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A BILL

22-572

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend Chapter 5 of Title 16 of the District of Columbia Official Code to prevent wage garnishment from an individual making 40 times the minimum hourly wage or less, to limit the amount that can be garnished from the wages of an individual making more than 40 times the minimum hourly wage, to allow an individual to file a motion to exempt wages from attachment under section 16-572 by making a claim of undue financial hardship, and to require a judgment creditor to give notice to a judgment debtor whose wages will be garnished.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Wage Garnishment Fairness Amendment Act of 2018”.

Sec. 2. Chapter 5 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding new section designations to read as follows:

“16-572a. Motion to exempt wages from garnishment.

“16-572b. Notice to judgment debtor regarding wage garnishment.”.

(b) Section 16-572 is amended to read as follows:

“§ 16-572. Attachment of wages; percentage limitations; priority of attachments.

“Notwithstanding any other provision of subchapter II of this chapter:

29 “(1)(A) Where an attachment is levied upon wages due a judgment debtor from an
30 employer-garnishee, the attachment shall become a lien and a continuing levy upon the
31 gross wages due or to become due to the judgment debtor for the amount specified in the
32 attachment to the extent of 25% of the amount by which the judgment debtor’s
33 disposable wages for that week exceed 40 times the minimum hourly wage, as prescribed in
34 section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law
35 9-248; D.C. Official Code § 32-1003) (“minimum hourly wage”), in effect at the time the wages
36 are payable; provided, that the levy shall not exceed 25% of the judgment debtor’s disposable
37 wages for that week.

38 “(B) In the case of wages for any pay period other than a week, the Mayor
39 shall, by regulation, prescribe a multiple of the minimum hourly wage equivalent in effect to that
40 set forth in subparagraph (A) of this paragraph.

41 “(2) The levy shall be a continuing levy until the judgment, interest, and costs
42 thereof are fully satisfied and paid, and in no event may moneys be withheld, by the employer-
43 garnishee from the judgment debtor, in amounts greater than those prescribed by this section.

44 “(3) Only one attachment upon the wages of a judgment debtor may be satisfied at
45 one time.

46 “(4) Where more than one attachment is issued upon the wages of the same
47 judgment debtor and served upon the same employer-garnishee, the attachment first delivered

48 to the marshal shall have priority, and all subsequent attachments shall be satisfied in the order of
49 priority set forth in § 16-507.”.

50 (c) New sections 16-572a and 16-572b are added to read as follows:

51 “§ 16-572a. Motion to exempt wages from garnishment.

52 “(a) Notwithstanding § 16-572, a judgment debtor may seek to exempt additional wages
53 from attachment under § 16-572 by making a claim of undue financial hardship by filing a
54 motion with the Superior Court of the District of Columbia (“court”).

55 “(b) Upon the filing of a motion under subsection (a) of this section, the court shall
56 hold a hearing as soon as practicable, but no later than 30 days after the motion is filed,
57 unless the movant requests a later date.

58 “(c) The court shall prepare and make available a form that would allow a judgment
59 debtor to easily identify the basis for the judgment debtor’s request for wages to be exempt
60 from attachment. The form shall include space for the judgment debtor to identify, at a
61 minimum, the following:

62 “(1) That the judgment debtor receives public assistance from any of the
63 following sources or programs, if applicable:

64 “(A) Temporary Assistance for Needy Families
65 Program;

66 “(B) Program on Work, Employment, and
67 Responsibility;

68 “(C) General Assistance for Children program;
69 “(D) Supplemental Security Income;
70 “(E) Interim Disability Assistance;
71 “(F) Medicaid; or
72 “(G) D.C. Healthcare Alliance or similar health benefits;
73 “(2) A list of the judgment debtor’s household income;
74 “(3) The number of people in the judgment debtor’s household; and
75 “(4) A list of the household expenses, including:
76 “(A) Housing;
77 “(B) Utilities;
78 “(C) Health-related expenses;
79 “(D) Child care;
80 “(E) Food and household supplies;
81 “(F) Education;
82 “(G) Transportation;
83 “(H) Clothing;
84 “(I) Child support; and
85 “(J) Other circumstances, including recurring payments, creating
86 financial hardship.

87 “(d)(1) At the hearing on a motion filed pursuant to this section, the court shall
88 determine whether the amount required to be paid to the judgment creditor as calculated pursuant
89 to § 16-572 creates an undue financial hardship for the judgment debtor; provided, that, for a
90 movant who indicates that he or she receives public assistance from any of the sources listed
91 in subsection (c)(1) of this section, there shall be a presumption that the amount required to be
92 paid to the judgment creditor as calculated pursuant to § 16-572 creates an undue financial
93 hardship.

94 “(2) If the court makes a determination of undue financial hardship pursuant to
95 paragraph (1) of this subsection, the court shall grant the motion and:

96 “(A) Determine the amount of disposable wages to be exempted from
97 attachment under § 16-572 necessary to avoid undue financial hardship;

98
99 “(B) Promptly issue an order modifying the existing writ of attachment,
100 clearly identifying the dollar amount of disposable wages exempted from attachment, and
101 instructing the employer-garnishee that the employer-garnishee shall not collect an amount
102 during any pay period that causes the judgment debtor’s disposable wages for the pay period
103 to drop below the exempted amount determined pursuant to paragraph (2) of this subsection;
104 and

105 “(C) Send a copy of the order to the employer-garnishee at the address
106 stated on the existing writ of attachment.

107 “(e) A judgment creditor may file a motion requesting that the court review an order
108 issued pursuant to subsection (d) of this section to see whether, due to changed circumstances,
109 the amount required to be paid to the judgment creditor as calculated pursuant to § 16-572
110 would no longer create an undue financial hardship or whether the amount of disposable wages
111 needed to be exempted from attachment under § 16-572 to avoid undue financial hardship has
112 changed; provided, that the judgment creditor shall not file a motion pursuant to this
113 subsection before 18 months have passed since the court issued the order pursuant to
114 subsection (d) of this section or since the court most recently reviewed the order pursuant to
115 this subsection.

116 “16-572b. Notice to judgment debtor regarding wage garnishment.

117 “On the date that the judgment creditor serves a writ of attachment on an employer-
118 garnishee, the judgment creditor shall also mail to the judgment debtor at his or her last known
119 address, by certified and first class mail, a copy of the writ of attachment. The writ of attachment
120 shall be accompanied by a notice to the judgment debtor containing the following or
121 substantively similar language:

122 **“Notice to Judgment Debtor Regarding Wage Garnishment**

123 **“Why am I receiving this?** The enclosed Writ of Attachment is a copy of a legal document that
124 has been issued to your employer. You are receiving this notice because the plaintiff in the court
125 case shown on the Writ of Attachment obtained a money judgment against you. A money
126 judgment is a court’s decision that you owe money to someone else (the “judgment creditor”).

127 The judgment creditor is now seeking garnishment of your wages. Garnishment is a process in
128 which a portion of an employee’s wages are taken each pay period in order to pay money owed
129 to a judgment creditor.

130 **“Will my wages be garnished? If so, how much?** D.C. law automatically protects certain
131 amounts of wages from garnishment. For example, if you earn 40 times the D.C. minimum
132 hourly wage per week or less (in other words, if you work the equivalent of full-time hours at
133 minimum wage, or less), your earnings are fully protected against garnishment and nothing will
134 be taken from your paycheck. However, if you earn more than that, your employer may be
135 required to withhold a portion of your wages to pay to the judgment creditor. The amount of
136 garnishment is calculated based on the formula stated on the Writ of Attachment.

137 **“Is there anything I can do?** If you are already protected from garnishment, or if you can afford
138 the amount that will be taken out of your paycheck to pay the judgment creditor, you do not need
139 to do anything. However, judgment debtors subject to wage garnishment have the right under
140 D.C. Official Code § 16-572a to request that the court adjust the amount of wages subject to
141 garnishment based on financial hardship. To make such a request, you or your attorney must go
142 to the court and file a motion. In addition, there may be circumstances under which you may be
143 able to ask the court to undo the judgment. If you file a motion to adjust the amount of wages
144 subject to garnishment based on financial hardship, you should provide a copy of the motion to
145 your employer immediately so that the garnishment can be put on hold until the court makes a
146 decision.”.

147 (c) Section 16-573 is amended as follows:

148 (1) Subsection (a) is amended by striking the phrase “under the terms of this
149 section” and inserting the phrase “under the terms of § 16-572 and this section” in its place.

150 (2) Subsection (b) is amended by striking the phrase “on which it is based, the
151 employer shall make no further payments to the judgment creditor” and inserting the phrase “on
152 which it is based, or the filing of a motion seeking an exemption under § 16-572a, the employer
153 shall not withhold from the judgment debtor or pay to the judgment creditor” in its place.

154 (3) Subsection (d) is amended to read as follows:

155 “(d) Under this section, the employer-garnishee shall not withhold or pay to the judgment
156 creditor any portion of the gross wages payable to the judgment debtor for any week in which
157 such wages do not exceed 40 times the minimum hourly wage, as prescribed in section 4 of the
158 Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C.
159 Official Code § 32-1003), in effect at the time the wages are payable.”.

160 Sec. 3. Applicability

161 (a) Section 2(b) shall not apply to a writ of attachment issued before the effective date of
162 this act.

163 (b)(1) This act shall apply upon the date of inclusion of its fiscal effect in an approved
164 budget and financial plan.

165 (2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal
166 effect in an approved budget and financial plan, and provide notice to the Budget Director of the
167 Council of the certification.

168 (3)(A) The Budget Director shall cause the notice of the certification to be
169 published in the District of Columbia Register.

170 (B) The date of publication of the notice of the certification shall not affect
171 the applicability of this act.

172 Sec. 4. Fiscal impact statement.

173 The Council adopts the fiscal impact statement in the committee report as the fiscal
174 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
175 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

176 Sec. 5. Effective date.

177 This act shall take effect following approval by the Mayor (or in the event of veto by the
178 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
179 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
180 24, 1973, (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
181 Columbia Register.