

AMERICAN PAYROLL ASSOCIATION

February 11, 2019

Submitted by Electronic Mail

Re: Opposition to HB 2230 – Writ of garnishment; certified mail

Dear Representatives:

The American Payroll Association (APA) opposes HB 2230, as written. Permitting service of writs of garnishment by certified mail is insufficient to ensure successful processing of a wage garnishment.

Methods of service are established to meet Constitutional due process requirements and to protect defendants from unfair abuse. These rules should not be relaxed simply so that judgment plaintiffs can be more efficient. Our primary concern is that any failure to timely and adequately respond to the service of process – whether as a defendant or as a garnishee – can have serious consequences and lead to a default judgment. Therefore, APA believes that methods of service should not be relaxed, but tightened.

HB 2230, as proposed, simply provides that a garnishee can be served via certified mail. It does not define who is served nor where it is mailed. This vagueness allows for a great deal of confusion and possible abuse. Garnishees may have many dozens of locations both inside and outside of Arizona, and allowing service of process upon employer garnishees in such an undefined way means they are not receiving fair notice of where to expect service or to whom service can be accomplished. Where a garnishee may receive service should be narrow and specific so that it can properly prepare to timely address any writ served.

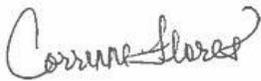
The Arizona Legislature has shown its concern for constitutional due process and fair notice to garnishee financial institutions, in Ariz. Rev. Stat. §12-1577. APA believes the same attention should be provided to employer garnishees. The difference has no basis in sound public policy.

APA urgently recommends that Section 1 of the bill, addressing Ariz. Rev. Stat. §12-1574, be amended to limit delivery by Certified Mail to instances in which the writ is sent to the employer garnishee's Registered Agent or directed to the CEO. In all other instances, APA recommends that writs of garnishment be served in person upon the highest ranking manager of a facility.

The American Payroll Association

The APA is a nonprofit professional association representing more than 20,000 payroll professionals and the needs of their employers in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Relations Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

Sincerely,



Corrinne Flores
Chair, GRTF Subcommittee on
Child Support and Other Garnishments



William Dunn, CPP
Director of Government Relations