

---

---

# A BILL FOR AN ACT

RELATING TO GARNISHMENT.

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

1           SECTION 1. The legislature finds that wage garnishment  
2 occurs when a court orders an employer to withhold a specified  
3 percentage of an employee's paycheck for payment of a debt.  
4 According to a November 2020 report from the National Consumer  
5 Law Center, nearly three per cent of individuals in the national  
6 workforce had their paychecks garnished for consumer debt, which  
7 includes student loans and medical debt. Some states, such as  
8 North Carolina, Pennsylvania, South Carolina, and Texas, have  
9 prohibited wage garnishment altogether for consumer debt. Ten  
10 states and the District of Columbia have either suspended wage  
11 garnishment or blocked new wage garnishments during the  
12 coronavirus disease 2019 pandemic. Current federal law protects  
13 seventy-five per cent of an employee's disposable income, or an  
14 amount equal to thirty times the federal minimum wage, whichever  
15 is greater, from wage garnishment. Disposable income is the  
16 amount of earnings left after legally required deductions,  
17 including taxes, social security, medicare, and unemployment



1 insurance, are made on an employee's income. Most states have a  
2 higher exemption rate than the federal rate for an employee's  
3 disposable income, and some of those states base their  
4 exemptions on on a sliding scale.

5 The legislature further finds that Hawaii law exempts from  
6 wage garnishment a portion of the defendant's income remaining  
7 after the deduction of any amounts required by law to be  
8 withheld by withholding an amount to be determined as follows:  
9 five per cent of the first \$100 per month, ten per cent of the  
10 next \$100 per month, and twenty per cent of all sums in excess  
11 of \$200 per month. The legislature also finds that these  
12 exemptions do not sufficiently protect consumers, as Hawaii's  
13 cost of living is among the highest in the nation. Individuals  
14 subject to garnishment may struggle to pay for basic needs,  
15 including medical insurance, healthcare, housing, food, and  
16 transportation. These basic needs are not taken into  
17 consideration in garnishment calculations. Many individuals  
18 subject to garnishment may have to file for bankruptcy, become  
19 homeless, experience other negative financial outcomes, or  
20 become a burden on the State's social services. It is therefore  
21 imperative for the State to significantly reduce the financial



1 harms imposed on individuals and families subject to existing  
2 garnishment law.

3 Accordingly, the purpose of this Act is to increase the  
4 withholding amount to five per cent of the first \$200 per month,  
5 ten per cent of the next \$200 per month, and twenty per cent of  
6 all sums in excess of \$400 per month.

7 SECTION 2. Section 652-1, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Before judgment. When any goods or effects of a  
10 debtor are in the possession of an attorney, agent, factor, or  
11 trustee (in this chapter jointly and severally included in the  
12 term "garnishee"), or when any debt is due from any person (also  
13 included under the term "garnishee") to a debtor, or when any  
14 person has in the person's possession for safekeeping any moneys  
15 of the debtor, any creditor may bring the creditor's action  
16 against the debtor and in the creditor's petition for process,  
17 or by amendments of the complaint at any time before judgment,  
18 after meeting the requirements of section 652-1.5, may request  
19 the court to insert in the process a direction that service of a  
20 true and attested copy thereof be made upon the garnishee[7] in  
21 any of the manners described under section 652-2.5[7] and to



1 summon the garnishee to appear personally upon the day or term  
2 appointed in the process for hearing the action or at any other  
3 time appointed by the court and then and there on oath to answer  
4 all of the following inquiries, herein inclusively referred to  
5 as the "disclosure":

6 [~~(1) Whether~~] whether at the time the copy was served on  
7 the garnishee, the garnishee had any of the goods or  
8 effects of the defendant in the garnishee's hands and,  
9 if so, the nature, amount and value thereof;

10 [~~(2) Whether~~] whether at the time of service, the garnishee  
11 was indebted to the defendant and, if so, the nature  
12 and amount of the debt; or

13 [~~(3) Whether~~] whether at the time of service on the  
14 garnishee, the garnishee had any moneys of the  
15 defendant in the garnishee's possession for  
16 safekeeping and, if so, the amount thereof.

17 The summons and direction shall be signed and issued as is  
18 usual in other civil process after proceedings under section  
19 652-1.5. The summons shall specify an amount or value of money,  
20 debt or goods or effects to be garnished [~~which~~] that shall not  
21 exceed one hundred twenty per cent of the amount of the



1 plaintiff's claim, including cost and interest. The summons  
2 shall be served upon the garnishee in any of the manners  
3 described under section 652-2.5. From the time of service, the  
4 garnishee shall secure in the garnishee's hands to pay [~~such~~]  
5 the judgment [~~as~~] the plaintiff [~~shall recover~~] recovers in the  
6 action, [~~such~~] any of the following property or choses then in  
7 the garnishee's possession or owing to the defendant as shall  
8 equal the amount or value specified in the summons, except what  
9 the court has expressly found to be exempt from execution  
10 pursuant to section 652-1.5(d) or (f):

- 11 (1) The goods and effects of the defendant then in the  
12 hands of the garnishee;
- 13 (2) Any debt then owing from the garnishee to the  
14 defendant;
- 15 (3) Moneys of the defendant then in the possession of the  
16 garnishee for safekeeping; and
- 17 (4) A portion of the defendant's wages, salary, stipend,  
18 commissions, annuity, or net income under a trust (in  
19 this chapter included under the term "wages"),  
20 remaining after the deduction of any amounts required  
21 by law to be withheld by withholding the amount to be



1           determined as follows: five per cent of the first  
2           ~~[\$100]~~ \$200 per month, ten per cent of the next ~~[\$100]~~  
3           \$200 per month, and twenty per cent of all sums in  
4           excess of ~~[\$200]~~ \$400 per month, or an equivalent  
5           portion of the above amount per week, whether then or  
6           thereafter to become owing.

7   The property or choses described in paragraphs (1), (2), (3),  
8   and (4) of this ~~[paragraph]~~ subsection are included under the  
9   term "garnishee fund" (in this chapter). The cumulative total  
10   value of the fund, in advance of final judgment, shall be no  
11   more than the amount specified in the summons.

12           Except as provided in section 652-1.5, the summons and  
13   direction shall be sufficient notice to the defendant to enable  
14   the plaintiff to bring the plaintiff's action to trial, unless  
15   the defendant is an inhabitant of the State or has some time  
16   resided therein, in which case a like copy shall be served  
17   personally upon the defendant or left at the defendant's last  
18   and usual place of abode.

19           The court shall order the garnishee fund released at the  
20   hearing provided in section 652-1.5 or thereafter upon the  
21   filing by the debtor with the court of a bond or bonds issued by



1 a surety or sureties licensed to do business [~~as such~~] in the  
2 State, in an amount sufficient to pay the claim of the creditor  
3 together with costs and interest, and conditioned upon judgment  
4 rendered in favor of the creditor and to the extent the claim or  
5 any portion thereof, together with costs and interests, if any,  
6 is awarded."

7 SECTION 3. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

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

12 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Garnishment; Moneys; Withholding

**Description:**

Adjusts the withholding amount for purposes of wage garnishment to five per cent of the first \$200 per month, ten per cent of the next \$200 per month, and twenty per cent of all sums in excess of \$400 per month. (SD1)

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

