HB4119 Wage Garnishment Testimony
Senate Commerce Committee
Rep. Daniela Garcia, 90th District
March 4, 2015

Chairman Schmidt and Senate Commerce Committee Members,

Thank you for giving me the opportunity to testify on House Bill 4119. This bill, along with Rep. McCready's bill, would make vital changes to our state's wage garnishment process.

As you may know, employers are often required to garnish their employer's wages as part of court-ordered debt collection. Under current law, the employer is served a legal writ to initiate garnishment. However, this creates a problem for employers who fail to respond properly to the writ within 14 days and can be held responsible for the entire amount of their employee's outstanding debt. This exposes employers to a massive amount of risk which they do not deserve. We have seen cases in Michigan of employers being held liable for debts as small as a few hundred dollars and as large as more than half a million dollars.

Even for employers who do not fall into the trap of becoming liable for their employee's debt, the regular, administrative burden of processing garnishments is significant—especially for small businesses. In return for their work, employers are paid just $6 and have to begin the process again every six months until their employee's debt is settled. Employers must process the garnishment, deal with court orders and handle the withholding from an employee's paycheck. This can go on for years. I recently talked to an employer in my community who has been required to garnish wages for a quarter of their dozen employees. The process of garnishment is burdensome for this small business owner requiring time and attention that could have been spent running the business. The Same owner has learned, first hand, that a 14 day turnaround time for responding is too short as they have been held responsible for an employee's full debt.

This legislation would provide a series of additional checkpoints so that employers receive multiple notifications of their role in the garnishment process before they are held liable. Employers would still receive a writ of garnishment but if they did not properly respond within 14 days, instead of receiving a default judgment, they would receive a notice of failure. They would then have 28 more days to respond to this second notice without penalty. Even if the employer failed to respond to the second notice and they received a default judgment, the employer would have 21 more days to file a motion against the judgment. If the court was in error, the entire judgment would be set aside. If the employer merely made an administrative mistake, they would be subject to a comparatively small fine and not liable for the employee's full debt. This provides a window of 63 days to resolve any confusion and protect the employer.

Further, employers would be compensated $35 instead of $6 to more accurately reflect the work they put in and the garnishment process would continue until the debt is resolved instead of starting over every six months. This will provide certainty for everyone involved.

Employers are performing a service when they respond to a writ of garnishment. Respecting the work that employers do on our behalf means making certain that they have every opportunity to clearly understand and respond to any writ of garnishment so that they are not held responsible for a debt they did not incur.

Thank you again for the opportunity to testify and for your support.