does federal law interact with our state law, the Wage Assignment Act?

Illinois' wage assignment notice states that to stop a wage assignment you must have a defense, and implies that there is a limited, 20-day timeframe in which you can stop the wage assignment. In doing so, Illinois' wage assignment notice misrepresents borrowers' rights under federal law to stop a wage assignment at will, misleading borrowers and conflicting with the FTC rule.

Do other states use wage assignments?

Because of the FTC ban on irrevocable wage assignments, at least 20 states prohibit wage assignments altogether.

How does SB2804 / HB5776 improve Illinois' wage assignment notice?

SB2804 / HB5776 improves the wage assignment notice by ensuring that borrowers know their rights under federal law to stop a wage assignment. Specifically, the bill:

- Removes the references to needing a legal defense to stop the wage assignment
- Clarifies that a borrower can stop the wage assignment at any time – it is not limited to the 20 day timeframe, as currently suggested in the notice
- Provides clearer information about how to stop the wage assignment

What happens once a borrower stops a wage assignment?

Once a borrower stops a wage assignment, the lender has the option of going through the traditional wage garnishment process in the court system to collect on the debt. To make sure the notice is clear that stopping a wage assignment does not eliminate a borrower's debt, we added a sentence in the notice to that effect.

Questions:

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