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# A BILL FOR AN ACT

RELATING TO ATTACHMENT.

**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 National Consumer  
14      Law Center, in its report titled "No Fresh Start in 2021: Will  
15      States Let Debt Collectors Push Families Into Poverty As  
16      Pandemic Protections Expire?", published in November 2021, has  
17      rated Hawaii with a "D" in protecting households from poverty.



1       The existing 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 over  
6       \$1,000,000. The Hawaii Revised Statutes only protects \$30,000  
7       beyond mortgage obligations.

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

12      The purpose of this Act is to:

13      (1) Increase the amount of the exemption from attachment  
14      or execution of:

15          (A) Real property; and

16          (B) A motor vehicle; and

17      (2) Exempt one month of child support and spousal support  
18      from attachment or execution.

19      SECTION 2. Section 651-92, Hawaii Revised Statutes, is  
20      amended by amending subsection (a) to read as follows:



1       "(a)   ~~[Real property shall be exempt from attachment or~~  
2 ~~execution as follows:~~

3       ~~(1)] An interest in [one parcel of] real property in the~~  
4           ~~State [of Hawaii, of a fair market value not exceeding~~  
5           ~~\$30,000, owned by the defendant who is either the head~~  
6           ~~of a family or an individual sixty five years of age~~  
7           ~~or older.~~

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

11 ~~The fair market value of the interest exempted in paragraph (1)~~  
12 ~~or (2) shall be determined by appraisal and shall be an interest~~  
13 ~~which is over and above all liens and encumbrances on the real~~  
14 ~~property recorded prior to the lien under which attachment or~~  
15 ~~execution is to be made.], including properties under the~~  
16 ~~jurisdiction of the department of Hawaiian home lands, of a fair~~  
17 ~~market value not exceeding \$100,000 in equity in one property,~~  
18 ~~that is owed by the defendant, shall be exempt from attachment~~  
19 ~~or execution. Not more than one exemption shall be claimed on~~  
20 ~~any one parcel of real property even though more than one~~



1    ~~[person]~~ individual residing on such real property may otherwise  
2    be entitled to an exemption.

3            Any claim of exemption under this section made before ~~[May~~  
4    ~~27, 1976,]~~ July 1, 2022, shall be deemed to be amended on ~~[May~~  
5    ~~27, 1976,]~~ July 1, 2022, by ~~[increasing]~~ amending the exemption  
6    to the amount permitted by this section on ~~[May 27, 1976,]~~  
7    July 1, 2022, to the extent that ~~[such increase]~~ the amendment  
8    does not impair or defeat the right of any creditor who has  
9    executed upon the real property ~~[prior to May 27, 1976.]~~ before  
10   July 1, 2022."

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

13            "**§651-121    Certain personal property and insurance thereon,**  
14   **exempt.**    The following described personal property of an  
15   individual up to the value set forth shall be exempt from  
16   attachment and execution as follows:

17            (1)    All necessary household furnishings and appliances,  
18                    books and wearing apparel, ordinarily and reasonably  
19                    necessary to, and personally used by a debtor or the  
20                    debtor's family residing with the debtor; and, in  
21                    addition thereto, jewelry, watches, and items of



1 personal adornment up to an aggregate cash value not  
2 exceeding [~~\$1,000,~~] the fair market value of those  
3 items as adjusted by the most recent consumer price  
4 index;

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

13 (3) Any combination of the following: tools, implements,  
14 instruments, uniforms, furnishings, books, equipment,  
15 one commercial fishing boat and nets, one motor  
16 vehicle, and other personal property ordinarily and  
17 reasonably necessary to and personally owned and used  
18 by the debtor in the exercise of the debtor's trade,  
19 business, calling, or profession by which the debtor  
20 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, 2022.



**Report Title:**

Attachment or Execution of Property; Exemptions

**Description:**

Increases the amount of interest in real property that is exempt from attachment and execution. Amends the value of personal property that is exempt from attachment and execution, including increasing the exemption amount for a motor vehicle. Exempts from attachment or execution, an amount equivalent to one month of child support and one month of spousal support. (SD1)

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

