

Effective 3/27/2014

70C-7-103 Definitions -- Limitation on garnishment.

- (1) As used in 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.
 - (b) "Education loan" means a loan subject to this title, or notwithstanding Subsection 70C-1-202(2)(h)(ii)(B)(II), made by a depository institution that:
 - (i) is closed end;
 - (ii) is a qualified education loan as defined in 26 U.S.C. Sec. 221(d);
 - (iii) expressly states in the original loan documents that it is a qualified education loan or the proceeds will be used solely for qualified higher education expenses as defined in 26 U.S.C. Sec 221(d); and
 - (iv) in a bankruptcy filing, the loan or any indebtedness relating to the loan is subject to the provisions of 11 U.S.C. Sec. 523(a)(8).
 - (c) "Garnishment" means a legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt.
- (2) The maximum part of the aggregate disposable earnings of an individual for any pay period that is subjected to garnishment to enforce payment of a judgment arising from a consumer credit agreement may not exceed the lesser of:
 - (a) 25% of the individual's disposable earnings for that pay period;
 - (b) the amount by which the individual's disposable earnings for that pay period exceed 30 hours per week multiplied by the federal minimum hourly wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C. Sec. 206(a)(1), in effect at the time the earnings are payable; or
 - (c) 15% of the individual's disposable earnings for that pay period if the judgment relates to an education loan.
- (3) A court may not make, execute, or enforce an order or process in violation of this section.

Amended by Chapter 84, 2014 General Session