

Memorandum 81-44

Subject: Study D-300 - Enforcement of Judgments (Amendments to AB 798)

Attached to this memorandum is a copy of staff recommended amendments to Assembly Bill 798 (conforming changes for the proposed Enforcement of Judgments Law). These amendments are all technical. Amendment 3 is needed because of an amendment to Code of Civil Procedure Section 117.9 enacted this session. See 1981 Cal. Stats. ch. 86, § 1. The remainder of the amendments remove material relating to attachment from AB 798; this material will be contained in the attachment bill, a draft of which is attached to Memorandum 81-45.

The amendments are drafted on the basis of the original printed bill. Assembly Bill 798 has been amended pursuant to the Commission's decisions at the July meeting, but we have not yet received printed copies of that bill. When the reprinted bill is received, we will adapt these amendments to it.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

STAFF DRAFT

AMENDMENTS TO ASSEMBLY BILL 798

Amendment 1

In lines 8 and 9 of the title of the printed bill, strike out "482.100, 484.530, 485.610, 487.020, 488.020, 488.090, 488.530, 490.010, 490.020,"

Amendment 2

In line 17 of the title, strike out "490.050,"

Amendment 3

On page 31, strike out lines 18 to 31, inclusive, and insert: conditions as the judge shall prescribe. Immediately upon receipt of payment of the judgment, the judgment creditor or his or her assignee of record shall file with the court an acknowledgment of satisfaction of judgment. Any judgment creditor or assignee of record who, after payment in full of the judgment, and after written demand by the judgment debtor fails without just cause for a period of 15 days to execute, and file an acknowledgment of satisfaction of judgment with the court is liable to the judgment debtor or his or her grantees or heirs for all damages ~~which he or she or they may sustain~~ sustained by reason of such failure and ~~shall also forfeit to him or her or them~~ , in addition, the sum of fifty dollars (\$50).

A canceled check or money order which was written subsequent to the judgment by the judgment debtor for the full amount of the judgment, made payable to and endorsed by the judgment creditor, or a cash receipt written subsequent to the judgment for the full amount thereof and signed by the judgment creditor, shall constitute a rebuttable presumption of satisfaction of judgment when filed with the clerk of the small claims court together with a statement signed by the judgment debtor under penalty of perjury stating that: (1) the judgment creditor has been paid in full the amount of the judgment and costs; (2) the judgment

creditor has been requested to file an acknowledgment of satisfaction of judgment and refuses to do so or the present address of the judgment creditor is unknown; and (3) the documents attached constitute evidence of receipt of this payment. In the event a rebuttable presumption of satisfaction of judgment is created pursuant to this section, a satisfaction of judgment shall be entered.

Amendment 4

On page 34, strike out lines 38 to 40, inclusive

Amendment 5

On page 35, strike out lines 1 to 40, inclusive

Amendment 6

On page 36, strike out lines 1 to 40, inclusive

Amendment 7

On page 37, strike out lines 1 to 40, inclusive

Amendment 8

On page 38, strike out lines 1 to 40, inclusive

Amendment 9

On page 39, strike out lines 1 to 40, inclusive

Amendment 10

On page 40, strike out lines 1 to 11, inclusive