

JAN 26 2022

A BILL FOR AN ACT

RELATING TO ATTACHMENT.

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

1 SECTION 1. The legislature finds that the current
2 statutory exemptions from attachment or execution of real and
3 personal property need to be updated to create a safety net of
4 assets for Hawaii families who are struggling to earn a living
5 under heavy debt obligations. These families include workers
6 who live from paycheck to paycheck and have incurred debt due to
7 an unexpected event such as a job layoff, accident, or illness.
8 This Act takes into account the need to allow temporarily
9 unemployed workers and their families, who possess a minimal
10 amount of assets and do not want to be on government benefits
11 indefinitely, to retain their assets and support themselves in
12 times of personal economic crisis.

13 The legislature further finds that the 2013 National
14 Consumer Law Center Studies on States Allowing Debt Collectors
15 to Push Families Into Poverty has rated Hawaii with a "D" in
16 protecting households from poverty.



1 The existing law regarding asset protection for real
2 property found in section 651-92, Hawaii Revised Statutes, has
3 not been updated since 1978. According to the U.S. Census, the
4 median price for a house or condominium in Hawaii in 1978 was
5 \$233,800, compared to the current median price of over
6 \$1,000,000. The Hawaii Revised Statutes only protects \$30,000
7 beyond mortgage obligations.

8 Additionally, the current law regarding asset protection
9 for personal property found in section 651-121, Hawaii Revised
10 Statutes, has not been updated since 1999 and does not include
11 protections of amounts received for child or spousal support.

12 The purpose of this Act is to:

13 (1) Increase the amount of the exemption from attachment
14 or execution of:

15 (A) Real property; and

16 (B) A motor vehicle; and

17 (2) Exempt one month of child support and spousal support
18 from attachment or execution.

19 SECTION 2. Section 651-92, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 " (a) ~~[Real property shall be exempt from attachment or~~
2 ~~execution as follows:~~

3 ~~(1)] An interest in [one parcel of] real property in the~~
4 ~~State of Hawaii, [of a fair market value not exceeding~~
5 ~~\$30,000, owned by the defendant who is either the head~~
6 ~~of a family or an individual sixty five years of age~~
7 ~~or older.~~

8 ~~(2) An interest in one parcel of real property in the~~
9 ~~State of Hawaii, of a fair market value not exceeding~~
10 ~~\$20,000, owned by the defendant who is a person.~~

11 ~~The fair market value of the interest exempted in paragraph (1)~~
12 ~~or (2) shall be determined by appraisal and shall be an interest~~
13 ~~which is over and above all liens and encumbrances on the real~~
14 ~~property recorded prior to the lien under which attachment or~~
15 ~~execution is to be made.] including properties under the~~
16 ~~department of Hawaiian home lands, of a fair market value not~~
17 ~~exceeding \$100,000, that is owed by the defendant, shall be~~
18 ~~exempt from attachment or execution. Not more than one~~
19 ~~exemption shall be claimed on any one parcel of real property~~
20 ~~even though more than one [person] individual residing on such~~
21 ~~real property may otherwise be entitled to an exemption.~~



1 Any claim of exemption under this section made before [May
 2 ~~27, 1976,~~] July 1, 2022, shall be deemed to be amended on [May
 3 ~~27, 1976,~~] July 1, 2022, by [~~increasing~~] amending the exemption
 4 to the amount permitted by this section on [~~May 27, 1976,~~]
 5 July 1, 2022, to the extent that [~~such increase~~] the amendment
 6 does not impair or defeat the right of any creditor who has
 7 executed upon the real property prior to [~~May 27, 1976,~~] July 1,
 8 2022."

9 SECTION 3. Section 651-121, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§651-121 Certain personal property and insurance thereon,**
 12 **exempt.** The following described personal property of an
 13 individual up to the value set forth shall be exempt from
 14 attachment and execution as follows:

- 15 (1) All necessary household furnishings and appliances,
 16 books and wearing apparel, ordinarily and reasonably
 17 necessary to, and personally used by a debtor or the
 18 debtor's family residing with the debtor; and, in
 19 addition thereto, jewelry, watches, and items of
 20 personal adornment up to an aggregate cash value not
 21 exceeding [~~\$1,000,~~] the fair market value of those



- 1 items as adjusted by the most recent consumer price
2 index;
- 3 (2) One motor vehicle up to [a] the fair market value of
4 [~~\$2,575~~] \$15,000 over and above all liens and
5 encumbrances on the motor vehicle; provided that the
6 value of the motor vehicle shall be measured by
7 established wholesale used car prices customarily
8 found in guides used by Hawaii motor vehicle dealers;
9 or, if not listed in such guides, fair wholesale
10 market value, with necessary adjustment for condition;
- 11 (3) Any combination of the following: tools, implements,
12 instruments, uniforms, furnishings, books, equipment,
13 one commercial fishing boat and nets, one motor
14 vehicle, and other personal property ordinarily and
15 reasonably necessary to and personally owned and used
16 by the debtor in the exercise of the debtor's trade,
17 business, calling, or profession by which the debtor
18 earns the debtor's livelihood;
- 19 (4) One parcel of land, not exceeding two hundred fifty
20 square feet in size, niche or interment space owned,
21 used, or occupied by any person, or by any person



1 jointly with any other person or persons, in any
2 graveyard, cemetery, or other place for the sole
3 purpose of burying the dead, together with the railing
4 or fencing enclosing the same, and all gravestones,
5 tombstones, monuments, and other appropriate
6 improvements thereon erected;

7 (5) The proceeds of insurance on, and the proceeds of the
8 sale of, the property in this section mentioned, for
9 the period of six months from the date the proceeds
10 are received; ~~and~~

11 (6) The wages, salaries, commissions, and all other
12 compensation for personal services due to the debtor
13 for services rendered during the thirty-one days
14 before the date of the proceeding[-]; and

15 (7) The equivalent of one month of child support, as
16 defined in section 576D-1, and one month of spousal
17 support, as defined in section 580-47, in the
18 possession of a debtor who is the recipient of the
19 support payment. The exemption shall apply to the
20 combined total amount of child support and spousal

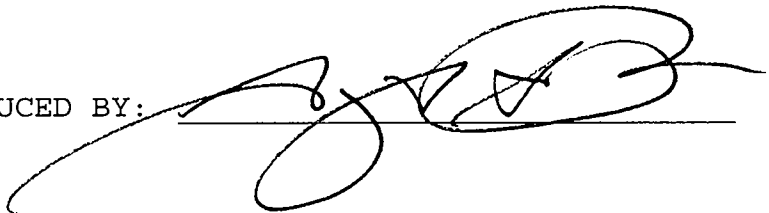


1 support even if that amount is comingled with funds
2 from other sources in a financial account."

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

5 SECTION 5. This Act shall take effect on July 1, 2022.

6

INTRODUCED BY: 



S.B. NO. 3323

Report Title:

Attachment or Execution of Property; Exemptions

Description:

Increases the amount of the exemption from attachment or execution of real property and a motor vehicle. Exempts one month of child support and spousal support from attachment or execution.

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