
A BILL FOR AN ACT

RELATING TO WAGE GARNISHMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that wage garnishment is
2 a legal procedure where the court orders an employer to withhold
3 a specified percentage of an employee's paycheck for repayment
4 of debt. Some states, such as North Carolina, Pennsylvania,
5 South Carolina, and Texas, have prohibited wage garnishment for
6 consumer debt, while ten states and the District of Columbia
7 have either suspended wage garnishment or blocked new wage
8 garnishments during the COVID-19 pandemic. However, laws on
9 wage garnishment in Hawaii continue to allow creditors to
10 garnish five per cent of the first \$100 in disposable income per
11 month, ten per cent of the next \$100 per month, and twenty per
12 cent of all sums in excess of \$200 per month. Because state and
13 federal laws provide two different metrics for the calculation
14 of garnished wages, the employer must use the calculation that
15 is most financially advantageous for the employee, which, in
16 most cases in the State, results in wage garnishment being
17 calculated under state law.



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1 The legislature further finds that due to the high cost of
2 living in Hawaii, individuals subject to wage garnishment may
3 struggle financially to pay for necessary expenses, such as
4 housing, food, and transportation. Therefore, by calculating
5 disposable earnings as the amount of earnings left after legally
6 required deductions and cost of living expenses, it may prevent
7 persons subject to wage garnishment from having to file for
8 bankruptcy and experiencing other negative financial outcomes.

9 The purpose of this Act is to allow cost of living expenses
10 to be included in the calculation when determining disposable
11 earnings as it relates to wage garnishment.

12 SECTION 2. Section 652-1, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Before judgment. When any goods or effects of a
15 debtor are in the possession of an attorney, agent, factor, or
16 trustee (in this chapter jointly and severally included in the
17 term "garnishee"), or when any debt is due from any person (also
18 included under the term "garnishee") to a debtor, or when any
19 person has in the person's possession for safekeeping any moneys
20 of the debtor, any creditor may bring the creditor's action
21 against the debtor and in the creditor's petition for process,



1 or by amendments of the complaint at any time before judgment,
2 after meeting the requirements of section 652-1.5, may request
3 the court to insert in the process a direction that service of a
4 true and attested copy thereof be made upon the garnishee[~~r~~] in
5 any of the manners described under section 652-2.5[~~r~~] and to
6 summon the garnishee to appear personally upon the day or term
7 appointed in the process for hearing the action or at any other
8 time appointed by the court and then and there on oath to answer
9 all of the following inquiries, herein inclusively referred to
10 as the "disclosure":

- 11 (1) Whether at the time the copy was served on the
12 garnishee, the garnishee had any of the goods or
13 effects of the defendant in the garnishee's hands and,
14 if so, the nature, amount and value thereof;
- 15 (2) Whether at the time of service, the garnishee was
16 indebted to the defendant and, if so, the nature and
17 amount of the debt; or
- 18 (3) Whether at the time of service on the garnishee, the
19 garnishee had any moneys of the defendant in the
20 garnishee's possession for safekeeping and, if so, the
21 amount thereof.



1 The summons and direction shall be signed and issued as is
2 usual in other civil process after proceedings under section
3 652-1.5. The summons shall specify an amount or value of money,
4 debt or goods or effects to be garnished which shall not exceed
5 one hundred twenty per cent of the amount of the plaintiff's
6 claim, including cost and interest. The summons shall be served
7 upon the garnishee in any of the manners described under section
8 652-2.5. From the time of service, the garnishee shall secure
9 in the garnishee's hands to pay such judgment as the plaintiff
10 shall recover in the action, such of the following property or
11 choses then in the garnishee's possession or owing to the
12 defendant as shall equal the amount or value specified in the
13 summons, except what the court has expressly found to be exempt
14 from execution pursuant to section 652-1.5(d) or (f):

- 15 (1) The goods and effects of the defendant then in the
16 hands of the garnishee;
- 17 (2) Any debt then owing from the garnishee to the
18 defendant;
- 19 (3) Moneys of the defendant then in the possession of the
20 garnishee for safekeeping; and



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1 (4) A portion of the defendant's wages, salary, stipend,
2 commissions, annuity, or net income under a trust (in
3 this chapter included under the term "wages"),
4 remaining after the deduction of any amounts required
5 by law to be withheld and a cost of living exemption,
6 which shall be equal to the most recent self-
7 sufficiency standard for Hawaii for a one-person
8 household as determined by the department of business,
9 economic development, and tourism pursuant to section
10 201-3(a)(5), by withholding the amount to be
11 determined as follows: five per cent of the first
12 \$100 per month, ten per cent of the next \$100 per
13 month, and twenty per cent of all sums in excess of
14 \$200 per month, or an equivalent portion of the above
15 amount per week, whether then or thereafter to become
16 owing[-]; provided that the cost of living exemption
17 may be proactively increased by the defendant showing
18 dependents or other factors affecting a high cost of
19 living, such as expenses specific to maintaining the
20 defendant's employability or professional credentials;
21 provided further that if the most recent self-



1 sufficiency standard for Hawaii has not been updated
2 for at least five years, the cost of living exemption
3 shall be adjusted in accordance with the most recent
4 Honolulu region consumer price index.

5 The property or choses described in (1), (2), (3), and (4) of
6 this paragraph are included under the term "garnishee fund" (in
7 this chapter). The cumulative total value of the fund, in
8 advance of final judgment, shall be no more than the amount
9 specified in the summons.

10 Except as provided in section 652-1.5, the summons and
11 direction shall be sufficient notice to the defendant to enable
12 the plaintiff to bring the plaintiff's action to trial, unless
13 the defendant is an inhabitant of the State or has some time
14 resided therein, in which case a like copy shall be served
15 personally upon the defendant or left at the defendant's last
16 and usual place of abode.

17 The court shall order the garnishee fund released at the
18 hearing provided in section 652-1.5 or thereafter upon the
19 filing by the debtor with the court of a bond or bonds issued by
20 a surety or sureties licensed to do business as such in the
21 State, in an amount sufficient to pay the claim of the creditor



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1 together with costs and interest, and conditioned upon judgment
2 rendered in favor of the creditor and to the extent the claim or
3 any portion thereof, together with costs and interests, if any,
4 is awarded."

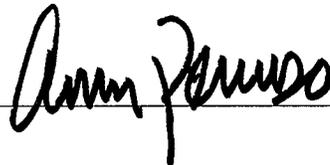
5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY:



JAN 27 2021



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Report Title:

Wage Garnishment; Disposable Earnings; Cost of Living Exemption

Description:

Allows cost of living expenses, as determined by the self-sufficiency standard for Hawaii, to be included in the calculation when determining disposable earnings as it relates to wage garnishment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

