

MAR 10 1997
LABOR & INDUSTRIAL RELATIONS

HOUSE FILE 512
BY BARRY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to maximum amounts allowed to be garnisheed from
2 an employee's earnings.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 512

1 Section 1. Section 537.5105, subsection 2, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 ~~In-addition-to-the-provisions-of~~ Notwithstanding section
4 642.21, the maximum part of the aggregate disposable earnings
5 of an individual for any workweek which is subjected to
6 garnishment to enforce payment of a judgment arising from a
7 consumer credit transaction may not exceed the lesser of
8 twenty-five percent of the individual's disposable earnings
9 for that week, or the amount by which the individual's
10 disposable earnings for that week exceed forty times the
11 federal minimum hourly wage prescribed by the Fair Labor
12 Standards Act of 1938, United States Code, title 29, section
13 206, subsection "a," paragraph (1), in effect at the time the
14 earnings are payable.

15 Sec. 2. Section 627.6, subsection 9, paragraph c, Code
16 1997, is amended to read as follows:

17 c. In the event of a bankruptcy proceeding, the debtor's
18 interest in accrued wages and in state and federal tax refunds
19 as of the date of filing of the petition in bankruptcy, not to
20 exceed one thousand dollars in the aggregate, notwithstanding
21 section 642.21. This exemption is in addition to the
22 limitations contained in ~~sections-642.21-and~~ section 537.5105.

23 Sec. 3. Section 630.3A, Code 1997, is amended to read as
24 follows:

25 630.3A HEARING TO DETERMINE JUDGMENT DEBTOR'S INCOME.

26 At any time after the rendition of judgment the court, upon
27 application of the judgment creditor or the judgment debtor
28 and upon notice to the adverse party as the court shall
29 direct, shall conduct a hearing to determine the reasonably
30 expected annual earnings of the judgment debtor for the
31 current calendar year and the applicable ~~limitation-upon~~ rate
32 of garnishment as provided in section 642.21. The court shall
33 also consider in the interest of justice whether a greater
34 amount than provided in section 642.21 shall be exempt from
35 garnishment. In making the determination the court shall

1 consider the age, number and circumstances of the dependents
2 of the debtor, existing federal poverty level guidelines, the
3 debtor's maintenance and support needs, the debtor's other
4 financial obligations and any other relevant information. An
5 order reducing the garnishment may be modified or vacated upon
6 the application of a party to the court, notice to the adverse
7 party, and a showing at a hearing of changed circumstances.
8 An additional filing fee shall not be assessed for proceedings
9 under this section.

10 Sec. 4. Section 642.21, subsection 1, Code 1997, is
11 amended to read as follows:

12 1. The disposable earnings of an individual are exempt
13 from garnishment to the extent provided by the federal
14 Consumer Credit Protection Act, Title III, 15 U.S.C. secs.
15 1671--1677 (1982). ~~The maximum amount of an employee's~~
16 ~~earnings which may be garnished during any one calendar year~~
17 ~~is two hundred fifty dollars for each judgment creditor,~~
18 ~~except as provided in chapter 252D and sections 598.22,~~
19 ~~598.23, and 627.12, or when those earnings are reasonably~~
20 ~~expected to be in excess of twelve thousand dollars for that~~
21 ~~calendar year as determined from the answers taken by the~~
22 ~~sheriff or by the court pursuant to section 642.5, subsection~~
23 ~~4. When the employee's earnings are reasonably expected to be~~
24 ~~more than twelve thousand dollars the maximum amount of those~~
25 ~~earnings which may be garnished during a calendar year for~~
26 ~~each creditor is as follows: Except as otherwise provided in~~
27 ~~chapter 252D, sections 537.5105, 598.22, 598.23, 627.12, and~~
28 ~~this section, the rate at which the garnishee shall withhold~~
29 ~~from the earnings of the employee shall be equivalent to the~~
30 ~~rate at which the judgment debtor's debt accumulated against~~
31 ~~each judgment creditor, as determined and ordered by a court~~
32 ~~of law or equity.~~

33 a. ~~Employees with expected earnings of twelve thousand~~
34 ~~dollars or more, but less than sixteen thousand dollars, not~~
35 ~~more than four hundred dollars may be garnished.~~

1 by the federal Consumer Credit Protection Act.

2 The bill notwithstanding the provision establishing that the
3 rate of withholding from the earnings of the employee shall be
4 equal to the rate at which the debt accumulated, to maintain a
5 provision in the Iowa consumer credit code that establishes
6 maximum limitations on the garnishment of earnings of an
7 individual resulting from a judgment arising from a consumer
8 credit transaction, and a provision that permits a debtor in a
9 bankruptcy hearing to hold exempt from execution not more than
10 \$1,000 in interest in accrued wages and in state and federal
11 tax refunds.

12 Because the provisions limiting the amounts garnisheed to
13 an annual maximum based upon the expected annual earnings of
14 an employee are eliminated under the bill, the bill also
15 eliminates a provision establishing that a notice of
16 garnishment served upon a garnishee is effective until the
17 annual maximum amount has been reached.

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