

537.5105 Limitation on garnishment.

1. For the purposes of this part:

a. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld or assigned.

b. "Garnishment" means any legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt.

2. In addition to the provisions of section 642.21, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce payment of a judgment arising from a consumer credit transaction may not exceed the lesser of twenty-five percent of the individual's disposable earnings for that week, or the amount by which the individual's disposable earnings for that week exceed forty times the federal minimum hourly wage prescribed by the Fair Labor Standards Act of 1938, United States Code, title 29, section 206, subsection "a," paragraph (1), in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the administrator shall prescribe by rule a multiple of the federal minimum hourly wage equivalent in effect to that set forth for a pay period of a week.

3. No court may make, execute, or enforce an order or process in violation of this section.

4. At any time after the entry of a judgment in favor of a creditor in an action against a consumer for debt arising from a consumer credit transaction, the consumer may file with the court a verified application for an order exempting from garnishment pursuant to that judgment for an appropriate period of time a greater portion or all of the consumer's aggregate disposable earnings for a workweek or other applicable pay period than is provided for in subsection 2. The application shall designate the portion of the consumer's earnings which are not exempt from garnishment under this section and other law, shall specify the period of time for which the additional exemption is sought, shall describe the judgment with respect to which the application is made, and shall state that the designated portion in addition to earnings that are exempt by law is necessary for the maintenance of the consumer or a family supported wholly or partly by the earnings. Upon the filing of a sufficient application under this subsection, the court may issue any temporary order staying enforcement of the judgment by garnishment that may be necessary under the circumstances, shall set a hearing on the application not less than five nor more than ten days from the date of the filing of the application, and shall cause notice of the application and the hearing date to be served on the judgment creditor or the judgment creditor's attorney of record. At the hearing, if it appears to the court that all or any portion of the earnings sought to be additionally exempted are necessary for the maintenance of the consumer or a family supported wholly or partly by the earnings of the consumer for all or any part of the time requested in the application, the court shall issue an order granting the application to that extent, otherwise it shall deny the application. The order is subject to modification or vacation upon the further application of any party to it upon a showing of changed circumstances after a hearing upon notice to all interested parties.

[C75, 77, 79, 81, § 537.5105]