

1 H.403

2 Introduced by Representative Helm of Fair Haven

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; trustee process; Superior Court ejectment

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

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

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

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

12 § 3013. WHO MAY BE SUMMONED AS TRUSTEE GENERALLY;

13 PROPERTY SUBJECT TO PROCESS

14 A person or corporation, or the State of Vermont by service of process upon
15 the State Treasurer, may be summoned as a trustee of the defendant. The
16 goods, effects, or credits of the defendant ~~which~~ that are in the hands of ~~such~~
17 the trustee at the time of the service of the writ upon the trustee, or ~~which~~ that
18 come into the trustee's hands or possession before disclosure, shall thereby be
19 attached and held to respond to final judgment in the cause, except as
20 hereinafter provided. ~~Notwithstanding the foregoing~~ However, the State of

1 Vermont may not be summoned as a trustee of the defendant for any tax
2 refunds, credits, or rebates due the defendant under Title 32, except as
3 provided pursuant to sections 3173 through 3176 of this chapter for final
4 judgments relating to an ejectment proceeding pursuant to chapter 169 of this
5 title and 9 V.S.A. chapter 137.

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

7 § 3173. ENFORCEMENT OF MONEY JUDGMENTS; TRUSTEE

8 PROCESS AGAINST TAX REFUND OR RENTER REBATE

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

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

14 § 3174. MOTION FOR ISSUANCE OF TRUSTEE PROCESS;

15 SCHEDULING AND NOTICE OF HEARING

16 (a) When a judgment debtor has neglected or refused to pay or make
17 reasonable arrangements to pay a money judgment in an ejectment action
18 pursuant to chapter 169 of this title and 9 V.S.A. chapter 137, the judgment
19 creditor may move the court that rendered the judgment to issue trustee process
20 against the judgment debtor's income tax refund issued pursuant to 32 V.S.A.
21 chapter 151 or renter rebate issued pursuant to 32 V.S.A. chapter 154. The

1 motion shall describe in detail the grounds for requesting issuance of trustee
2 process and the amount of judgment alleged to be unpaid.

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

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

8 § 3175. HEARING ON MOTION; FINDINGS; ORDER

9 (a) At a hearing on a motion pursuant to section 3174 of this chapter, the
10 court shall determine on the basis of the motion, an affidavit offered by the
11 judgment creditor, the record in the ejectment action, and any testimony
12 offered by either party whether the judgment debtor has neglected or refused to
13 pay or make reasonable arrangements to pay the money judgment.

14 (b) If the court finds the judgment debtor has neglected or refused to pay or
15 make reasonable arrangements to pay the money judgment, it shall determine
16 the amount of the judgment that is unpaid and enter an appropriate order. The
17 order may provide for repetitive withholding from the judgment debtor's
18 income tax refund and renter rebate after all claims for setoff debt collection
19 pursuant to 32 V.S.A. chapter 151, subchapter 12 have been paid. The order
20 may, upon motion, be modified from time to time.

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

2 § 3176. SERVICE OF ORDER; LIABILITY OF STATE

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

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

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

15 Sec. 6. EFFECTIVE DATE

16 This act shall take effect on July 1, 2019.