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# 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 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 current 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 \$750,000.

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

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

12           "**§651-92 Real property exempt.** (a) [~~Real property shall~~  
 13 ~~be exempt from attachment or execution as follows:~~

14           (1) ~~An] The defendant's interest in one parcel of real  
 15 property in the State of Hawaii, [of a fair market  
 16 value not exceeding \$30,000, the defendant who is  
 17 either the head of a family or an individual sixty  
 18 five years of age or older.] including properties  
 19 under the department of Hawaiian home lands, with a  
 20 fair market value not to exceed \$275,000 shall be  
 21 exempt from attachment or execution.~~



1       ~~[(2) An interest in one parcel of real property in the~~  
2           ~~State of Hawaii, of a fair market value not exceeding~~  
3           ~~\$20,000, owned by the defendant who is a person.]~~

4 The fair market value of the interest exempted [~~in paragraph (1)~~  
5 ~~or (2)~~] shall be determined by appraisal and shall be an  
6 interest [~~which~~] that is over and above all liens and  
7 encumbrances on the real property recorded prior to the lien  
8 under which attachment or execution is to be made. Not more  
9 than one exemption shall be claimed on any one parcel of real  
10 property even though more than one [~~person~~] individual residing  
11 on such real property may otherwise be entitled to an exemption.

12       Any claim of exemption under this section made before [~~May~~  
13 ~~27, 1976,~~] July 1, 2017, shall be deemed to be amended on [~~May~~  
14 ~~27, 1976,~~] July 1, 2017, by [~~increasing~~] amending the exemption  
15 to the amount permitted by this section on [~~May 27, 1976,~~] July  
16 1, 2017, to the extent that [~~such increase~~] the amendment does  
17 not impair or defeat the right of any creditor who has executed  
18 upon the real property prior to [~~May 27, 1976,~~] July 1, 2017.

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

21       (1) A lien as provided by section 507-42;



1 (2) A lien or security interest created by a mortgage,  
2 security agreement, or other security instrument;

3 (3) A tax lien in the name of the federal or state  
4 government;

5 (4) An improvement district lien of any county of the  
6 State; or

7 (5) A lien or encumbrance recorded against the real  
8 property prior to the acquisition of interest in and  
9 commencement of residence on such real property.

10 (c) The exemption from attachment or execution provided in  
11 this section shall not apply to a debtor who is delinquent in  
12 payment of income taxes, real property taxes, or a mortgage, as  
13 applicable."

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

16 "§651-121 Certain personal property and insurance thereon,  
17 exempt. The following described personal property of an  
18 individual up to the value set forth shall be exempt from  
19 attachment and execution as follows:

20 (1) All necessary household furnishings and appliances,  
21 books and wearing apparel, ordinarily and reasonably



1 necessary to, and personally used by a debtor or the  
2 debtor's family residing with the debtor; and, in  
3 addition thereto, jewelry, watches, and items of  
4 personal adornment up to an aggregate cash value not  
5 exceeding [~~\$1,000,~~] \$5,000;

6 (2) One motor vehicle up to [a] the fair market value of  
7 [~~\$2,575~~] \$15,000 over and above all liens and  
8 encumbrances on the motor vehicle; provided that the  
9 value of the motor vehicle shall be measured by  
10 established wholesale used car prices customarily  
11 found in guides used by Hawaii motor vehicle dealers;  
12 or, if not listed in such guides, fair wholesale  
13 market value, with necessary adjustment for condition;

14 (3) Any combination of the following: tools, implements,  
15 instruments, uniforms, furnishings, books, equipment,  
16 one commercial fishing boat and nets, one motor  
17 vehicle, and other personal property ordinarily and  
18 reasonably necessary to and personally owned and used  
19 by the debtor in the exercise of the debtor's trade,  
20 business, calling, or profession by which the debtor  
21 earns the debtor's livelihood;



- 1 (4) One parcel of land, not exceeding two hundred fifty  
2 square feet in size, niche or interment space owned,  
3 used, or occupied by any person, or by any person  
4 jointly with any other person or persons, in any  
5 graveyard, cemetery, or other place for the sole  
6 purpose of burying the dead, together with the railing  
7 or fencing enclosing the same, and all gravestones,  
8 tombstones, monuments, and other appropriate  
9 improvements thereon erected;
- 10 (5) The proceeds of insurance on, and the proceeds of the  
11 sale of, the property in this section mentioned, for  
12 the period of six months from the date the proceeds  
13 are received; [and]
- 14 (6) The wages, salaries, commissions, and all other  
15 compensation for personal services due to the debtor  
16 for services rendered during the thirty-one days  
17 before the date of the proceeding[-]; and
- 18 (7) The equivalent of one month of child support, as  
19 defined in section 576D-1, and one month of spousal  
20 support, as defined in section 580-47, in the  
21 possession of a debtor who is the recipient of the



1           support payment. The exemption shall apply to the  
2           combined total amount of child support and spousal  
3           support even if that amount is comingled with funds  
4           from other sources in a financial account."

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

7           SECTION 5. This Act shall take effect on July 1, 2112.



**Report Title:**

Attachment or Execution of Property; Exemptions

**Description:**

Increases the value amounts applicable to qualifying for an exemption from attachment or execution of real and personal property. Exempts one month of child support and spousal support in the possession of the debtor-recipient of support from attachment or execution. (HB193 HD1)

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