

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0212

HOUSE BILL NO. 1104

Introduced by: The Committee on State Affairs at the request of the Office of the State Auditor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the liability of a
2 garnishee to a plaintiff after the service of a summons.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 21-18-12 be amended to read as follows:

5 21-18-12. From the time of the service of the summons upon the garnishee ~~he shall stand,~~
6 the garnishee is liable to the plaintiff ~~to~~ for the amount of the property, money, credits, and
7 effects in ~~his~~ the garnishee's possession or under ~~his~~ the garnishee's control belonging to the
8 defendant, or in which ~~he shall be~~ the garnishee is interested, to the extent of ~~his~~ the garnishee's
9 right or interest therein, and of all debts due or to become due to the defendant, except such as
10 provided in section 2 of this Act or as may be by law exempt from execution.

11 Section 2. That chapter 21-18 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The provisions of § 21-18-12 do not apply if:

14 (1) The summons is delivered upon the garnishee within two business days before the
15 defendant's normal payday for the pay period;



- 1 (2) The defendant's wages are paid by direct deposit to a financial institution or the
2 garnishee uses an independent contractor as payroll administrator and prior to
3 receiving the summons the garnishee has issued instructions to the financial
4 institution or the payroll administrator to pay the defendant for that pay period; or
- 5 (3) The State of South Dakota is the garnishee, and prior to receiving the summons the
6 auditor's office has been issued instructions to pay the defendant for that pay period.