
SENATE BILL 5064

State of Washington

53rd Legislature

1993 Regular Session

By Senator A. Smith

Read first time 01/11/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to garnishment; and amending RCW 6.27.010,
2 6.27.140, 6.27.150, and 6.27.310.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 6.27.010 and 1987 c 442 s 1001 are each amended to
5 read as follows:

6 (1) As used in this chapter, the term "earnings" means compensation
7 paid or payable to an individual for personal services, whether
8 denominated as wages, salary, commission, bonus, or otherwise, and
9 includes periodic payments pursuant to a pension or retirement program.

10 (2) As used in this chapter, the term "disposable earnings" means
11 that part of earnings remaining after the deduction from those earnings
12 of any amounts required by law to be withheld. As used in this
13 chapter, "amounts required by law to be withheld" does not include any
14 amount withheld pursuant to any order or wage assignment voluntarily
15 granted for the support of any person pursuant to chapter 26.18 or
16 74.20A RCW.

17 **Sec. 2.** RCW 6.27.140 and 1987 c 442 s 1014 are each amended to
18 read as follows:

1 (1) The notice required by RCW 6.27.130(1) to be mailed to or
2 served on an individual judgment debtor shall be in the following form,
3 printed or typed in type no smaller than elite type:

4 NOTICE OF GARNISHMENT
5 AND OF YOUR RIGHTS

6 A Writ of Garnishment issued by a Washington court has been or
7 will be served on the garnishee named in the attached copy of
8 the writ. After receipt of the writ, the garnishee is required
9 to withhold payment of any money that was due to you and to
10 withhold any other property of yours that the garnishee held or
11 controlled. This notice of your rights is required by law.

12 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

13 WAGES. If the garnishee is your employer who owes wages or
14 other personal earnings to you, your employer is required to
15 pay amounts to you that are exempt under state and federal
16 laws, as explained in the writ of garnishment. You should
17 receive a copy of your employer's answer, which will show how
18 the exempt amount was calculated. If the garnishment is for
19 child support, the exempt amount paid to you will be forty
20 percent of wages due you, but if you are supporting a spouse or
21 dependent child, you are entitled to claim an additional ten
22 percent as exempt.

23 BANK ACCOUNTS. If the garnishee is a bank or other institution
24 with which you have an account in which you have deposited
25 benefits such as Aid to Families with Dependent Children
26 (AFDC), Supplemental Security Income (SSI), Social Security,
27 veterans' benefits, unemployment compensation, or a United
28 States pension, you may claim the account as fully exempt if
29 you have deposited only such benefit funds in the account. It
30 may be partially exempt even though you have deposited money
31 from other sources in the same account. An exemption is also
32 available under RCW 26.16.200, providing that funds in a
33 community bank account that can be identified as the earnings
34 of a stepparent are exempt from a garnishment on the child
35 support obligation of the parent.

1 OTHER EXEMPTIONS. If the garnishee holds other property of
2 yours, some or all of it may be exempt under RCW 6.15.010, a
3 Washington statute that exempts up to ~~((five hundred))~~ one
4 thousand dollars of property of your choice (including up to
5 one hundred dollars in cash ~~((or))~~ and up to one hundred
6 dollars in a bank account) and certain property such as
7 household furnishings, tools of trade, and ~~((a))~~ motor vehicles
8 (all limited by differing dollar values).

9 HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and
10 mail or deliver it as described in instructions on the claim
11 form. If the plaintiff does not object to your claim, the
12 funds or other property that you have claimed as exempt must be
13 released not later than 10 days after the plaintiff receives
14 your claim form. If the plaintiff objects, the law requires a
15 hearing not later than 14 days after the plaintiff receives
16 your claim form, and notice of the objection and hearing date
17 will be mailed to you at the address that you put on the claim
18 form.

19 THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN
20 ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT
21 YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

22 (2) The claim form required by RCW 6.27.130(1) to be mailed to or
23 served on an individual judgment debtor shall be in the following form,
24 printed or typed in type no smaller than elite type:

25 [Caption to be filled in by judgment creditor
26 or plaintiff before mailing.]
27
28 Name of Court
29 No.
30 Plaintiff,
31 vs.
32 EXEMPTION CLAIM
33 Defendant,
34
35 Garnishee Defendant

1 INSTRUCTIONS:

2 1. Read this whole form after reading the enclosed notice. Then put
3 an X in the box or boxes that describe your exemption claim or
4 claims and write in the necessary information on the blank lines.

5 2. Make two copies of the completed form. Deliver the original form
6 by first class mail or in person to the clerk of the court, whose
7 address is shown at the bottom of the writ of garnishment. Deliver
8 one of the copies by first class mail or in person to the plaintiff
9 or plaintiff's attorney, whose name and address are shown at the
10 bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS
11 QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE
12 DATE ON THE WRIT.

13 I/We claim the following money or property as exempt:

14 IF BANK ACCOUNT IS GARNISHED:

15 [] The account contains payments from:

- 16 [] AFDC, SSI, or other public assistance. I receive \$.
17 monthly.
- 18 [] Social Security. I receive \$. monthly.
- 19 [] Veterans' Benefits. I receive \$. monthly.
- 20 [] U.S. Government Pension. I receive \$. monthly.
- 21 [] Unemployment Compensation. I receive \$. monthly.
- 22 [] Child support. I receive \$. monthly.
- 23 [] Other. Explain
24

25 IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE
26 FOLLOWING:

- 27 [] No money other than from above payments are in the account.
- 28 [] Moneys in addition to the above payments have been deposited
29 in the account. Explain
30
31

1 IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

2 [] I claim maximum exemption.

3 [] I am supporting another child or other children.

4 [] I am supporting a husband or a wife.

5 IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

6 [] Name and address of employer who is paying the benefits: .
7

8 OTHER PROPERTY:

9 [] Describe property
10

11 (If you claim other personal property as exempt, you must attach a
12 list of all other personal property that you own.)

13

14 Print: Your name If married,
15 name of husband/wife
16

17

18 Your signature Signature of husband
19 or wife
20

21

22

23 Address Address
24 (if different from yours)
25

26

27 Telephone number Telephone number
28 (if different from yours)
29

30 CAUTION: If the plaintiff objects to your claim, you will have to go
31 to court and give proof of your claim. For example, if you claim that
32 a bank account is exempt, you may have to show the judge your bank
33 statements and papers that show the source of the money you deposited
34 in the bank. Your claim may be granted more quickly if you attach
35 copies of such proof to your claim.

1 IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE
2 PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE
3 CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE
4 PLAINTIFF'S ATTORNEY FEES.

5 **Sec. 3.** RCW 6.27.150 and 1991 c 365 s 26 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, if the
8 garnishee is an employer owing the defendant earnings, then for each
9 week of such earnings, an amount shall be exempt from garnishment which
10 is the greatest of the following:

11 (a) Thirty times the federal minimum hourly wage prescribed by
12 section 206(a)(1) of Title 29 of the United States Code in effect at
13 the time the earnings are payable; or

14 (b) Seventy-five percent of the disposable earnings of the
15 defendant.

16 (2) In the case of a garnishment based on a judgment or other court
17 order for child support or court order for spousal maintenance, other
18 than a mandatory wage assignment order pursuant to chapter 26.18 RCW,
19 or a mandatory assignment of retirement benefits pursuant to chapter
20 41.50 RCW, the exemption shall be fifty percent of the disposable
21 earnings of the defendant if the individual is supporting a spouse or
22 dependent child (other than a spouse or child on whose behalf the
23 garnishment is brought), or forty percent of the disposable earnings of
24 the defendant if the individual is not supporting such a spouse or
25 dependent child.

26 (3) The exemptions stated in this section shall apply whether such
27 earnings are paid, or are to be paid, weekly, monthly, or at other
28 intervals, and whether earnings are due the defendant for one week, a
29 portion thereof, or for a longer period. In the case of commissions or
30 bonuses, the exemptions shall be calculated for the number of weeks
31 intervening since the last payment of earnings made to the defendant.

32 (4) For purposes of this chapter, any order for mandatory wage
33 assignment under chapter 26.18 RCW, or any wage assignment voluntarily
34 granted when an application of motion for mandatory wage assignment
35 under chapter 26.18 or 74.20A RCW is pending, constitutes an order for
36 garnishment.

37 (5) Unless directed otherwise by the court, the garnishee shall
38 determine and deduct exempt amounts under this section as directed in

1 the writ of garnishment and answer, and shall pay these amounts to the
2 defendant.

3 ~~((+5))~~ (6) No money due or earned as earnings as defined in RCW
4 6.27.010 shall be exempt from garnishment under the provisions of RCW
5 6.15.010, as now or hereafter amended.

6 **Sec. 4.** RCW 6.27.310 and 1987 c 442 s 1031 are each amended to
7 read as follows:

8 (1) Except as provided in subsections (2) and (3) of this section,
9 in all cases where it shall appear from the answer of the garnishee
10 that the garnishee was indebted to the defendant when the writ of
11 garnishment was served, no controversion is pending, there has been no
12 discharge or judgment against the garnishee entered, and one year has
13 passed since the filing of the answer of the garnishee, the court,
14 after ten days' notice in writing to the plaintiff, shall enter an
15 order dismissing the writ of garnishment and discharging the
16 garnishee(~~(: PROVIDED, That this provision)~~).

17 (2) Notwithstanding subsection (1) of this section, when the amount
18 held by the garnishee pursuant to the writ is one hundred dollars or
19 less and the debtor has failed to claim said amount as exempt and sixty
20 days have elapsed since the filing of the answer on the writ without
21 judgment against the garnishee based on their answer to the writ having
22 been taken, the writ shall be deemed dismissed and the garnishee
23 discharged.

24 (3) This section shall have no effect if the cause of action
25 between plaintiff and defendant is pending on the trial calendar, or if
26 any party files an affidavit that the action is still pending.

--- END ---