

Assembly Bill No. 1775

Passed the Assembly August 22, 2012

Chief Clerk of the Assembly

Passed the Senate August 20, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1775, Wieckowski. Wage garnishment: exempt earnings.

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 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 levy under an earnings withholding order 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 levy under an earnings withholding order 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.

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

SECTION 1. Section 706.011 of the Code of Civil Procedure is amended to read:

706.011. As used in this chapter:

(a) “Disposable earnings” means the portion of an individual’s earnings that remains after deducting all amounts required to be withheld by law.

(b) “Earnings” means compensation payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise.

(c) “Earnings withholding order for elder or dependent adult financial abuse” means an earnings withholding order, made pursuant to Article 5 (commencing with Section 706.100) and based on a money judgment in an action for elder or adult dependent financial abuse under Section 15657.5 of the Welfare and Institutions Code.

(d) “Earnings assignment order for support” means an order, made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or Section 3088 of the Probate Code, which requires an employer to withhold earnings for support.

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

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

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

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

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

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

706.050. (a) Except as otherwise provided in this chapter, the maximum amount of disposable earnings of an individual judgment debtor for any workweek that is subject to levy under an earnings withholding order shall not exceed the lesser of the following:

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

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

(b) For any pay period other than weekly, the following multipliers shall be used to determine the maximum amount of disposable earnings subject to levy under an earnings withholding order that is proportional in effect to the calculation described in paragraph (2) of subdivision (a), except as specified in paragraph (1):

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

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

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

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

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

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

Approved _____, 2012

Governor