

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1775

Introduced by Assembly Member Wieckowski

February 17, 2012

An act to amend ~~Section~~ *Sections 706.011 and 706.050* of the Code of Civil Procedure, relating to wage garnishment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1775, as amended, Wieckowski. Wage garnishment: exempt earnings.

Existing

The Wage Garnishment Law governs earnings withholding orders and provides definitions of certain terms. Existing law requires a levy of execution upon the earnings of a judgment debtor to be made by service of an earnings withholding order upon the debtor's employer. Existing law limits the amount of earnings of a judgment debtor that may be subject to an earnings withholding order to the amount specified by federal law, unless an exception applies. Federal law prohibits the amount of earnings that may be subject to garnishment from exceeding 25% of an individual's weekly disposable earnings or the amount by which the individual's disposable earnings for the week exceed 30 times the ~~state~~ federal minimum hourly wage in effect at the time the earnings are payable.

This bill would define "disposable earnings" as the portion of an individual's earnings that remains after deducting all amounts required to be withheld by law. The bill would also prohibit the amount of an individual judgment debtor's weekly disposable earnings subject to garnishment from exceeding the lesser of 25% of the individual's weekly

disposable earnings or the amount by which the individual’s disposable earnings for the week exceed 40 times the state minimum hourly wage in effect at the time the earnings are payable, unless an exception applies. *For any pay period other than weekly, the bill would also require the use of certain multipliers to determine a maximum amount subject to garnishment that is proportional in effect to a calculation based on the amount by which the individual’s earnings for a workweek exceed 40 times the state minimum wage, except as specified.*

This bill would become operative on July 1, 2013. In order to implement these provisions, the bill would also require the Judicial Council to, on or before July 1, 2013, revise the instructions contained in certain documents provided to employers in order to specify the method of computation described above.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 706.011 of the Code of Civil Procedure
- 2 is amended to read:
- 3 706.011. As used in this chapter:
- 4 (a) “Disposable earnings” means the portion of an individual’s
- 5 earnings that remains after deducting all amounts required to be
- 6 withheld by law.
- 7 ~~(a)~~
- 8 (b) “Earnings” means compensation payable by an employer
- 9 to an employee for personal services performed by such employee,
- 10 whether denominated as wages, salary, commission, bonus, or
- 11 otherwise.
- 12 ~~(b)~~
- 13 (c) “Earnings withholding order for elder or dependent adult
- 14 financial abuse” means an earnings withholding order, made
- 15 pursuant to Article 5 (commencing with Section 706.100) and
- 16 based on a money judgment in an action for elder or adult
- 17 dependent financial abuse under Section 15657.5 of the Welfare
- 18 and Institutions Code.
- 19 ~~(c)~~
- 20 (d) “Earnings assignment order for support” means an order,
- 21 made pursuant to Chapter 8 (commencing with Section 5200) of
- 22 Part 5 of Division 9 of the Family Code or Section 3088 of the

1 Probate Code, which requires an employer to withhold earnings
2 for support.

3 ~~(d)~~

4 (e) “Employee” means a public officer and any individual who
5 performs services subject to the right of the employer to control
6 both what shall be done and how it shall be done.

7 ~~(e)~~

8 (f) “Employer” means a person for whom an individual performs
9 services as an employee.

10 ~~(f)~~

11 (g) “Judgment creditor,” as applied to the state, means the
12 specific state agency seeking to collect a judgment or tax liability.

13 ~~(g)~~

14 (h) “Judgment debtor” includes a person from whom the state
15 is seeking to collect a tax liability under Article 4 (commencing
16 with Section 706.070), whether or not a judgment has been
17 obtained on such tax liability.

18 ~~(h)~~

19 (i) “Person” includes an individual, a corporation, a partnership
20 or other unincorporated association, a limited liability company,
21 and a public entity.

22 **SECTION 1.**

23 *SEC. 2.* Section 706.050 of the Code of Civil Procedure is
24 amended to read:

25 706.050. (a) Except as otherwise provided in this chapter, the
26 maximum amount of disposable earnings of an individual judgment
27 debtor for any workweek that is subject to garnishment shall not
28 exceed ~~either~~ *the lesser* of the following:

29 ~~(a)~~

30 (1) Twenty-five percent of the individual’s disposable earnings
31 for that week.

32 ~~(b)~~

33 (2) The amount by which the individual’s disposable earnings
34 for that week ~~that~~ exceed 40 times the state minimum hourly wage
35 in effect at the time the earnings are payable.

36 (b) *For any pay period other than weekly, the following*
37 *multipliers shall be used to determine the maximum amount of*
38 *disposable earnings subject to garnishment that is proportional*
39 *in effect to the calculation described in paragraph (2) of*
40 *subdivision (a), except as specified in paragraph (1):*

1 (1) For a daily pay period, the amounts shall be identical to the
2 amounts described in subdivision (a).

3 (2) For a biweekly pay period, multiply the state hourly
4 minimum wage by 80 work hours.

5 (3) For a semimonthly pay period, multiply the state hourly
6 minimum wage by $86 \frac{2}{3}$ work hours.

7 (4) For a monthly pay period, multiply the state hourly minimum
8 wage by $173 \frac{1}{3}$ work hours.

9 SEC. 3. This act shall become operative on July 1, 2013.

10 SEC. 4. In order to implement the provisions of this act, the
11 Judicial Council shall, on or before July 1, 2013, revise the
12 instructions contained in the employer's instructions pursuant to
13 Section 706.127 of the Code of Civil Procedure to specify the
14 method of computation described in Section 2 of this act.