

**COURT DEBT COLLECTION AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marsha Judkins**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses judgments requiring the payment of money.

**Highlighted Provisions:**

This bill:

- ▶ varies the amount of wages subject to garnishment based on an individual's annual income as compared to the federal poverty level;
- ▶ exempts from execution to satisfy a judgment up to \$1,000 on deposit in a financial institution;
- ▶ requires a judgment creditor to send a quarterly statement to a judgment debtor setting forth the payment history of a judgment; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**70C-7-103**, as last amended by Laws of Utah 2014, Chapter 84

**78B-5-505**, as last amended by Laws of Utah 2021, Chapter 260

**78B-5-507**, as last amended by Laws of Utah 2020, Chapter 425



28 ENACTS:

29 **78B-5-207**, Utah Code Annotated 1953

30

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **70C-7-103** is amended to read:

33 **70C-7-103. Definitions -- Limitation on garnishment.**

34 (1) As used in this part:

35 (a) "Annual income" means the aggregate amount of disposable earnings received by  
36 an individual in a calendar year.

37 (b) "Disposable earnings" means that part of the earnings of an individual remaining  
38 after the deduction from those earnings of amounts required by law to be withheld.

39 ~~[(b)]~~ (c) "Education loan" means a loan subject to this title, or notwithstanding

40 Subsection 70C-1-202(2)(h)(ii)(B)(II), made by a depository institution that:

41 (i) is closed end;

42 (ii) is a qualified education loan as defined in 26 U.S.C. Sec. 221(d);

43 (iii) expressly states in the original loan documents that it is a qualified education loan  
44 or the proceeds will be used solely for qualified higher education expenses as defined in 26  
45 U.S.C. Sec 221(d); and

46 (iv) in a bankruptcy filing, the loan or any indebtedness relating to the loan is subject to  
47 the provisions of 11 U.S.C. Sec. 523(a)(8).

48 (d) "Federal excess amount" means the amount by which an individual's disposable  
49 earnings for any pay period exceeds 30 hours per week multiplied by the federal minimum  
50 hourly wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C.  
51 Sec. 206(a)(1), in effect at the time the earnings are payable.

52 (e) "Federal poverty level" means the annual poverty guidelines established by the  
53 Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec.  
54 9909(2), taking into account the size of an individual's household.

55 ~~[(e)]~~ (f) "Garnishment" means a legal or equitable procedure through which the  
56 earnings of an individual are required to be withheld for payment of a debt.

57 (2) ~~[The]~~ Except as provided in Subsection (3), the maximum part of the aggregate  
58 disposable earnings of an individual for any pay period that is ~~subjected~~ subject to

59 garnishment to enforce payment of a judgment arising from a consumer credit agreement [~~may~~  
60 ~~not exceed~~] is the lesser of:

61 (a) [~~25% of the individual's disposable earnings for that pay period~~] 10% of the  
62 individual's disposable earnings for that pay period if the individual's annual income is equal to  
63 or less than 200% of the federal poverty level;

64 (b) 20% of the individual's disposable earnings for that pay period if the individual's  
65 annual income is equal to or less than 300% of the federal poverty level;

66 (c) 25% of the individual's disposable earnings for that pay period if the individual's  
67 annual income is greater than 300% of the federal poverty level; or

68 (d) the federal excess amount for that pay period.

69 [~~(b) the amount by which the individual's disposable earnings for that pay period~~  
70 ~~exceed 30 hours per week multiplied by the federal minimum hourly wage prescribed by~~  
71 ~~Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C. Sec. 206(a)(1), in effect at~~  
72 ~~the time the earnings are payable; or]~~

73 [(~~c~~)] (3) [~~15% of the individual's disposable earnings for that pay period if the~~  
74 ~~judgment relates to an education loan.]~~ If a judgment arising from a consumer credit agreement  
75 relates to an education loan, the maximum part of the aggregate disposable earnings of an  
76 individual for any pay period that is subject to garnishment is the lesser of:

77 (a) 15% of the individual's disposable earnings for that pay period; or

78 (b) the federal excess amount for that pay period.

79 [(~~3~~)] (4) A court may not make, execute, or enforce an order or process in violation of  
80 this section.

81 Section 2. Section **78B-5-207** is enacted to read:

82 **78B-5-207. Judgments for the payment of money -- Statement required quarterly.**

83 (1) As used in this section:

84 (a) "Judgment" means a judgment requiring the payment of money.

85 (b) "Quarterly" means once every 90 days.

86 (2) No later than 90 days after the date a judgment is effective as a lien under this part,  
87 or Part 3, Utah Foreign Judgment Act, and continuing quarterly until the judgment is satisfied,  
88 a judgment creditor shall provide a statement to the judgment debtor that identifies:

89 (a) the current date;

- 90 (b) the names of the judgment creditor and judgment debtor;
- 91 (c) the original balance of the judgment;
- 92 (d) every district court where the judgment is recorded;
- 93 (e) the value of any money and property received by the judgment creditor and applied
- 94 to the judgment;
- 95 (f) the amount of any fee and cost incurred by the judgment creditor and added to the
- 96 judgment;
- 97 (g) the post-judgment interest rate and amount of accrued interest added to the
- 98 judgment; and
- 99 (h) the aggregate balance owed on the judgment as of the date of the statement.
- 100 (3) The judgment creditor shall send the statement described in Subsection (2):
- 101 (a) by certified mail to the judgment debtor's last known address;
- 102 (b) by email to the judgment debtor; or
- 103 (c) by making the statement available to the judgment debtor via a web-based platform.
- 104 (4) The judgment creditor may not recover from the judgment debtor the cost to
- 105 prepare and send a statement described in this section.

106 Section 3. Section **78B-5-505** is amended to read:

107 **78B-5-505. Property exempt from execution.**

108 (1) (a) An individual is entitled to exemption of the following property:

109 (i) a burial plot for the individual and the individual's family;

110 (ii) health aids reasonably necessary to enable the individual or a dependent to work or  
111 sustain health;

112 (iii) benefits that the individual or the individual's dependent have received or are  
113 entitled to receive from any source because of:

114 (A) disability;

115 (B) illness; or

116 (C) unemployment;

117 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the  
118 benefits are used by an individual or the individual's dependent to pay for that care;

119 (v) veterans benefits;

120 (vi) money or property received, and rights to receive money or property for child

121 support;

122 (vii) money or property received, and rights to receive money or property for alimony  
123 or separate maintenance, to the extent reasonably necessary for the support of the individual  
124 and the individual's dependents;

125 (viii) (A) one:

126 (I) clothes washer and dryer;

127 (II) refrigerator;

128 (III) freezer;

129 (IV) stove;

130 (V) microwave oven; and

131 (VI) sewing machine;

132 (B) all carpets in use;

133 (C) provisions sufficient for 12 months actually provided for individual or family use;

134 (D) all wearing apparel of every individual and dependent, not including jewelry or  
135 furs; and

136 (E) all beds and bedding for every individual or dependent;

137 (ix) except for works of art held by the debtor as part of a trade or business, works of  
138 art:

139 (A) depicting the debtor or the debtor and the debtor's resident family; or

140 (B) produced by the debtor or the debtor and the debtor's resident family;

141 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a  
142 result of bodily injury of the individual or of the wrongful death or bodily injury of another  
143 individual of whom the individual was or is a dependent to the extent that those proceeds are  
144 compensatory;

145 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable  
146 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or  
147 children of the debtor, provided that the contract or policy has been owned by the debtor for a  
148 continuous unexpired period of one year;

149 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable  
150 to the spouse or children of the debtor or any trust of which the spouse or children are  
151 beneficiaries upon the death of the debtor, provided that the contract or policy has been in

152 existence for a continuous unexpired period of one year;

153 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the  
154 debtor or any revocable grantor trust created by the debtor, excluding any payments made on  
155 the contract during the one year immediately preceding a creditor's levy or execution;

156 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in  
157 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as  
158 an owner, participant, or beneficiary from or an interest of the individual as an owner,  
159 participant, or beneficiary in a fund or account, including an inherited fund or account, in a  
160 retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a),  
161 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a  
162 participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or  
163 otherwise;

164 (xv) the interest of or any money or other assets payable to an alternate payee under a  
165 qualified domestic relations order as those terms are defined in Section 414(p), Internal  
166 Revenue Code;

167 (xvi) unpaid earnings of the household of the filing individual due as of the date of the  
168 filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family  
169 income for the household size of the filing individual as determined by the Utah State Annual  
170 Median Family Income reported by the United States Census Bureau and as adjusted based  
171 upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid  
172 earnings are paid more often than once a month or, if unpaid earnings are not paid more often  
173 than once a month, then in the amount of 1/12 of the Utah State annual median family income  
174 for the household size of the individual as determined by the Utah State Annual Median Family  
175 Income reported by the United States Census Bureau and as adjusted based upon the Consumer  
176 Price Index for All Urban Consumers;

177 (xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of  
178 the following:

179 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

180 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

181 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000  
182 rounds; [and]

183 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,  
184 more than 18 months before the day on which the individual files a petition for bankruptcy or  
185 an action is filed by a creditor against the individual, as applicable, in all tax-advantaged  
186 accounts for saving for higher education costs on behalf of a particular individual that meets  
187 the requirements of Section 529, Internal Revenue Code[-]; and

188 (xix) money, not exceeding \$1,000, in the aggregate:

189 (A) in which the debtor holds an interest;

190 (B) that was on deposit in a financial institution before a lien created by a judgment  
191 was obtained against the debtor; and

192 (C) that is not otherwise exempt from execution under this section.

193 (b) (i) Any money, asset, or other interest in a fund or account that is exempt from a  
194 claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does  
195 not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a  
196 direct transfer or eligible rollover to an inherited individual retirement account as defined in  
197 Section 408(d)(3), Internal Revenue Code.

198 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement  
199 accounts without regard to the date on which the account was created.

200 (c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

201 (A) an alternate payee under a qualified domestic relations order, as those terms are  
202 defined in Section 414(p), Internal Revenue Code; or

203 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year  
204 before the debtor files for bankruptcy, except amounts directly rolled over from other funds  
205 that are exempt from attachment under this section.

206 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the  
207 secured creditor's interest in proceeds and avails of any matured or unmatured life insurance  
208 contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

209 (2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans  
210 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a  
211 child if the person receiving the benefits has been convicted of a felony sex offense against the  
212 victim and ordered by the sentencing court to pay restitution to the victim.

213 (b) The exemption from execution under this Subsection (2) shall be reinstated upon

214 payment of the restitution in full.

215 (3) The exemptions under this section do not limit items that may be claimed as  
216 exempt under Section [78B-5-506](#).

217 (4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii),  
218 (xiii), (xiv), (xv), (xvii), [~~and (xviii)~~] (xviii), and (xix) do not apply to a civil accounts  
219 receivable or a civil judgment of restitution for an individual who is found in contempt under  
220 Section [78B-6-317](#).

221 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if  
222 the individual's dependent received, or is entitled to receive, the benefits.

223 Section 4. Section [78B-5-507](#) is amended to read:

224 **[78B-5-507](#). Exemption of proceeds from property sold, taken by condemnation,  
225 lost, damaged, or destroyed -- Tracing exempt property and proceeds.**

226 (1) (a) An individual who owned property described in this Subsection (1) is entitled to  
227 an exemption of proceeds that are traceable for one year after the compensation for the property  
228 is received if:

229 (i) (A) the property, or a part of the property, could have been claimed exempt under  
230 Subsection [78B-5-505](#)(1)(a)(i) or (ii); or

231 (B) the property is personal property subject to a value limitation under Subsection  
232 [78B-5-506](#)(1)(a), (b), or (c); and

233 (ii) the property has been:

234 (A) sold [~~or taken by condemnation; or~~], taken by condemnation, lost, damaged, or  
235 destroyed; and

236 [~~(B) lost, damaged, or destroyed; and~~]

237 [~~(C)~~] (B) the owner has been compensated for the property.

238 (b) The exemption of proceeds under this Subsection (1) does not entitle the individual  
239 to claim an aggregate exemption in excess of the value limitation otherwise allowable under  
240 Section [78B-5-503](#) or [78B-5-506](#).

241 (2) Money or other property exempt under Subsection [78B-5-505](#)(1)(a)(iii), (iv), (v),  
242 (vi), (vii), (xiii), (xiv), [~~or (xviii)~~] (xviii), or (xix) remains exempt after its receipt by, and while  
243 it is in the possession of, the individual or in any other form into which it is traceable.

244 (3) Money or other property and proceeds exempt under this chapter are traceable



245 under this section by application of:

246 (a) the principle of:

247 (i) first-in first-out; or

248 (ii) last-in last-out; or

249 (b) any other reasonable basis for tracing selected by the individual.