
A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1 SECTION 1. The legislature finds that the current
2 statutory exemptions from real property and personal property
3 attachment or execution need to be updated to create a safety
4 net of assets for Hawaii families who struggle 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 be able to support
12 themselves in times of personal economic crisis.

13 SECTION 2. Section 651-92, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§651-92 Real property exempt. (a) [Real property shall~~
16 ~~be exempt from attachment or execution as follows:~~



1 ~~(1)~~ An interest in one parcel of real property in the
2 State of Hawaii ~~[of a fair market value not exceeding~~
3 \$30,000], including properties under the department of
4 Hawaiian home lands, not to exceed a fair market value
5 of \$275,000, that is owned by ~~[the defendant who is~~
6 ~~either the head of a family or an individual sixty-~~
7 ~~five years of age or older.]~~ an individual, shall be
8 exempt from attachment or execution.

9 ~~[(2) An interest in one parcel of real property in the~~
10 ~~State of Hawaii of a fair market value not exceeding~~
11 ~~\$20,000 owned by the defendant who is a person.]~~

12 The fair market value of the interest exempted ~~[in paragraphs~~
13 ~~(1) or (2) shall be determined by appraisal and]~~ by this
14 subsection shall be an interest ~~[which]~~ that is over and above
15 all liens and encumbrances on the real property recorded prior
16 to the lien under which attachment or execution is to be made.
17 Not more than one exemption shall be claimed on any one parcel
18 of real property even though more than one ~~[person]~~ individual
19 residing on such real property may otherwise be entitled to an
20 exemption.

21 Any claim of exemption under this section made before
22 ~~[May 27, 1976,]~~ the effective date of Act , Session Laws of



1 Hawaii 2016, shall be deemed to be amended on [~~May 27, 1976,~~]
2 the effective date of Act , Session Laws of Hawaii 2016, by
3 [~~increasing~~] amending the exemption to the amount permitted by
4 this section on [~~May 27, 1976,~~] the effective date of Act ,
5 Session Laws of Hawaii 2016, to the extent that [~~such increase~~]
6 the amendment does not impair or defeat the right of any
7 creditor who has executed upon the real property prior to
8 [~~May 27, 1976.~~] the effective date of Act , Session Laws of
9 Hawaii 2016.

10 (b) No exemption authorized under this section shall apply
11 to process arising from:

- 12 (1) A lien as provided by section 507-42;
- 13 (2) A lien or security interest created by a mortgage,
14 security agreement, or other security instrument;
- 15 (3) A tax lien in the name of the federal or state
16 government;
- 17 (4) An improvement district lien of any county of the
18 State; or
- 19 (5) A lien or encumbrance recorded against the real
20 property prior to the acquisition of interest in and
21 commencement of residence on such real property.



1 (c) Attachment or execution shall not apply to a debtor
2 who is not delinquent in payment of income taxes, real property
3 taxes, or mortgages, as applicable."

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

6 "§651-121 Certain personal property and insurance thereon,
7 exempt. The following described personal property of an
8 individual up to the value set forth shall be exempt from
9 attachment and execution as follows:

10 (1) All necessary household furnishings and appliances,
11 books and wearing apparel, ordinarily and reasonably
12 necessary to, and personally used by a debtor or the
13 debtor's family residing with the debtor; and, in
14 addition thereto, jewelry, watches, and items of
15 personal adornment up to an aggregate cash value not
16 exceeding [~~\$1,000-~~] the fair market value of such
17 items as adjusted by the most recent consumer price
18 index.

19 (2) One motor vehicle up to [~~a~~] the fair market value of
20 [~~\$2,575~~] \$15,000 over and above all liens and
21 encumbrances on the motor vehicle; provided that the
22 value of the motor vehicle shall be measured by



1 established wholesale used car prices customarily
2 found in guides used by Hawaii motor vehicle dealers;
3 or, if not listed in such guides, fair wholesale
4 market value, with necessary adjustment for condition.

5 (3) Any combination of the following: tools, implements,
6 instruments, uniforms, furnishings, books, equipment,
7 one commercial fishing boat and nets, one motor
8 vehicle, and other personal property ordinarily and
9 reasonably necessary to and personally owned and used
10 by the debtor in the exercise of the debtor's trade,
11 business, calling, or profession by which the debtor
12 earns the debtor's livelihood.

13 (4) One parcel of land, not exceeding two hundred fifty
14 square feet in size, niche or interment space owned,
15 used, or occupied by any person, or by any person
16 jointly with any other person or persons, in any
17 graveyard, cemetery, or other place for the sole
18 purpose of burying the dead, together with the railing
19 or fencing enclosing the same, and all gravestones,
20 tombstones, monuments, and other appropriate
21 improvements thereon erected.



- 1 (5) The proceeds of insurance on, and the proceeds of the
2 sale of, the property in this section mentioned, for
3 the period of six months from the date the proceeds
4 are received.
- 5 (6) The wages, salaries, commissions, and all other
6 compensation for personal services due to the debtor
7 for services rendered during the thirty-one days
8 before the date of the proceeding.
- 9 (7) The equivalent of one month of child support funds, as
10 defined in section 576D-1, and one month of spousal
11 support funds, as defined in section 580-47, that are
12 in the possession of the debtor who is the recipient
13 of the support payment. The exemption shall apply to
14 the combined total amount of child support and spousal
15 support even if that amount is comingled with funds
16 from other sources in a financial account."

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

19 SECTION 5. This Act shall take effect on February 12,
20 2809.



Report Title:

Attachment or Execution of Property; Exemptions

Description:

Increases the amount of the exemption from attachment or execution of (1) real property that is owned by any individual who is not delinquent on income taxes, real property taxes, or mortgages; and (2) a motor vehicle. Exempts one month of child support and spousal support from attachment or execution.
(HB375 HD2)

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

