

AN ACT

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:

“(1)(A) Where an attachment is levied upon wages due a judgment debtor from an employer-garnishee, the attachment shall become a lien and a continuing levy upon the gross wages due or to become due to the judgment debtor for the amount specified in the attachment to the extent of 25% of the amount by which the judgment debtor’s disposable wages for that week exceed 40 times the minimum hourly wage, as prescribed in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003) (“minimum hourly wage”), in effect at the time the wages are payable.

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

- “(F) Education;
- “(G) Transportation;
- “(H) Clothing;
- “(I) Child support; and
- “(J) Other circumstances, including recurring payments, creating

financial hardship.

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

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

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

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

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

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

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

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

“Notice to Judgment Debtor Regarding Wage Garnishment

“Why am I receiving this? The enclosed Writ of Attachment is a copy of a legal document that has been issued to your employer. You are receiving this notice because the plaintiff in the court case shown on the Writ of Attachment obtained a money judgment against you. A money judgment is a court’s decision that you owe money to someone else (the “judgment creditor”). The judgment creditor is now seeking garnishment of your wages. Garnishment is a process in which a portion of an employee’s wages are taken each pay period in order to pay money owed to a judgment creditor.

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

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

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

(1) Subsection (a) is amended by striking the phrase “that percentage of the gross wages payable to the judgment debtor for the pay period or periods ending in such calendar month to which the judgment creditor is entitled under the terms of this section” and inserting the phrase “that percentage of wages payable to the judgment debtor for the pay period or periods ending in such calendar month to which the judgment creditor is entitled under the terms of this subchapter” in its place.

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

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

“(d) Under this section, except as provided in § 16-577, the employer-garnishee shall not withhold from the judgment debtor or pay to the judgment creditor any portion of the gross wages payable to the judgment debtor for any week in which the judgment debtor’s disposable

wages do not exceed 40 times the minimum hourly wage, as prescribed in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), in effect at the time the wages are payable.”.

Sec. 3. Applicability.

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

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia