

PROPOSED AMENDMENT

SB 197 # 1

DIGEST

Garnishment. Amends the limitation on garnishment provided in the Uniform Consumer Credit Code. Requires a garnishment order or attachment order that requires an employer to make deductions from a debtor's disposable earnings to provide certain information to the employer. Provides that tangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of \$1,500 is exempt from bankruptcy (current law is \$300). Removes provisions in code requiring the department of financial institutions to adopt rules that establish or adjust exemption amounts for purposes of bankruptcy proceedings.

- 1 Delete every thing after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-22-2.3-6, AS AMENDED BY P.L.93-2024,
- 3 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2026]: Sec. 6. The following apply to the department of
- 5 financial institutions:
- 6 (1) The department of financial institutions shall adopt rules
- 7 under the interim rule procedures in IC 4-22-2-37.2 announcing:
- 8 (A) sixty (60) days before January 1 of each odd-numbered
- 9 year in which dollar amounts under IC 24-4.5 (Uniform
- 10 Consumer Credit Code) are to change, the changes in dollar
- 11 amounts required by IC 24-4.5-1-106(2);
- 12 (B) promptly after the changes occur, changes in the Index
- 13 required by IC 24-4.5-1-106(3), including, when applicable,
- 14 the numerical equivalent of the Reference Base Index under a
- 15 revised Reference Base Index and the designation or title of
- 16 any index superseding the Index;
- 17 (C) the adjustments required under IC 24-9-2-8 concerning
- 18 high cost home loans; and
- 19 ~~(D) the adjustments required under IC 34-55-10-2 (bankruptcy~~
- 20 ~~exemptions; limitations) or IC 34-55-10-2.5.~~
- 21 A rule described in this subdivision expires not later than January
- 22 of the next odd-numbered year after the department of financial
- 23 institutions is required to issue the rule.

(2) The department of financial institutions may adopt a rule under the interim rule procedures in IC 4-22-2-37.2 for a rule permitted under IC 24-4.4-1-101 (licensing system for creditors and mortgage loan originators) or IC 24-4.5 (Uniform Consumer Credit Code) if the department of financial institutions declares an emergency. A rule described in this subdivision expires not later than two (2) years after the rule is effective.

~~(3) The department of financial institutions may adopt a rule described in IC 34-55-10-2 (bankruptcy exemptions; limitations) or IC 34-55-10-2.5 in conformity with the procedures in IC 4-22-2-23 through IC 4-22-2-36 or the interim rule procedures in IC 4-22-2-37.2. A rule described in this subdivision adopted under IC 4-22-2-37.2 expires not later than two (2) years after the rule is accepted for filing by the publisher of the Indiana Register.~~

A rule described in this section may be continued in another interim rule only if the governor determines under IC 4-22-2-37.2(c) that the policy options available to the agency are so limited that use of the additional notice, comment, and review procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no benefit to persons regulated or otherwise affected by the rule.

SECTION 2. IC 24-4.5-5-105, AS AMENDED BY P.L.78-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 105. (1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

(a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;

(b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and

(c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against the individual may not exceed the lesser of the following amounts:

(a) An amount equal to twenty-five percent (25%) of the individual's disposable earnings for that week or, upon a showing of good cause by the individual why the amount should be reduced, an amount equal to:

(i) less than twenty-five percent (25%); and

(ii) at least ten percent (10%);

of the individual's disposable earnings for that week.

(b) The amount by which the individual's disposable earnings for that week exceed ~~thirty (30)~~ **eighty-three (83)** times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to ~~thirty (30)~~ **eighty-three (83)** times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting the individual's spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

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

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to

1 compensate the employer for making these deductions, an amount
2 equal to the greater of twelve dollars (\$12) or three percent (3%) of the
3 total amount required to be deducted by the garnishment order or series
4 of orders arising out of the same judgment debt. If the employer
5 chooses to impose a fee, the fee shall be allocated as follows:

6 (a) One-half (1/2) of the fee shall be borne by the debtor, and that
7 amount may be deducted by the employer directly from the
8 employee's disposable earnings.

9 (b) One-half (1/2) of the fee shall be borne by the creditor, and
10 that amount may be retained by the employer from the amount
11 otherwise due the creditor.

12 The deductions made under this subsection for a collection fee do not
13 increase the amount of the judgment debt for which the fee is collected
14 for the purpose of calculating or collecting judgment interest. This fee
15 may be collected by an employer only once for each garnishment order
16 or series of orders arising out of the same judgment debt. The employer
17 may collect the entire fee from one (1) or more of the initial deductions
18 from the employee's disposable earnings. Alternatively, the employer
19 may collect the fee ratably over the number of pay periods during
20 which deductions from the employee's disposable earnings are
21 required.

22 (6) The deduction of the garnishment collection fee under
23 subsection (5)(a) or subsection (7) is not an assignment of wages under
24 IC 22-2-6.

25 (7) An employer who is required to make a deduction from an
26 individual's disposable earnings in accordance with a judgment for
27 payment of child support may collect a fee of two dollars (\$2) each
28 time the employer is required to make the deduction. The fee may be
29 deducted by the employer from the individual's disposable earnings
30 each time the employer makes the deduction for support. If the
31 employer elects to deduct such a fee, the amount to be deducted for the
32 payment of support must be reduced accordingly if necessary to avoid
33 exceeding the maximum amount permitted to be deducted under
34 subsection (3).

35 (8) A support withholding order takes priority over a garnishment
36 order irrespective of their dates of entry or activation. If a person is
37 subject to a support withholding order and a garnishment order, the
38 garnishment order shall be honored only to the extent that disposable
39 earnings withheld under the support withholding order do not exceed
40 the maximum amount subject to garnishment as computed under

1 subsection (2).

2 **(9) A garnishment order or attachment order that requires an**
 3 **employer to make deductions from a debtor's disposable earnings**
 4 **shall at least provide the following information to the employer:**

5 **(a) The debtor's name.**

6 **(b) The debtor's last known physical address.**

7 **(c) The debtor's last known mailing address.**

8 **(d) The amount owed by the debtor and information sufficient**
 9 **to identify the judgment on which the garnishment order or**
 10 **attachment order is based.**

11 **(e) The creditor's name and contact information.**

12 **If the information required by subdivisions (b) and (c) is unknown**
 13 **to the creditor, the creditor shall indicate on the garnishment order**
 14 **or attachment order that the information is unknown. The**
 15 **information required by this subsection shall appear clearly and**
 16 **conspicuously on a single page.**

17 SECTION 3. IC 34-55-10-2, AS AMENDED BY P.L.160-2012,
 18 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2026]: Sec. 2. (a) This section does not apply to judgments
 20 obtained before October 1, 1977.

21 ~~(b) The amount of each exemption under subsection (c) applies until~~
 22 ~~a rule is adopted by the department of financial institutions under~~
 23 ~~section 2-5 of this chapter.~~

24 ~~(c)~~ **(b)** The following property of a debtor domiciled in Indiana is
 25 exempt:

26 (1) Real estate or personal property constituting the personal or
 27 family residence of the debtor or a dependent of the debtor, or
 28 estates or rights in that real estate or personal property, of not
 29 more than ~~fifteen thousand dollars (\$15,000);~~ **twenty-two**
 30 **thousand seven hundred fifty dollars (\$22,750).** The exemption
 31 under this subdivision is individually available to joint debtors
 32 concerning property held by them as tenants by the entireties.

33 (2) Other real estate or tangible personal property of ~~eight~~
 34 ~~thousand dollars (\$8,000);~~ **twelve thousand one hundred dollars**
 35 **(\$12,100).**

36 (3) Intangible personal property, including choses in action,
 37 deposit accounts, and cash (but excluding debts owing and
 38 income owing), of ~~three hundred dollars (\$300);~~ **one thousand**
 39 **five hundred dollars (\$1,500).**

40 (4) Professionally prescribed health aids for the debtor or a

- 1 dependent of the debtor.
- 2 (5) Any interest that the debtor has in real estate held as a tenant
- 3 by the entireties. The exemption under this subdivision does not
- 4 apply to a debt for which the debtor and the debtor's spouse are
- 5 jointly liable.
- 6 (6) An interest, whether vested or not, that the debtor has in a
- 7 retirement plan or fund to the extent of:
- 8 (A) contributions, or portions of contributions, that were made
- 9 to the retirement plan or fund by or on behalf of the debtor or
- 10 the debtor's spouse:
- 11 (i) which were not subject to federal income taxation to the
- 12 debtor at the time of the contribution; or
- 13 (ii) which are made to an individual retirement account in
- 14 the manner prescribed by Section 408A of the Internal
- 15 Revenue Code of 1986;
- 16 (B) earnings on contributions made under clause (A) that are
- 17 not subject to federal income taxation at the time of the levy;
- 18 and
- 19 (C) roll-overs of contributions made under clause (A) that are
- 20 not subject to federal income taxation at the time of the levy.
- 21 (7) Money that is in a medical care savings account established
- 22 under IC 6-8-11.
- 23 (8) Money that is in a health savings account established under
- 24 Section 223 of the Internal Revenue Code of 1986.
- 25 (9) Any interest the debtor has in a qualified tuition program, as
- 26 defined in Section 529(b) of the Internal Revenue Code of 1986,
- 27 but only to the extent funds in the program are not attributable to:
- 28 (A) excess contributions, as described in Section 529(b)(6) of
- 29 the Internal Revenue Code of 1986, and earnings on the excess
- 30 contributions;
- 31 (B) contributions made by the debtor within one (1) year
- 32 before the date of the levy or the date a bankruptcy petition is
- 33 filed by or against the debtor, and earnings on the
- 34 contributions; or
- 35 (C) the excess over five thousand dollars (\$5,000) of aggregate
- 36 contributions made by the debtor for all programs under this
- 37 subdivision and education savings accounts under subdivision
- 38 (10) having the same designated beneficiary:
- 39 (i) not later than one (1) year before; and
- 40 (ii) not earlier than two (2) years before;

1 the date of the levy or the date a bankruptcy petition is filed by
 2 or against the debtor, and earnings on the aggregate
 3 contributions.

4 (10) Any interest the debtor has in an education savings account,
 5 as defined in Section 530(b) of the Internal Revenue Code of
 6 1986, but only to the extent funds in the account are not
 7 attributable to:

8 (A) excess contributions, as described in Section 4973(e) of
 9 the Internal Revenue Code of 1986, and earnings on the excess
 10 contributions;

11 (B) contributions made by the debtor within one (1) year
 12 before the date of the levy or the date a bankruptcy petition is
 13 filed by or against the debtor, and earnings on the
 14 contributions; or

15 (C) the excess over five thousand dollars (\$5,000) of aggregate
 16 contributions made by the debtor for all accounts under this
 17 subdivision and qualified tuition programs under subdivision
 18 (9) having the same designated beneficiary:

19 (i) not later than one (1) year before; and

20 (ii) not earlier than two (2) years before;

21 the date of the levy or the date a bankruptcy petition is filed by
 22 or against the debtor, and earnings on the excess contributions.

23 (11) The debtor's interest in a refund or a credit received or to be
 24 received under the following:

25 (A) Section 32 of the Internal Revenue Code of 1986 (the
 26 federal earned income tax credit).

27 (B) IC 6-3.1-21-6 (the Indiana earned income tax credit).

28 (12) A disability benefit awarded to a veteran for a service
 29 connected disability under 38 U.S.C. 1101 et seq. This
 30 subdivision does not apply to a service connected disability
 31 benefit that is subject to child and spousal support enforcement
 32 under 42 U.S.C. 659(h)(1)(A)(ii)(V).

33 (13) Compensation distributed from the supplemental state fair
 34 relief fund under IC 34-13-8 to an eligible person (as defined in
 35 IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2). This
 36 subdivision applies even if a debtor is not domiciled in Indiana.

37 ~~(d)~~ (c) A bankruptcy proceeding that results in the ownership by the
 38 bankruptcy estate of a debtor's interest in property held in a tenancy by
 39 the entirety does not result in a severance of the tenancy by the
 40 entirety.

(~~e~~) (d) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

SECTION 4. IC 34-55-10-2.5 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 2.5: (a) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing the amount for each exemption under section 2(c)(1) through 2(c)(3) of this chapter to take effect not earlier than January 1, 2010; and not later than March 1, 2010.~~

~~(b) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing new amounts for each exemption under section 2(c)(1) through 2(c)(3) of this chapter every six (6) years after exemption amounts are established under subsection (a). The rule establishing new exemption amounts under this subsection must take effect not earlier than January 1 and not later than March 1 of the sixth calendar year immediately following the most recent adjustments to the exemption amounts.~~

~~(c) The department of financial institutions shall determine the amount of each exemption under subsections (a) and (b) based on changes in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, for the most recent six (6) year period.~~

~~(d) The department of financial institutions shall round the amount of an exemption determined under subsections (a) and (b) to the nearest fifty dollars (\$50).~~

~~(e) A rule establishing amounts for exemptions under this section may not reduce an exemption amount below the exemption amount on July 1, 2005.~~

SECTION 5. [EFFECTIVE JULY 1, 2026]: **(a) 750 IAC 1-1-1(c) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this subsection from the Indiana Administrative Code.**

(b) This SECTION expires on July 1, 2027.

(Reference is to SB 197 as introduced.)