

H.804

Introduced by Representatives Helm of Fair Haven, Beck of St. Johnsbury,
Canfield of Fair Haven, Cupoli of Rutland City, Gage of
Rutland City, Gamache of Swanton, Juskiewicz of Cambridge,
McCoy of Poultney, McFaun of Barre Town, Myers of Essex,
and Quimby of Concord

Referred to Committee on

Date:

Subject: Court procedure; trustee process; Superior Court ejectment

Statement of purpose of bill as introduced: This bill proposes to permit a
landlord to recover a judgment for unpaid rent following an eviction
proceeding by garnishing the tenant's income tax refund or renter rebate.

An act relating to trustee process of income tax refunds and renter rebates

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 3013 is amended to read:

§ 3013. WHO MAY BE SUMMONED AS TRUSTEE GENERALLY;

PROPERTY SUBJECT TO PROCESS

A person or corporation, or the ~~state~~ State of Vermont by service of process
upon the ~~state treasurer~~ State Treasurer, may be summoned as a trustee of the
defendant. The goods, effects, or credits of the defendant ~~which~~ that are in the

1 hands of such trustee at the time of the service of the writ upon the trustee, or
2 ~~which~~ that come into the trustee's hands or possession before disclosure, shall
3 thereby be attached and held to respond to final judgment in the cause, except
4 as hereinafter provided. ~~Notwithstanding the foregoing~~ However, the ~~state~~
5 State of Vermont may not be summoned as a trustee of the defendant for any
6 tax refunds, credits, or rebates due the defendant under Title 32, except as
7 provided pursuant to sections 3173 through 3176 of this chapter for final
8 judgments relating to an ejectment proceeding pursuant to chapter 169 of this
9 title and 9 V.S.A. chapter 137.

10 Sec. 2. 12 V.S.A. § 3173 is added to read:

11 § 3173. ENFORCEMENT OF MONEY JUDGMENTS; TRUSTEE

12 PROCESS AGAINST TAX REFUND OR RENTER REBATE

13 Trustee process against a tax refund or renter rebate shall be used in
14 connection with the enforcement of a money judgment in an ejectment action
15 under chapter 169 of this title and 9 V.S.A. chapter 137 only after the judgment
16 becomes final.

17 Sec. 3. 12 V.S.A. § 3174 is added to read:

18 § 3174. MOTION FOR ISSUANCE OF TRUSTEE PROCESS;

19 SCHEDULING AND NOTICE OF HEARING

20 (a) When a judgment debtor has neglected or refused to pay or make
21 reasonable arrangements to pay a money judgment in an ejectment action

1 pursuant to chapter 169 of this title and 9 V.S.A. chapter 137, the judgment
2 creditor may move the court that rendered the judgment to issue trustee process
3 against the judgment debtor's income tax refund issued pursuant to 32 V.S.A.
4 chapter 151 or renter rebate issued pursuant to 32 V.S.A. chapter 154. The
5 motion shall describe in detail the grounds for requesting issuance of trustee
6 process and the amount of judgment alleged to be unpaid.

7 (b) Upon receipt of the motion of the judgment creditor, the court shall give
8 notice to the State Treasurer and to the judgment debtor as provided by Rule
9 4.2 of the Vermont Rules of Civil Procedure and shall hold a hearing on the
10 motion.

11 Sec. 4. 12 V.S.A. § 3175 is added to read:

12 § 3175. HEARING ON MOTION; FINDINGS; ORDER

13 (a) At the hearing on the motion, the court shall determine on the basis of
14 the motion, an affidavit offered by the judgment creditor, the record in the
15 ejectment action, and any testimony offered by either party whether the
16 judgment debtor has neglected or refused to pay or make reasonable
17 arrangements to pay the money judgment.

18 (b) If the court finds the judgment debtor has neglected or refused to pay or
19 make reasonable arrangements to pay the money judgment, it shall determine
20 the amount of the judgment that is unpaid and enter an appropriate order. The
21 order may provide for repetitive withholding from the judgment debtor's

1 income tax refund and renter rebate after all claims for setoff debt collection
2 pursuant to 32 V.S.A. chapter 151, subchapter 12 have been paid. The order
3 may, upon motion, be modified from time to time.

4 Sec. 5. 12 V.S.A. § 3176 is added to read:

5 § 3176. SERVICE OF ORDER; LIABILITY OF STATE

6 (a) The order shall be served on the judgment debtor and the State
7 Treasurer and shall state the address of the judgment creditor to which amounts
8 withheld are to be delivered.

9 (b) If the State Treasurer fails to honor the order of the court, the State shall
10 be liable to the judgment creditor in the amounts that the Treasurer has failed
11 to withhold and deliver, together with any costs, interest, and reasonable
12 attorney's fees incurred in their collection. The judgment debtor shall have no
13 additional liability for those costs, interest, or attorney's fees.

14 (c) Upon full satisfaction or payment of the debt upon which the judgment
15 is based, the judgment creditor shall notify the State Treasurer in writing and
16 the State Treasurer shall cease withholding from the income tax refund and
17 renter rebate of the judgment debtor.

18 Sec. 6. EFFECTIVE DATE

19 This act shall take effect on July 1, 2018.