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Wyoming's Statutory Exemption on Wage Garnishment: Should It Include Deposited Wages

Jason C. Walker

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COMMENT

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I. INTRODUCTION

Imagine a normal American family experiencing a time of financial difficulty, hypothetically named the Smiths. John and Jane, the parents, are struggling to make ends meet after some unexpected medical expenses.¹ The Smiths are trying to meet the demands of creditors while keeping food on the table. One creditor has already received a judgment against the fam-

1. Medical expenses are the predominant precipitating factor in bankruptcy or financial distress. *MBPA: The Right Health Care Plan Can Help with Big Medical Bills for Business Owners and their Families*, PR NEWswire, Michigan Business and Professional Association, Feb. 17, 2005. The other precipitating factors are job loss and divorce or separation:

Among bankrupt families with children, 71.5 percent report a job loss, a reduction of income, or other job-related problem as a reason for filing. Fifty-three percent report a medical problem, which includes all filers who reported \$1,000 or more in unpaid medical bills, who had at least two weeks of unpaid leave from work because of an illness or disability, or who explained that they filed for bankruptcy because of a medical problem. Family breakup, cited by 19 percent of families with children, includes those who reported divorce or family breakup as a cause of bankruptcy. Families with children cite at least one of these problems in 86.9 percent of all cases. The remaining 13.1 percent give either a different reason or no reason at all.

ily and has recently garnished a significant portion of John's wages and the family's bank account. Prior to receiving the notice of garnishment, John's employer automatically deposited John's last paycheck in the family's bank account. John has asked the court to protect this portion of his wages under his state's exemption statute. The court must now decide whether the wages maintain their exempt status after being deposited into the bank account.

Although the previous paragraph portrays a fictional situation, such facts may be all too familiar to those who have had their wages garnished. Throughout this comment, the hypothetical Smith family will be revisited to illustrate different aspects of wage garnishment exemption statutes and the effect of varying case law.

Exemption statutes exist to protect a portion of a debtor's wages and have the general purpose of preventing personal bankruptcy, allowing a head of household to provide for his or her family and meet basic needs, therefore preventing reliance on government welfare resources.² Surely an exemption that preserves a percentage of personal wages should be recognized even after the wages have been deposited into the bank, otherwise, where is the exemption?³

Wyoming's wage garnishment exemption statute provides an exemption for seventy-five percent of a person's disposable earnings.⁴ But according to a recent ruling by the Wyoming Supreme Court, the exemption applies only to wages that are "accrued" or "payable."⁵ The statute at issue states in portion: "A writ of post judgment garnishment attaching earnings for personal services shall attach that portion of the defendant's *accrued* and *unpaid* disposable earnings. . . ."⁶ As a result, wages that already have been

2. Kozkoszka v. Belford, 417 U.S. 642, 650 (1974).

3. Matthews v. Lewis, 617 S.W.2d 43, 45 (Ky. 1981).

4. See WYO. STAT. ANN. § 1-15-408 (2005).

5. *In re Walsh*, 96 P.3d 1, 3 (Wyo. 2004).

6. WYO. STAT. ANN. §1-15-408(a) (2005) (emphasis added). The entire subsection of the statute reads as follows:

(a) A writ of post judgment garnishment attaching earnings for personal services shall attach that portion of the defendant's *accrued* and *unpaid* disposable earnings, specified in subsection (b) of this section. The writ shall direct the garnishee to withhold from the defendant's accrued disposable earnings the amount attached pursuant to the writ and to pay the exempted amount to the defendant at the time his earnings are normally paid. Earnings for personal services shall be deemed to accrue on the last day of the period in which they were earned or to which they relate. If the writ is served before or on the date the defendant's earnings accrue and before the same have been paid to the defendant, the writ shall be deemed to have been served at the time the periodic earnings accrue. If more than one (1) writ is served, the writ first served shall have priority. Notwithstanding any other provision of this subsection, an income withholding

paid and deposited or paid and held as cash are no longer exempt and must be surrendered to creditors. Although most state wage exemption statutes are modeled after the same federal statute and contain similar language, judicial interpretation of such statutes varies widely.⁷

This comment provides an overview of the history of wage garnishment exemptions, reviews significant judicial decisions from around the country, and examines a number of state wage garnishment exemption statutes. This comment suggests that the Wyoming Legislature should enact a new wage garnishment exemption statute that expressly provides for exempt wages to survive deposit into a bank.⁸

II. BACKGROUND

How does a person find himself or herself with wages being garnished? Like the Smiths in the introductory hypothetical, unexpected or spiraling medical expenses are the most probable cause today.⁹ Job-loss or reductions in job pay and divorce or separation are the other most common causes of financial distress.¹⁰ Financial distress alone, however, does not lead to garnishment. Garnishment procedures are available to assist a creditor in the collection of debts and require a court judgment to establish liability.¹¹

Exemption statutes protect debtors by preventing the seizure of certain property under a writ of execution or a writ of garnishment.¹² General exemption statutes exist in all fifty states and come in many different varie-

order for child support obtained pursuant to W.S. 20-6-201 through 20-6-222 shall have priority over any other garnishment.

Id. (emphasis added).

7. See generally 14 COLLIER ON BANKRUPTCY (15th ed. rev. 2004) (providing a discussion on all state exemption statutes).

8. For an example of a wage garnishment exemption statute that specifically provides an exemption of deposited wages, see MINN. STAT. § 550.37(13) (2004).

9. See *supra* note 1.

10. See *supra* note 1.

11. See LYNN M. LOPUCKI & ELIZABETH WARREN, SECURED CREDIT: A SYSTEMS APPROACH 4 (4th ed. 2003), see *infra* note 12 and accompanying text for additional information on garnishment.

12. See LOPUCKI & WARREN, *supra* note 11, at 15. A "writ" is a court's written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act. BLACK'S LAW DICTIONARY 1640 (8th ed. 2004). "Execution" in this context is a judicial enforcement of a money judgment. BLACK'S LAW DICTIONARY 609 (8th ed. 2004). Garnishment is an independent action against a third party who owes money to the judgment debtor. DOUGLAS LAYCOCK, MODERN AMERICAN REMEDIES 865 (3d ed. 2002).

ties.¹³ Homestead exemptions allow a debtor to protect a portion of a home's value.¹⁴ Vehicle exemptions allow a debtor to keep a vehicle or a portion of a vehicle's proceeds from sale, depending on value.¹⁵ There are exemptions for tools of a trade or business and exemptions that allow a person to keep a burial plot.¹⁶

The first exemption statutes are centuries old and are "rooted in early English Common Law."¹⁷ For example, Delaware's first exemption statutes existed before this country's revolutionary war, and many other states adopted exemption statutes by the mid to late 1800s.¹⁸ Wyoming enacted a statutory exemption in 1899.¹⁹

13. See generally COLLIER, *supra* note 7 and Appendix A (providing a discussion on all state exemption statutes. Indiana, New Jersey, North Dakota, and Rhode Island do not have exemption statutes that specifically apply to wages). *Id.*

14. WYO. STAT. ANN. § 1-20-101 (2005) exempts a homestead not exceeding \$10,000 in value.

15. WYO. STAT. ANN. § 1-20-106(a)(iv) (2005) exempts a motor vehicle not exceeding \$2,400 in value.

16. See WYO. STAT. ANN. § 1-20-106(b) (2005) and § 1-20-106(a)(ii) (2005) respectively, which provide a \$2,000 exemption for tools of trade or professional books or instruments and a lot in a cemetery or burial ground.

17. *Stratton v. Travis*, 380 A.2d 985, 986-87 (Del. Super. Ct. 1977).

18. *Stratton*, 380 A.2d at 986-87 (noting that Delaware's first general exemption statute exempted clothing, bedding, and tools, and has been replaced several times). See DEL. CODE ANN. tit. 10, § 4903 (2004) for a current version of the statute. See, e.g., *In re Buchberger*, 311 B.R. 794 n.4 (Bankr. D. Ariz. 2004) (noting that Arizona's first exemption statute was adopted in 1913); *In re Norris* 203 B.R. 463, 466 (Bankr. D. Nev. 1996) (noting that Nevada's first enacted exemption statute was in 1911); *In re Neal* 140 B.R. 634, 637 (Bankr. W.D. Tex. 1992) (informing that Texas' first exemption statute dates from 1839); *MacDonald v. Mercill*, 714 P.2d 132, 134 (Mont. 1986) (stating that Montana's exemption statute dates from 1895); *In re Marriage of Logston*, 469 N.E.2d 167, 172 (Ill. 1984) (noting that Illinois' first exemption statute existed in 1843); *First Nat. Bank of Mobile v. Pope*, 149 So. 2d 781, 787 (Ala. 1963) (comparing Alabama statute to New York's first exemption statute in 1840).

19. Wyoming's first exemption statute was codified at section 3951 of 1899 REVISED STATUTES OF WYOMING and stated:

The judge may order any property of the judgment debtor, or money due him, not exempt by law, in the hands of either himself or other [sic] person, or of a corporation, to be applied toward the satisfaction of a judgment; but one-half of the earnings of the judgment debtor for his personal services, rendered at any time within sixty days next preceding the levy of execution or levy of attachment, and due and owing at the time of such levy of execution or attachment, are exempt when it appears by the debtor's affidavit, or otherwise, that such earnings are necessary for the use of his family residing in this state, supported wholly or in part by his labors; there shall be exempt in all cases a sum not to exceed fifty dollars.

REV. STAT. WYO. § 3951 (1899). Wyoming's statutory compilation which preceded the 1899 version, 1887 REVISED STATUTES OF WYOMING, did not contain a wage exemption as above, but did contain exemptions for a homestead (not exceeding \$1,500), an exemption for wearing apparel (not exceeding \$150), a head of family exemption which includes, first: the family

Exemption statutes have multiple applications including debtor-creditor law,²⁰ taxation,²¹ and wills and estates.²² Exemption statutes also apply to bankruptcy proceedings by allowing a bankruptcy petitioner to exempt or remove property from the bankruptcy estate.²³ Wage garnishment exemption statutes apply both in bankruptcy and in debtor-creditor law. Such statutes are recognized in debtor-creditor law as a tool “[to] allow debtor[s] to retain a portion of their personal property free from seizure and sale by their creditors under judicial process.”²⁴ To fully understand wage garnishment exemption statutes it is necessary to understand the background, history, and public policy of statutory wage exemptions. In addition, examination of the Consumer Credit Protection Act (CCPA) which serves as the model for most state exemption statutes is also essential.²⁵ The section that follows provides an overview of the policies that support the adoption of wage exemption statutes.

A. The Public Policy of Wage Garnishment Exemption Statutes

There are many identifiable benefits that support a wage garnishment exemption. Courts have recognized at least five specific purposes, including:

1. To provide a debtor enough money to survive.
2. To protect his dignity and his cultural and religious identity.
3. To afford a means of financial rehabilitation.
4. To protect the family unit from impoverishment.

bible, pictures, school books; second: a cemetery lot or burial ground; and third: furniture, bedding, provisions and such . . . not to exceed \$500. REV. STAT. WYO. §§ 2780-2788 (1887). There also existed an exemption for tools of trade not exceeding \$300 and a peculiar exemption directed at municipalities protecting fire protection equipment from execution. REV. STAT. WYO. §§ 2790, 2791 (1887).

20. LOPUCKI & WARREN, *supra* note 11, at 15.

21. I.R.C. §§ 1031-41 (2000). Internal Revenue Code, Chapter 1, Subchapter O, part III lists common nontaxable exchanges such as like-kind exchanges and transfers between spouses incident to divorce.

22. Unif. Probate Code § 2-402 (amended 2003) (providing for a \$15,000 exemption/homestead allowance); Unif. Probate Code § 2-403 (amended 2003) (providing for a \$10,000 personal property allowance).

23. *In re Thompson*, 867 F.2d 416, 418 (7th Cir. 1989). Bankruptcy estate is defined as a debtor's legal and equitable interests in property at the beginning of a bankruptcy case where the property is subject to administration. BLACK'S LAW DICTIONARY 157 (8th ed. 2004).

24. *In re Komet*, 104 B.R. 799, 806 (Bankr. W.D. Tex. 1989).

25. Consumer Credit Protection Act, 15 U.S.C. §§ 1671-1700 (2000). See generally COLLIER, *supra* note 7 and Appendix A for discussion of state wage garnishment exemptions and similarities to the CCPA.

5. To spread the burden of the debtor's support from society to his creditors.²⁶

Perhaps the most apparent purpose of wage exemption statutes is to preserve some portion of the debtor's wages so the debtor can provide for his or her family and "not become a public charge."²⁷ In addition, the United States Supreme Court stated in *Kokoszka v. Belford* that exemptions serve in the "prevention of bankruptcy . . . by eliminating an essential element in the predatory extension of credit resulting in a disruption of employment . . ." ²⁸ The *Kokoszka* Court stated that the legislative history of the CCPA indicated that Congress intended to regulate garnishment "in an effort to avoid the necessity of bankruptcy . . . [and preserve some] compensation needed to support the wage earner and his family on a week-to-week, month-to-month basis."²⁹

Exemption statutes permit the orderly payment of consumer debts.³⁰ Instead of filing bankruptcy and discharging the debt without payment, a debtor taking advantage of the exemption statutes retains a portion of his or her earnings for family and contributes to paying off the debt through the portion of the wages that are attached by garnishment.³¹ In addition, wage garnishment exemption statutes prevent an employer from firing an employee.³² Such laws provide for the orderly payment of debt since the debtor will not lose his or her job because of one unpaid debt and will be able to continue to pay the debt in small amounts.³³

Possibly the predominant purpose of exemptions is that they exist to allow a debtor to preserve some portion of his or her property in order to

26. *In re Hahn*, 5 B.R. 242, 244 (Bankr. S.D. Iowa 1980).

27. *In re Whalen*, 73 B.R. 986, 988-89 (C.D. Ill. 1987); *Holmes v. Blazer Fin. Serv., Inc.*, 369 So. 2d 987, 990 (Fla. Dist. Ct. App. 1979) (quoting *Wolf v. Commander*, 188 So. 83, 84 (Fla. 1939)).

28. *Kokoszka v. Belford* 417 U.S. 642, 651 (1974). Wage exemption statutes prevent the predatory extension of credit because the exemption makes recovery by the creditor more difficult. See *infra* note 44, discussing garnishment as a tool for recovery. When recovery is more difficult, a creditor is more likely to carefully decide who will receive credit based on ability to repay without default, instead of relying on the default remedy of garnishment to recover the debt. *Id.*

29. *Id.* at 651.

30. *Brown v. Kentucky*, 40 S.W.3d 873, 877 (Ky. Ct. App. 1999).

31. *Id.*

32. See *infra* note 51 and accompanying text for the relevant portion of the CCPA statute and discussion of the illegality and consequences of discharging an employee subject to wage garnishment.

33. See *Employment Law Guide*, Office of the Assistant Secretary of Policy, U.S. Department of Labor, at <http://www.dol.gov/asp/programs/guide/garnish.htm> (last visited November 28, 2005).

provide for a family.³⁴ This public policy has been stated eloquently in many cases. One Florida Court wrote:

The purpose of the [wage exemption statute] is to protect citizens against financial reverses and difficulties and to permit the . . . head of a family to be secure in money coming to him for his labor and services thereby supporting his family and preventing it from becoming a public charge.³⁵

The Supreme Court of Kentucky found its state exemption statutes “are simply another necessary instrument in the overall scheme of social welfare programs.”³⁶ Nevada’s wage garnishment exemption statute was found “to protect a debtor by permitting him to retain the basic necessities of life so that after the levy of nonexempt property he and his family will not be left destitute.”³⁷ The Kentucky Court of Appeals summed up the policy of exemptions by stating that exemptions serve for “the prevention of bankruptcy, . . . the continued orderly payment of consumer debts, . . . [to preserve] compensation needed to support the wage earner and his family . . . and prevent creditors from unduly burdening the employment relationship.”³⁸ These same policy considerations prompted Congress to adopt the CCPA, discussed below.

B. History of the Consumer Credit Protection Act

In 1968, Congress enacted the CCPA.³⁹ Its general purpose is “to protect consumers from unfair, illegal, and deceptive acts or practices by providing an avenue of relief for consumers who would otherwise have difficulty proving their case under a more traditional cause of action.”⁴⁰ The Congressional findings relating to the CCPA state:

(1) The unrestricted garnishment of compensation due for personal services encourages the making of predatory extensions of credit. Such extensions of credit divert money into excessive credit payments and thereby hinder the production and flow of goods in interstate commerce.

34. See *infra* notes 35, 37, 38 and accompanying text for a discussion of exemptions allowing family financial stability.

35. *Wolf v. Commander*, 188 So. 83, 84 (Fla. 1939).

36. *Matthews v. Lewis*, 617 S.W.2d 43, 44 (Ky. 1981) (regarding exemption for worker’s compensation funds deposited into a bank account).

37. *In re Norris*, 203 B.R. 463, 465-66 (Bankr. D. Nev. 1996).

38. *Brown v. Kentucky*, 40 S.W.3d 873, 876-77 (Ky. Ct. App. 1999).

39. Consumer Credit Protection Act, 15 U.S.C. §§ 1671-1700 (2000); *In re Lawrence*, 205 B.R. 115, 117 (Bankr. E.D. Tenn. 1997).

40. *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 461 S.E.2d 516, 523 (W.Va. 1995).

(2) The application of garnishment as a creditors' remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.

(3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.⁴¹

Prior to the passage of the CCPA, lenders were predatory in their extension of credit, which may have played a substantial role in large increases in consumer debt as well as consumer bankruptcies.⁴² At that time, creditors could be aggressive in their lending because the law did not restrict or limit one powerful tool of recovery, namely garnishment.⁴³ The garnishing of wages is an effective tool for recovery because it creates leverage and imposes a great hardship on the debtor and his or her family.⁴⁴ As a result of the hardship, a debtor who is subject to a wage garnishment has only two choices, either pay the debt or file for bankruptcy.⁴⁵ It also was common for a debtor subject to wage garnishment to consequently lose his or her job through termination by the employer.⁴⁶

41. 15 U.S.C. §1671 (2000).

42. *See id.* *See also* Kozkozka v. Belford, 417 U.S. 642, 650 (1974). As one commentator observed, prior to passing the CCPA:

Total consumer credit, as Congress discovered, increased from \$7,222,000,000 in 1939 to over \$95,000,000,000 by 1967. . . . Congress expressed particular concern over the filing of an ever-increasing number of personal bankruptcies by individuals unable to cope with their debts when confronted by harsh state garnishment laws, as well as concern over the discharge of employees which occurred when garnishment actions were initiated by creditors. As the House Report for this Act disclosed, personal bankruptcy declarations rose from 18,000 per year in 1950 to over 208,000 per year by 1967.

Annotation, *Validity, Construction and Application of §§301-307 of Consumer Credit Protection Act (15 U.S.C.A. §§1671-1677) Placing Restrictions on Garnishment of Individual's Earnings*, 14 A.L.R. Fed. 447 §(2)(a) (2005).

43. *See* 15 U.S.C. §1674 (2000) for CCPA statutory language precluding an employer from discharging an employee as a result of a garnishment action on the employee's wages.

44. LAYCOCK, *supra* note 12, at 865. Garnishing wages is very effective against debtors because it creates hardship. *Id.* Congress responded to that hardship in the CCPA by limiting wage garnishment. *Id.*

45. *Id.*

46. *See* 15 U.S.C. §1671 (2000); *In re Willet*, 265 F. Supp. 999, 1001 (S.D. Ca. 1967); *Wallace v. Debron Corp.*, 494 F.2d 674, 676-77 (8th Cir. 1974). The *Wallace* court presented reasons that a company might discharge an employee with more than one garnishment:

Prior to the enactment of the CCPA, John and Jane Smith, our hypothetical family, would find themselves in a very difficult situation. A creditor would be able to garnish an unlimited proportion of both John and Jane's wages.⁴⁷ In addition, either John or Jane could lose their job as a result of one garnishment action, leaving the Smith family with nothing to provide for their needs.⁴⁸

Congress remedied each of these problems with specific provisions of the CCPA.⁴⁹ First, 15 U.S.C. §1673 restricts garnishment and provides as follows:

(a) Maximum allowable garnishment

[T]he maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

(1) *25 per centum of his disposable earnings for that week, or*

(2) *the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage . . . whichever is less.*⁵⁰

Second, §1674 addresses the loss of employment:

(a) Termination of employment. No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any *one* indebtedness.⁵¹

[T]he capability, enthusiasm, efficiency, and quality of performance, of any employee whose wages are garnished more than once in a twelve-month period noticeably decrease on account of his wages being partially withheld for the benefit of his creditors; at the same time, there is an increase in expense, inconvenience, and annoyance to [the employer].

Wallace, 494 F.2d at 676.

47. 15 U.S.C. §1671(a)(1) (2000).

48. 15 U.S.C. §1671(a)(2) (2000).

49. *See* 15 U.S.C. §1673 (2000); 15 U.S.C. §1674 (2000).

50. 15 U.S.C. §1673(a) (2000) (emphasis added).

51. 15 U.S.C. §1674 (2000) (emphasis added) (omitting (b) which provides for criminal punishment of a fine of not more than \$1,000 and imprisonment not more than one year, or both for a violation of (a)). Note also that section 1674 only prohibits termination as a result of garnishment for one indebtedness; a second indebtedness and accompanying garnishment would not preclude the employer from firing the employee. *See* 15 U.S.C. §1674 (2000).

These statutes restrict the amount of wages a creditor may garnish to only twenty-five percent of a debtor's disposable earnings or the amount by which disposable earnings for the week exceed thirty times the federal minimum wage rate.⁵² The CCPA also makes it illegal to discharge an employee just because his or her wages have been garnished one time.⁵³ Language nearly identical to CCPA § 1673 can be found in a large number of state wage exemption statutes.⁵⁴ Compare, for example, Wyoming's wage garnishment exemption statute:

§ 1-15-408 Garnishment of earnings for personal services.

...

(b) The maximum portion of the aggregate disposable earnings of an individual which are subject to garnishment is the lesser of:

(i) *Twenty-five percent (25%) of defendant's disposable earnings for that week; or . . .*

(ii) *The amount by which defendant's aggregate disposable earnings computed for that week exceeds thirty (30) times the federal minimum hourly wage*
⁵⁵

After comparing the two statutes it should be clear that the CCPA was a model for Wyoming's wage garnishment exemption statute. The CCPA is also a model for many state wage exemption statutes around the country.⁵⁶

One portion of the CCPA that deserves attention is § 1677, which states in relevant part:

This subchapter does not annul, alter, or affect, or exempt any person from complying with, the laws of any State

52. Disposable earnings are defined as "that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld." 15 U.S.C. § 1672(b) (2000).

53. 15 U.S.C. §1673 (2000); 15 U.S.C. §1674 (2000). In 1970, Supreme Court Justice William O. Douglas estimated that over 250,000 employees lose employment as a result of wage garnishment to satisfy indebtedness. WILLIAM O. DOUGLAS, POINTS OF REBELLION 48 (1970).

54. 15 U.S.C. § 1673 (2000); see generally COLLIER, *supra* note 7 and Appendix A (thirty-four states have wage exemption statutes which exempt twenty-five percent of the wage or thirty times the federal minimum wage, or some similar percentage and wage factor).

55. WYO. STAT. ANN. § 1-15-408 (2005) (emphasis added).

56. See generally COLLIER, *supra* note 7 and Appendix A.

(1) prohibiting garnishments or providing for more limited garnishment than are allowed under this subchapter⁵⁷

This portion of the statute allows states to “opt out” of the federal exemption statutes and enact exemption statutes that provide more debtor protection than the federal CCPA.⁵⁸ In other words, the CCPA establishes a floor of protection for wage garnishment.⁵⁹ For a court to find that the state statute provides additional protection to garnished wages, the state must have modified the statute or shown some legislative intent for an extension of coverage, or some history or tradition of allowing the exemption.⁶⁰

C. Judicial Interpretation of CCPA and State Wage Garnishment Exemption Statutes

1. Judicial Interpretation of CCPA Wage Garnishment Exemption Statutes

Most courts considering the issue have determined the CCPA exemption does not apply to wages deposited into bank accounts or removed from third party employer’s control.⁶¹ These courts, however, also recognize

57. 15 U.S.C. § 1677 (2000).

58. *In re Osworth*, 234 B.R. 497, 499 (9th Cir. 1999) (interpreting the CCPA as allowing states to grant debtors greater protection from garnishment than they receive under the CCPA).

59. *Brown v. Kentucky*, 40 S.W.3d 873, 877 (Ky. Ct. App. 1999). Commentators have noted:

This Act does not pre-empt the field of garnishment entirely, but provides that in those instances where state and federal laws are inconsistent, then the courts are to apply the law which garnishes the lesser amount, or which provides for the greater restriction on an employer's right to discharge an employee whose wages have been garnished. By providing for this choice between state and federal law, Congress obviously intended to maximize the protection available to the debtor. Thus, a state garnishment statute is not necessarily invalid merely because it is more favorable to the creditor in one respect, if it contains other sections more favorable to the debtor.

Annotation, *Validity, Construction and Application of §§301-307 of Consumer Credit Protection Act (15 U.S.C.A. §§1671-1677) Placing Restrictions on Garnishment of Individual's Earnings*, 14 A.L.R. FED. 447 §(2)(a) (2005).

60. *See Brown*, 40 S.W.3d at 878; *In re Urban*, 262 B.R. 865, 867 (Bankr. D. Kan. 2001). *See infra* notes 63, 64 and accompanying text for discussion of the “*Brown* analysis”.

61. *See, e.g., Brown*, 40 S.W.3d at 877 (Ky. Ct. App. 1999); *In re Lawrence*, 205 B.R. 115, 123 (Bankr. E.D. Tenn. 1997), *aff'd*, 219 B.R. 786 (E.D. Tenn. 1998); *Usery v. First National Bank of Arizona*, 586 F.2d 107, 111 (9th Cir. 1978).

that states are free to provide a higher level of debtor protection.⁶² In *Brown v. Kentucky*, the Kentucky Court of Appeals stated:

[V]irtually all of the courts to consider whether the [CCPA] applies to wages deposited into bank accounts or otherwise removed from the employer's control have found that it does not. The CCPA, however, establishes only a floor of debtor protection; states are free under the act to impose their own more rigorous restrictions on garnishment.⁶³

The *Brown* court looked to the state's legislative history to determine whether there was an intention to extend the protections of the CCPA modeled statute to wages that have been paid and deposited into a bank account.⁶⁴ Although the *Brown* court held that Kentucky's exemption statute does not apply to deposited funds, the court provided an analysis for interpretation of state wage garnishment exemption statutes modeled after the CCPA: To find an exemption for deposited wages the court must determine whether the state legislature modified the language of the federal statute and determine if there was legislative intent to provide protection beyond that of the CCPA.⁶⁵

Brown is just one example of state treatment of exemption statutes, and such state treatment varies widely.⁶⁶ Not all state exemption statutes are modeled after the CCPA and consequently, not all state exemption statutes are subject to the *Brown* analysis.⁶⁷ But courts interpreting state wage garnishment exemption statutes, which are modeled after the CCPA, have treated them in one of two ways. Some state courts have held consistent with CCPA rulings that the exemption protects only wages that are accrued and payable (not deposited).⁶⁸ Other states have held that extra protection

62. See, e.g., *Brown*, 40 S.W.3d at 877 (Ky. Ct. App. 1999); *John O. Melby & Co. Bank v. Anderson*, 276 N.W. 2d 274, 279 (Wis. 1979). See *supra* note 58, 59 and accompanying text for discussion on the minimum level of protection provided by the CCPA.

63. *Brown*, 40 S.W.3d at 877.

64. *Id.* at 877-79.

65. *Id.* at 878 (this analysis may be referred to hereinafter as the "*Brown* analysis" meaning look to the state statute and determine if the legislature intended to extend protection beyond CCPA).

66. See *infra* notes 68, 69.

67. See generally COLLIER, *supra* note 7 and Appendix A for a discussion of all state exemption statutes.

68. See, e.g., *Brown*, 40 S.W.3d 873, 878-79 (Ky. Ct. App. 1999); *John O. Melby & Co. Bank v. Anderson*, 276 N.W.2d 274, 277, 279 (Wis. 1979); *Holmes v. Blazer Fin. Serv., Inc.*, 369 So. 2d 987, 990 (Fla. Dist. Ct. App. 1979); *Hertz v. Fisher*, 339 So. 2d 1148, 1149 (Fla. Dist. Ct. App. 1976), for cases holding there is no exemption for deposited wages.

should be afforded to debtors, and that wages, although paid and deposited, should be protected.⁶⁹

2. Judicial Interpretation of State Wage Garnishment Exemption Statutes Modeled After the CCPA

A recent ruling, *In re Walsh*, caused the current problem in Wyoming.⁷⁰ On August 23, 2004, the Supreme Court of Wyoming ruled that wages that had been deposited into the bank were no longer exempt funds and therefore subject to garnishment.⁷¹ The Walshes filed bankruptcy on April 29, 2003, and on the very same day a judgment creditor garnished the contents of their bank account that consisted of \$2,541.18, all of which was from Mr. Walsh's previous paycheck.⁷² The court examined the words of Wyoming's wage garnishment statute focusing on "accrued" and "unpaid" and concluded that the Walshes' wages were neither accrued nor unpaid, but instead paid.⁷³ Consequently, the wages deposited in the bank were not exempt under either the state's wage garnishment exemption statute or the CCPA.⁷⁴ The problem this decision created in Wyoming is that a debtor, such as John Smith, would have wages protected from garnishment as long as the wages have not been paid, but as soon as the wages are paid and/or deposited, the wages lose their identity as exempt funds.

Not all courts agree with Wyoming's interpretation of CCPA modeled statutes. Courts in Kansas, Nevada, Missouri, Colorado, and Iowa have come to much different conclusions when interpreting such statutes.⁷⁵ For example, in *In re Kobernusz*, a bankruptcy court case from Colorado, the court allowed an exemption for deposited funds.⁷⁶ The *Kobernusz* case concerned a debtor claiming that funds in a personal bank account were exempt under the Colorado wage exemption statute because the funds were deposited wages.⁷⁷ The *Kobernusz* court followed a Colorado Supreme Court case from 1891, *Rutter v. Shumway*, and exempted wages after deposit.⁷⁸ The *Rutter* decision was over one hundred years old at the time and showed

69. See, e.g., *In re Platt*, 270 B.R. 773, 776 (Bankr. D. Ore. 2001); *In re Urban*, 262 B.R. 865, 870 (Bankr. D. Kan. 2001); *In re Kobernusz*, 160 B.R. 844, 848 (Bankr. D. Colo. 1993); *In re Norris*, 203 B.R. 463, 468 (Bankr. D. Nev. 1996); *Midamerica Sav. Bank v. Miehle*, 438 N.W.2d. 837, 839-40 (Iowa 1989) for cases allowing an exemption for deposited wages.

70. *In re Walsh*, 96 P.3d 1 (Wyo. 2004).

71. *Id.* at 1.

72. *Id.* at 2.

73. *Id.*

74. *Id.* at 1, 3.

75. See *In re Urban*, 262 B.R. 865, 870 (Bankr. D. Kan. 2001); *In re Norris*, 203 B.R. 463, 468 (Bankr. D. Nev. 1996); *In re Arnold*, 193 B.R. 897, 900 (Bankr. W.D. Mo. 1996); *In re Kobernusz*, 160 B.R. 844, 848 (Bankr. D. Colo. 1993); *Midamerica Sav. Bank v. Miehle*, 438 N.W.2d. 837, 839-40 (Iowa 1989).

76. *In re Kobernusz*, 160 B.R. 844, 848 (Bankr. D. Colo. 1993).

77. *Id.* at 845-46.

78. *Id.* at 848 (citing *Rutter v. Shumway*, 26 P. 321 (Colo. 1891)).

Colorado's long history and preference for allowing the identity of a wage exemption to survive despite wages being deposited into a bank account.⁷⁹ As a whole, Colorado's statute is similar to Wyoming's and is modeled after the CCPA statute, granting exemption for seventy-five percent of disposable earnings or thirty times the federal minimum wage rate, whichever is less.⁸⁰ Under the Colorado statute and case law, John and Jane Smith would be able to protect seventy-five percent of the wages they deposited in the bank.

In *In re Norris*, a bankruptcy court case from Nevada, the court addressed the application of state exemption statutes.⁸¹ In *Norris*, the party filed bankruptcy, and on the date of filing the debtor's wages were deposited directly into a personal bank account.⁸² The debtor claimed these funds were exempt wages under Nevada's exemption statute, another CCPA modeled statute.⁸³ Although the Nevada Supreme Court had never ruled on this specific issue, the U.S. Bankruptcy Court for the District of Nevada found the deposited wages could be readily traceable, and the historical purpose of exemptions was to protect a debtor's need for basic necessities of life.⁸⁴ The *Norris* court held that the exemption statute would be rendered meaningless

79. *Rutter*, 26 P. at 322. The *Rutter* court stated in relevant portion:

So long as the wages or earnings of the debtor are capable of identification he is entitled to have them exempt, according to the terms and provisions of the statute. It is argued with much ingenuity that the earnings of the laborer, when received by him, are no longer wages, but capital; that the exemption statute has performed its office when it has enabled the laborer to secure his wages from his employer without let or hindrance; and that thereafter the statute cannot be invoked in his favor. The statute cannot be thus reasoned away. Such a construction is narrow and illiberal.

Id.

80. Compare COL. REV. STAT. §13-54-104(1)(b)(I)(A) (2005), with WYO. STAT. ANN. §1-15-408(a) (2005).

81. *In re Norris*, 203 B.R. 463, 464 (Bankr. D. Nev. 1996).

82. *Id.* at 464.

83. *Id.* See generally COLLIER, *supra* note 7 and Appendix A for a discussion of all state exemption statutes.

84. *Norris*, 203 B.R. at 465-66. The term "traceable" in this context is related to tracing, or the process of tracking property's ownership or characteristics from the time of its origin to the present. BLACK'S LAW DICTIONARY 1529 (8th ed. 2004). There are different forms and methods of tracing for dealing with a deposit type account. LOPUCKI & WARREN, *supra* note 11, at 176. One is the lowest intermediate balance rule which "provides that the amount of the secured creditor's collateral remaining in a bank account is equal to the lowest balance of all funds in the account between the time the collateral was deposited to the account and the time the rule is applied." *Id.* One could also use accounting methods for tracing such as first-in-first-out (FIFO), as used in the Minnesota statute which expressly requires FIFO as the appropriate tracing method for wage exemption after deposit into a bank account. MINN. STAT § 550.37(13) (LexisNexis 2004). FIFO is an accounting term where the asset, or money in this situation, is treated as leaving the account in the same order in which the money arrived. See JAY ALIX, ROBERT J ROCK & TED STENGER, FINANCIAL HANDBOOK FOR BANKRUPTCY PROFESSIONALS § 9.12(a) (2d ed. 1996).

unless the debtor at least had the chance to deposit and spend the wages.⁸⁵ The *Norris* court referred to two United States Supreme Court cases, *Porter v. Aetna Casualty & Surety Co.* and *Philpott v. Essex County Welfare Board*.⁸⁶ These cases recognized that “exempt funds do not lose their exempt status upon deposit if the funds in the account can be traced to exempt funds.”⁸⁷ Although these two United States Supreme Court cases did not directly address the status of a wage garnishment exemption, they did deal with other statutory exemptions and many lower courts have relied on their precedent in the wage exemption context.⁸⁸ Like Colorado, under the Nevada statute interpreted in *Norris*, the Smiths would be able to protect seventy-five percent of their previously deposited wages.⁸⁹

Another bankruptcy court in *In re Urban* held that wages are protected by Kansas’ CCPA modeled exemption, even if deposited, “until the earnings are commingled or become untraceable.”⁹⁰ In so holding, the court rejected an analysis similar to the majority in *Walsh*. Instead the court considered the legislative history concerning the Kansas statute, which is comparable to Wyoming’s, and ruled in favor of allowing the exemption after deposit. It is noteworthy that the *Urban* court allowed the exemption for deposited wages that are traceable, and the state exemption statute language is similar to Wyoming.⁹¹ If the Smiths lived in Kansas, a significant portion of John’s deposited wages would be protected from garnishment because the Kansas statute has been interpreted to protect traceable, deposited wages.

The Iowa Supreme Court also has held that exempt wages continue to be exempt after deposit into an account as long as those funds can be traced to exempt wages.⁹² The court relied on a 1930 Iowa case, *Staton v. Vernon*, which illustrated Iowa’s history of allowing the exemption, and stated:

[I]t would be an *unreasonable* construction to hold that by the deposit of the earnings in the bank the debtor had voluntarily parted with the money and had acquired, in lieu

85. *Norris*, 203 B.R. at 466.

86. *Id.* at 467 (citing *Porter v. Aetna Casualty & Sur. Co.*, 370 U.S. 159 (1962) (regarding exempt status of veterans’ benefits); *Philpott v. Essex County Welfare Bd.*, 409 U.S. 413 (1973) (regarding exempt status of welfare benefits).

87. *Norris*, 203 B.R. at 467.

88. For lower court cases discussing United State Supreme Court cases *Porter* and *Philpott* see *In re Lawrence*, 205 B.R. 115 (Bankr. E.D. Tenn. 1997), *aff’d* 219 B.R. 786, 792 (Bankr. E.D. Tenn. 1998). See also *In re Norris*, 203 B.R. 463, 467 (Bankr. D. Nev. 1996).

89. *Norris*, 203 B.R. at 463.

90. *In re Urban*, 262 B.R. 865, 870 (Bankr. D. Kan. 2001) (examining state exemption statute, KAN. STAT. ANN. § 60-2310 (LexisNexis 2003)).

91. *Id.* Compare KAN. STAT. ANN. § 60-2310 (LexisNexis 2003), with WYO. STAT. ANN. § 1-15-408 (2005).

92. *Midamerica Sav. Bank v. Mieke*, 438 N.W.2d 837, 839 (Iowa 1989).

thereof, a credit due to him from the bank and, therefore, the exempt character of the money had been lost.⁹³

In addition, the court found the rationale and policy of *Staton* was still applicable, even though the statute had undergone substantial changes since 1930.⁹⁴ Iowa's exemption statute expressly grants protection under the CCPA statute, but also provides for statutory maximum garnishments based on an income scale.⁹⁵ In Iowa, John and Jane Smith would be able to protect most of the deposited wages in their bank account as long as they could trace the funds to a paycheck for personal service earnings.

Similarly, the court in *In re Platt* held that a debtor may exempt wages that have been deposited, so long as the wages are traceable.⁹⁶ Oregon's wage exemption statute is similar to the CCPA, but in this case, the decision was made fairly easy by an additional statute instructing that exempt funds must be traceable to remain exempt.⁹⁷

Missouri has enacted an exemption statute comparable to Wyoming. The U.S. Bankruptcy Court for the Western District of Missouri, in *In re Arnold*, interpreted the Missouri statute to allow the exemption to survive deposit into a bank account.⁹⁸ The court stated that "[it] elevates form over substance to claim that the check in [the debtor's] hand was wages, but the check in his checking account was not."⁹⁹ The rationale of *Arnold* is that the actual form of the wages should not be determinative, as long as the funds can be traced to wages.¹⁰⁰

The previous cases are evidence that courts construing exemption statutes modeled after the CCPA may interpret such legislation to provide protection for wages that have been deposited.

93. *Staton v. Vernon*, 229 N.W.2d 763, 764 (Iowa 1930) (emphasis added).

94. *Miehe*, 438 N.W.2d at 839. The old version of the statute stated: "The earnings of a debtor, who is a resident of the state and the head of a family, for his personal services, or those of his family, at any time within ninety days next preceding the levy, are exempt from liability for debt." IOWA CODE § 11763 (1927). Iowa Code section 11763 was repealed in 1954; the subsequent statute was replaced in 1971 with the current statute, Iowa Code section 642.21, which provides for a graduated scale of exemption which provides greater protection for lower earnings. IOWA CODE § 642.21 (LexisNexis 2004).

95. IOWA CODE § 642.21 (LexisNexis 2004).

96. *In re Platt*, 270 B.R. 773, 775 (Bankr. D. Ore. 2001).

97. *Id.* (citing to OR. REV. STAT. § 23.166(1) (LexisNexis 2002) which was renumbered to § 18.348 in 2003). See OR. REV. STAT. §§ 18.385, 18.348 (LexisNexis 2003) for Oregon's current wage exemption statute.

98. *In re Arnold*, 193 B.R. 897, 900 (Bankr. W.D. Mo. 1996).

99. *Id.*

100. See *id.*

III. ANALYSIS

There are several questions that this comment will answer. What is wrong with Wyoming's wage garnishment exemptions statute? What can be done to fix Wyoming's wage garnishment exemption statute? What have other states done to remedy the same problem?

A. Wyoming's Problem: In re Walsh

Wyoming's current problem regarding the state's wage garnishment exemption statute was caused by the *Walsh* decision in 2004.¹⁰¹ As a result of *Walsh*, exempt funds lose their exempt status simply by the act of depositing the funds into the bank, as exemplified in this comment by the hypothetical Smith family.¹⁰² In specific situations, such as with John Smith, the result is an exemption statute that provides no protection since only wages held by the employer, (accrued and unpaid) are exempt. Wages paid and/or deposited are not exempt. Thus, the Smith family effectively has no opportunity to spend earned wages.

Understanding the problems with Wyoming's current wage garnishment exemption statute requires a more careful look at the statute as well as court interpretation of the statute.¹⁰³ As stated above, the portion of the statute that grants the exemption is virtually identical to the CCPA statute.¹⁰⁴ However, the first subsection of the statute contains words that recently led the Wyoming Supreme Court in *Walsh* to hold that wages that have been deposited into a bank account lose their exempt status.¹⁰⁵ The relevant portion of the statute reads: "A writ of post judgment garnishment attaching earnings for personal services shall attach that portion of the defendant's *accrued* and *unpaid* disposable earnings. . . ."¹⁰⁶ The magic words for the *Walsh* court were "accrued" and "unpaid."¹⁰⁷

The *Walsh* majority's discussion and conclusion consisted of a mere four paragraphs.¹⁰⁸ Near the end of the decision, the majority stated, "it may seem illogical to extend an exemption to a debtor only until such time as he or she has earnings 'in hand,' it is not this court's job to say that the law should be something other than it is."¹⁰⁹ Thus, the majority appeared to ac-

101. See *In re Walsh*, 96 P.3d 1 (Wyo. 2004).

102. See *id.* at 2-3.

103. WYO. STAT. ANN. §1-15-408 (2005).

104. See *supra* notes 50, 55, and accompanying text for comparison of Wyoming's statute and the CCPA exemption statute.

105. WYO. STAT. ANN. §1-15-408(a) (2005); *In re Walsh*, 96 P.3d 1, 2-3 (Wyo. 2004).

106. WYO. STAT. ANN. §1-15-408(a) (2005) (emphasis added). See *supra* note 6 for language of the entire subsection.

107. *In re Walsh*, 96 P.3d 1, 2-3 (Wyo. 2004).

108. *Id.* at 2-3.

109. *Id.* at 3.

knowledge the inconsistency between the statute as it was written and the purpose behind the statute. At the same time, the court is bound to follow the law as it is written and may not “enlarge, stretch, expand or extend a statute.”¹¹⁰ The only hope for preventing this inequitable result is for the court to overrule itself or for the legislature to adopt a new wage garnishment exemption statute.¹¹¹

B. Similar Cases and Statutes

The *Walsh* case in Wyoming involved a state wage garnishment exemption statute that was similar to the CCPA exemption statute.¹¹² There are other state wage garnishment exemption statutes similar to Wyoming’s where courts have allowed the exemption to survive payment and deposit. It therefore may be useful to compare Wyoming’s wage exemption statute to those other state wage exemption statutes to understand the difference in interpretation. Specifically, this analysis will look at statutes and case law from Colorado, Nevada, and Kansas, states with similar exemption statutes and case law addressing deposited wages.

First, the Colorado statute defines earnings as “[c]ompensation paid or payable for personal services.”¹¹³ Next, the statute provides protection as follows:

[T]he maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment or levy under execution or attachment may not exceed: (I) . . . 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 thirty times the federal minimum hourly wage¹¹⁴

Colorado’s statute, while virtually identical to Wyoming’s garnishment exemption statute, contains slight word differences; “compensation paid or payable” instead of “accrued and unpaid.”¹¹⁵ Thus Colorado’s statute allows wage garnishment exemptions to apply to wages that have been paid (or even deposited) and not just to wages payable or accrued like Wyo-

110. *Id.* at 2 (quoting *Knowles v. Corkill*, 51 P.3d 859, 865 (Wyo. 2002)).

111. See *infra* note 166 for a proposal of statutory language which could remedy the current Wyoming statute and protected wages that have been deposited in the bank.

112. *Walsh*, 96 P.3d at 2.

113. Compare COL. REV. STAT. §13-54-104(1)(b)(I)(A) (2005) (garnishment applies to compensation paid or payable), with WYO. STAT. ANN. §1-15-408(a) (2005) (garnishment applies to accrued and unpaid wages).

114. COL. REV. STAT. §13-54-104(2)(a)(I) (2005).

115. See *supra* note 113.

ming.¹¹⁶ Courts interpreting the Colorado statute have held that the statute protects wages that have been deposited, as in the decision of *In re Kobernusz*.¹¹⁷ The *Kobernusz* court emphasized that “wages should not lose [exempt status] solely on the basis of being placed into a bank account.”¹¹⁸

Nevada is another state with a similar wage garnishment exemption statute and case law that differs from Wyoming’s.¹¹⁹ Nevada’s wage exemption statute reads: “For any pay period, [seventy-five] percent of the disposable earnings of a judgment debtor during that period, or for each week of the period [thirty] times the minimum hourly wage . . . in effect at the time the earnings are payable, whichever is greater. . . .”¹²⁰ The key word in this statute is “payable.”¹²¹ The use of “payable” makes the Nevada statute similar to Wyoming’s statute, which uses synonyms “accrued” and “unpaid.”¹²² Nevada’s use of “payable” differs from Colorado’s statute that uses “compensation paid or payable” because Nevada’s statute appears to apply only to wages that have not yet been paid.¹²³ The *Norris* court held, somewhat contrary to the words of the Nevada statute, that the exemption statute would be rendered meaningless unless the debtor at least had the chance to deposit and spend the wages.¹²⁴ A comparison of the Nevada and Wyoming statutes and the results of *Norris* and *Walsh* reveals that perhaps the *Norris* court was influenced more by public policy than by a strict reading of the statute.

Kansas is another state with a judicially interpreted CCPA modeled statute.¹²⁵ *In re Urban* takes a much different view than *Walsh*.¹²⁶ The Kansas statute defines earnings as “compensation paid or payable” (similar to Colorado) and provides for a maximum garnishment of twenty-five percent or thirty times the federal minimum wage rate.¹²⁷ In the *Urban* case, the

116. Compare WYO. STAT. ANN. §1-15-408 (2005) with COL. REV. STAT. §13-54-104(1)(b)(1)(A) and COL. REV. STAT. §13-54-104(2)(a)(1) (2005). See *In re Kobernusz*, 160 B.R. 844, 847 (Bankr. D. Colo. 1993).

117. See *Kobernusz*, 160 B.R. at 847-48.

118. *Id.* at 848.

119. See *In re Norris*, 203 B.R. 463 (Bankr. D. Nev. 1996); NEV. REV. STAT. § 21.090(1)(g) (2004).

120. NEV. REV. STAT. 21.090(1)(g) (2004) (emphasis added).

121. Compare NEV. REV. STAT. 21.090(1)(g) (2004), with WYO. STAT. ANN. §1-15-408 (2005) (comparing Wyoming’s use of “accrued” and “unpaid” to Nevada’s use of “payable”).

122. See *supra* note 121.

123. Compare NEV. REV. STAT. 21.090(1)(g) (2004), with WYO. STAT. ANN. §1-15-408 (2005), and COL. REV. STAT. §13-54-104 (2005).

124. *In re Norris*, 203 B.R. 463, 466 (Bankr. D. Nev. 1996). The court’s entire statement regarding the purpose of the statute: “In order to permit a wage earner to enjoy any benefit from the protection afforded [by exemption statute], it is necessary to accord the wage earner a reasonable opportunity to negotiate the ‘disposable earnings’ and spend the funds, otherwise the exemption would be rendered meaningless.” *Id.*

125. KAN. STAT. ANN. § 60-2310 (2005).

126. See *In re Urban*, 262 B.R. 865, 870 (Bankr. D. Kan. 2001); see *supra* notes 90-91 and accompanying text for a discussion of *Urban*.

127. KAN. STAT. ANN. §60-2310(a)(1), (b) (2005).

Bankruptcy Court allowed wages that had already been paid and deposited to remain exempt as long as they could be traced.¹²⁸

The Kansas and Colorado statutes contained language different from Wyoming's statute that specifies the exemption is to be applied to compensation that has been paid.¹²⁹ Nevada's statute contained nearly identical language to Wyoming's statute, indicating that the exemption is to be applied only to accrued and/or payable wages.¹³⁰ Nevertheless, case law from Colorado, Nevada, and Kansas allows deposited wages to remain exempt from garnishment.¹³¹ In *Urban, Norris*, and *Kobernusz*, the courts looked to the public policy, as well as the historical treatment of state wage garnishment exemption statutes, in holding that an exemption should apply to deposited wages.¹³²

The *Walsh* court came to a different conclusion than *Urban, Norris*, and *Kobernusz* when balancing public policy and historical treatment of wage garnishment exemptions. Despite the paucity of case law in Wyoming regarding wage garnishment exemptions, there are two significant cases which demonstrate Wyoming's long history of permitting wage garnishment exemptions.¹³³ First, a Wyoming Supreme Court case from 1903, *Lafferty v. Sistalla*, allowed an exemption for wages garnished "when it appeared that they were necessary for the use of his family."¹³⁴ The statute at issue in *Lafferty* had been in place since at least 1899 and evidences Wyoming's history of protecting wages from garnishment.¹³⁵

The wage exemption statute replaced by Wyoming's current version did not specifically address deposited wages, but arguably was more specific than the current statute because it expressly protected one-half of the earnings of a debtor earned within sixty days prior to enforcement of the debt.¹³⁶

128. *In re Urban*, 262 B.R. 865, 870 (Bankr. D. Kan. 2001).

129. *See supra* notes 55, 113-116, and accompanying text for discussion of Wyoming and Colorado statute language. The Kansas statute defines earnings as: "compensation paid or payable for personal services . . ." KAN. STAT. ANN. §60-2310(a)(1), (b) (2005).

130. *Compare* WYO. STAT. ANN. §1-15-408 (2005), *with* NEV. REV. STAT. 21.090(1)(g) (2004).

131. *See infra* note 132.

132. *See generally In re Urban*, 262 B.R. 865; *In re Norris*, 203 B.R. 463 (Bankr. D. Nev. 1996); *In re Kobernusz*, 160 B.R. 844 (Bankr. D. Colo. 1993).

133. *See Lafferty v. Sistalla*, 72 P. 192, 192 (Wyo. 1903); *Hancock v. Stockmens Bank & Trust Co.*, 739 P.2d 760, 763 (Wyo. 1987).

134. *Lafferty*, 72 P. at 192 (referring to exemption of wages garnished at the place of employment).

135. For discussion of an early Wyoming exemption statute *see supra* note 19 and accompanying text.

136. WYO. STAT. ANN. §1-17-411 (Michie Cum. Supp. 1986) states in relevant portion:

[O]ne-half of the earnings of the judgment debtor for his personal services rendered within sixty days immediately preceding the levy of execution

Hancock v. Stockmens Bank & Trust Co., a Wyoming Supreme Court case that was decided under the 1986 statute, held that an exemption should be allowed as long as the person claiming the exemption could provide some accounting in the form of tracing that the deposited funds came from disposable income.¹³⁷ Although this case addressed the burden of establishing an exemption rather than transformation of exempt funds, the holding evidences Wyoming's history of favoring exemptions.¹³⁸

Both the *Hancock* and *Lafferty* cases and Wyoming's prior wage garnishment exemption statute show some history in the State of Wyoming of favoring exemptions.¹³⁹ Wyoming's history, case law treatment of similar statutes from other states, and the public policy behind exemptions should have led the court to decide *Walsh* differently.¹⁴⁰ After *Walsh*, the only way to remedy the problem is through statutory change or for the Wyoming Supreme Court to overrule itself on this issue.¹⁴¹

The Wyoming Legislature could revise the statute in a number of ways. First, they could completely rewrite the wage garnishment exemption statute and replace it. Second, the legislature could simply add specific language to the statute (just a few words would do the trick) that would remedy the problem with deposited wages.¹⁴² Third, they could approve a separate exemption on bank accounts that establishes a maximum level of protection that prevents accumulation of excess wages. Each of these alternatives is discussed below.

or levy of attachment, and due and owing at the time of the levy, are exempt when it appears by the debtor's affidavit or otherwise that the earnings are necessary for the use of his family residing in this state, supported wholly or in part by his labors.

Id. Compare WYO. STAT. ANN. §1-17-411 (Michie Cum. Supp. 1986), with REV. STAT. WYO. § 3951 (1899) (*supra* note 19), with WYO. STAT. ANN. § 1-15-408 (2005) (*supra* note 55).

137. *Hancock v. Stockmens Bank & Trust Co.*, 739 P.2d 760, 763 (Wyo. 1987) (dealing with the exemption on a joint bank account rather than the issue of the changing form of exempt funds) (interpreting WYO. STAT. ANN. §1-17-411 (Michie Cum. Supp. 1986)). The late Chief Justice Larry L. Lehman authored the dissenting opinion in *Walsh* and used *Hancock* in opining that the wage garnishment exemption should apply to wages that have been deposited. *In re Walsh*, 96 P.3d 1, 6 (Wyo. 2004) (Lehman, J., dissenting). For a discussion of the theory of tracing see *supra* note 84.

138. *Hancock*, 739 P.2d at 760.

139. *Id.* *Lafferty v. Sistalla*, 72 P. 192, 192 (Wyo. 1903).

140. See *Walsh*, 96 P.3d at 2-3. See *supra* part II(A) of this comment for discussion of the public policy of wage garnishment exemptions.

141. *Walsh*, 96 P.3d at 3 ("[I]t is not this Court's job to say that the law should be something other than it is . . . [r]ather, it is this Court's job only to determine legislative intent from the law as it is.").

142. See *infra* note 166 for a proposal of statutory language which could remedy the current Wyoming statute and protected wages that have been deposited in the bank.

C. More Statutory Approaches: Examples of Non-CCPA Wage Garnishment Exemption Statutes

The CCPA, which has been a model for most state wage garnishment exemption statutes, was enacted in 1968.¹⁴³ If the CCPA and state statutes modeled after it do not provide protection for deposited wages, there is a strong argument that they do not reflect the realities of our modern society.¹⁴⁴ The Florida District Court of Appeals stated:

[In the past], many wage earners received their pay in cash, bought their necessities with cash, and paid their bills in cash. In many cases their wages were quickly expended so that attachment of cash in the hands of a wage earner was virtually impossible. Today, with direct bank depositing of wages and our extensive credit system, many wage earners never see their earnings other than as paper transactions through a bank account.¹⁴⁵

On a similar note, the Supreme Court of Iowa acknowledged:

In order to permit a wage earner to enjoy any benefit from the protection afforded by [the exemption statute], it is necessary to accord that person a reasonable opportunity to negotiate the paycheck and spend the funds. The commercial realities of modern-day living will frequently require that the funds be first deposited in a bank account in order to achieve that end. If wages intended by law to be exempt from creditors' claims are only accorded that status in the hands of the debtor's employer, the protection can be rendered meaningless by creditors levying on the funds in the hands of the debtor or on the debtor's bank account.¹⁴⁶

To meet the realities of our modern society, the Wyoming Legislature should abandon the old CCPA-modeled statute and replace the statute with one that expressly provides for protection of deposited wages.

Several states have promulgated unique wage garnishment exemption statutes that are not modeled on the CCPA.¹⁴⁷ The Wyoming Legislature could use these statutes as an example in replacing the current statute. For example, the Minnesota wage garnishment exemption statute has several

143. See *supra* note 39 and accompanying text.

144. See *supra* notes 39-41 and accompanying text for discussion of the history of CCPA.

145. *Holmes v. Blazer Fin. Services*, 369 So. 2d 987, 989 (Fla. Dist. Ct. App. 1979).

146. *Midamerica Sav. Bank v. Mische*, 438 N.W.2d 837, 839 (Iowa 1989).

147. See generally COLLIER, *supra* note 7 and Appendix A (providing a discussion on all state exemption statutes).

positive attributes that make it a potential model for Wyoming.¹⁴⁸ The Minnesota statute provides that earnings subject to garnishment that have been deposited remain exempt for twenty days following deposit.¹⁴⁹ The statute also identifies a method of tracing that is to be used, specifically the FIFO method of accounting.¹⁵⁰ The relevant portion of the statute reads:

The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. The exemptions may not be waived. The exempt disposable earnings are payable by the employer when due. The exempt disposable earnings shall also be *exempt for 20 days after deposit in any financial institution*, whether in a single or joint account. This 20-day exemption also applies to any contractual setoff or security interest asserted by a financial institution in which the earnings are deposited by the individual. *In tracing the funds, the first-in first-out method of accounting shall be used.* The burden of establishing that funds are exempt rests upon the debtor. . . .

¹⁵¹

Under this statute, if John Smith's wages had been deposited within three weeks prior to garnishment, the wages would remain exempt. This statute is in harmony with public policy because a person in financial difficulty would likely have family expenses such as a mortgage payment and groceries,¹⁵² and there is less protection for the stockpiling of funds that have not been spent and that equitably should belong to a creditor.¹⁵³ Further, the Minnesota statute expressly provides a method of tracing, which should help decrease litigation and disputes over which funds are exempt. One potential weakness in this statute relates to the twenty-day spending period before the wages lose their exemption.¹⁵⁴ A debtor aware of this provision may be tempted to "launder" exempt funds by ensuring that he or she spends the exempt funds, even if on frivolous items, or by later selling items purchased in the twenty-day period for cash.

148. MINN. STAT. § 550.37(13) (2004).

149. *Id.* See *infra* note 151 and accompanying text for discussion and text of Minnesota's statute.

150. MINN. STAT. § 550.37(13) (2004). For a discussion of FIFO see *supra* note 84.

151. MINN. STAT. § 550.37(13) (2004) (emphasis added).

152. See Elizabeth Warren, *The New Economics of the American Family*, 12 AM. BANKR. INST. L. REV. 1, 34-38 (2004).

153. See generally Elaine A. Welle, *Is It Time For Wyoming to Update It's Fraudulent Conveyance Laws?*, 5 WYO. L. REV. 207, 216 (2005) (discussing fraudulent conveyance laws which help protect creditors from debtors' unfair transactions which have the intent to hinder collection).

154. MINN. STAT. § 550.37(13) (2004).

North Carolina has taken an approach that calls for discretion by the court or judge and protects wages earned sixty days prior to garnishment as long as the court finds that the wages are “necessary for the use of a family supported wholly or partly by [a debtor’s wages].”¹⁵⁵ The statute reflects public policy concerns because it addresses actual need and whether a family depends on the finances of the debtor. On the other hand, it is probably not the best use of judicial resources to require a court to examine wage garnishment exemptions on a case by case basis.¹⁵⁶

Iowa also has adopted a unique exemption statute. It provides a graduated scale of exemption based on the net earnings of the debtor where the more a debtor earns, the more is available for garnishment.¹⁵⁷ Under the

155. N.C. GEN. STAT. §1-362 (2004), which states in whole:

The court or judge may order any property, whether subject or not to be sold under execution (except the homestead and personal property exemptions of the judgment debtor), in the hands of the judgment debtor or of any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment; except that the earnings of the debtor for his personal services, at any time within 60 days next preceding the order, cannot be so applied when it appears, by the debtor's affidavit or otherwise, that these earnings are necessary for the use of a family supported wholly or partly by his labor.

Id.

156. See generally Christopher S. Strauss, *Collateral Damage: How the Supreme Court's Retroactivity Doctrine affects Federal Drug Prisoners' Apprendi Claims on Collateral Review*, 81 N.C. L. REV. 1220, 1253 (2003) (stating that the concept of finality in criminal convictions serves the policy of preserving judicial resources by preventing the need for excessive court appearances).

157. IOWA CODE § 642.21 (2004) (edited for length) states:

1. . . . The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except . . . when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year . . .

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

b. Employees with expected earnings of sixteen thousand dollars or more, but less than twenty-four thousand dollars, not more than eight hundred dollars may be garnished.

c. Employees with expected earnings of twenty-four thousand dollars or more, but less than thirty-five thousand dollars, not more than one thousand five hundred dollars may be garnished.

Iowa statute, if John Smith earned less than \$12,000 a year, the maximum amount which could be garnished would be \$250 per year per creditor, but if John was expected to earn more than \$50,000 a year, the maximum amount which could be garnished would be ten percent of his wages.¹⁵⁸ This statute reflects public sentiment that the wealthy should not receive as much financial protection as those who make significantly less and who typically find it harder to meet basic needs.

New York and Oklahoma exemption statutes expressly address the time period applicable to the exemption. New York's statute grants an exemption for wages earned sixty days before the garnishment.¹⁵⁹ Oklahoma grants the exemption for wages earned ninety days before garnishment.¹⁶⁰ These statutes represent practical approaches to limiting the look-back period and would prevent debtors from protecting large savings accounts.

As emphasized earlier in this comment, there are three related ways that the Wyoming Legislature could revise the wage garnishment exemption statute.¹⁶¹ The first option for Wyoming's Legislature would be to completely replace the current wage garnishment exemption statute, perhaps with a statute that is not modeled after the CCPA, such as that found in Minnesota.¹⁶²

A second approach available to Wyoming lawmakers would be to amend the current statute. The Wyoming Legislature could amend the current statute by adding specific language that would protect deposited wages.¹⁶³ For example, Oregon Revised Statutes §18.348 provides:

(1) *All funds exempt from execution and other process . . . shall remain exempt when deposited in an account of a judgment debtor* as long as the exempt funds are identifiable.

d. Employees with expected earnings of thirty-five thousand dollars or more, but less than fifty thousand dollars, not more than two thousand dollars may be garnished.

e. Employees with expected earnings of fifty thousand dollars or more, not more than ten percent of an employee's expected earnings.

Id.

158. *Id.*

159. N.Y.C.P.L.R. §5205(d) (Consol. 2004).

160. OKLA. STAT. tit. 12 § 1171.1(B) (2004).

161. See *supra* text paragraph accompanying note 142.

162. See *supra* notes 148-154 and accompanying text for discussion of Minnesota statute and its benefits.

163. See *infra* note 166 for a proposal on altering the language in WYO. STAT. ANN. § 1-15-408(a) (2005).

(2) The provisions of subsection (1) of this *section shall not apply to any accumulation of funds greater than \$7,500.*¹⁶⁴

This portion of the Oregon statute could be applied to fix the CCPA language of Wyoming's statute by expressly instructing that deposited exempt funds remain exempt as long as the balance of such an account does not exceed a specified amount.

In addition, the amendment required to allow the current wage garnishment exemption statute to apply to deposited wages would merely require elimination of the words "accrued" and "unpaid" and substitute words that grant protection to wages deposited in a bank.¹⁶⁵ This option to slightly amend the Wyoming statute may meet the least resistance in the legislature since the addition of only five words would effectively fix the problem.¹⁶⁶

The third alternative for remedying the wage garnishment exemption problem in Wyoming involves a specific exemption on bank accounts which sets a ceiling on the amount of exempt funds. Incidentally, the Oregon statute presented above also is an example of the third solution because it provides a specific exemption with a limit on the amount allowed to accumulate in a deposit account.¹⁶⁷ Similar to the look-back limitation discussed previously, a ceiling on exempt funds in a bank account would prevent the stockpiling of funds which would be inequitable to the creditor seeking payment.

In summary, Wyoming residents may be faced with an inequitable situation where wages that should be exempt lose their exempt identity if the wages are deposited in the bank.¹⁶⁸ Public policy and the realities of our modern society favor a wage garnishment exemption statute that allows deposited wages to remain exempt.¹⁶⁹ The current problem in Wyoming could be easily remedied by adding just a few words to the statute or by completely replacing the statute with one modeled after another state's wage garnishment exemption statute. The current Wyoming statute represents a big problem with an easy fix. The addition of only a few words could pre-

164. OR. REV. STAT. § 18.348 (2004) (emphasis added and edited for content); *In re Platt*, 270 B.R. 773, 775 (Bankr. D. Ore. 2001) (discussing this statute under its former statute number, § 23.166 which was re-assigned in 2003).

165. Compare WYO. STAT. ANN. § 1-15-408(a) (2005), with NEV. REV. STAT. 21.090(1)(g) (2004), and COL. REV. STAT. §13-54-104 (2005).

166. WYO. STAT. ANN. § 1-15-408(a) (2005) could be amended as follows to remedy the problem evident in Walsh: ". . . garnishment attaching earnings for personal services shall attach that portion of the defendant's ~~accrued and unpaid~~ disposable earnings [WHETHER ACCRUED, PAID OR DEPOSITED]. . . ."

167. See *supra* note 164 and accompanying text.

168. *In re Walsh*, 96 P.3d 1 (Wyo. 2004).

169. See *supra* notes 26-38 and accompanying text for a discussion of public policy regarding wage garnishment exemption statutes.

vent any further inequitable results as in *Walsh*.¹⁷⁰ Wyoming's current wage garnishment exemption statute could be replaced or amended with a statute that is clear, explicit, and grants protection to those who need it, while preventing the sheltering of accumulated wealth.¹⁷¹

IV. CONCLUSION

The Wyoming Legislature should adopt a new wage garnishment exemption statute. The new statute should reflect public policy, namely, preserving some portion of the debtor's wages so the debtor can provide for his family and "not become a public charge."¹⁷² To prevent further inequitable rulings, such as in *Walsh*, the new statute should specifically provide that recent wages deposited in the bank maintain their exempt status as long as the funds are traceable as exempt funds derived from wages. The new statute should be explicit and set forth precise rules for tracing, as well as dictate a window of time when the debtor may spend his wages.

While many of the state wage garnishment exemption statutes discussed in this comment have a number of positive attributes that could be used to remedy the problem in Wyoming following *Walsh*, and while the current Wyoming statute could be remedied with a slight revision, the Minnesota statute is the most complete remedy, addressing all the public policy issues in one rather short statute.¹⁷³ The Wyoming Legislature, should therefore, consider adopting a new wage garnishment exemption statute modeled after Minnesota's:

The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. The exemptions may not be waived. The exempt disposable earnings are payable by the employer when due. The exempt disposable earnings shall also be *exempt for 20 days after deposit in any financial institution*, whether in a single or joint account. This 20-day exemption also applies to any contractual setoff or security interest asserted by a financial institution in which the earnings are deposited by the individual. *In tracing the funds, the first-in first-out method of accounting shall be used.* The burden of

170. See *supra* note 166.

171. See MINN. STAT. § 550.37(13).

172. *In re Whalen*, 73 B.R. 986, 988-89 (C.D. Ill. 1987); *Holmes v. Blazer Fin. Serv., Inc.*, 369 So. 2d 987, 990 (Fla. Dist. Ct. App. 1979) (quoting *Wolf v. Commander*, 188 So. 83, 84 (Fla. 1939)).

173. See *supra* notes 148-151 for a discussion on the Minnesota Statute.

establishing that funds are exempt rests upon the debtor. . . .

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Such a statute mirrors public policy because it allows the debtor to exempt wages that have been paid prior to garnishment, while at the same time limiting the debtor's protection to a reasonable amount of time. Under this approach a debtor may not protect a large amount of prior savings in an attempt to defraud his creditors.

Such a specific statute also will tend to reduce litigation since the explicit statutory language leaves little to interpretation. Additionally, a new statute such as the one proposed above reflects the realities of today's modern society of electronic banking and instant access to information.

If the Wyoming Legislature adopts a statute modeled after Minnesota's, the law would protect our hypothetical Smith family's previously deposited wages. Only a portion of the deposited wages would be subject to garnishment, thus allowing John and Jane Smith to provide for their children and to maintain their household, while contributing toward their financial obligations and hopefully avoiding bankruptcy and becoming a burden on state and federal welfare resources.

JASON C. WALKER

APPENDIX A – CHART OF STATE WAGE GARNISHMENT EXEMPTION STATUTES

Alabama	CCPA style (allowing garnishment of only 25% of wages or 30 times federal minimum wage (FMW) whichever is less).	Ala. Code § 5-19-15, 6-10-7
Alaska	\$350 weekly net earning is exempt, increase to \$550 for sole support of household	ALASKA STAT. § 09.38.030, 09.38.050; ALASKA ADMIN. CODE tit. 8 §95.030
Arizona	CCPA style	Ariz. Rev. Stat. Ann. § 33-1131

Arkansas	\$25 per week; 60 days wages exempt if below maximum	Ark. Code Ann. § 16-66-208
California	50% of disposable earnings plus amount withheld for support	Cal. Civ. Proc. Code § 706.050, 706.051, 706.052
Colorado	CCPA style	Col. Rev. Stat. § 13-54-104
Connecticut	85% of the first \$145 per week exempt or exempt to the amount allowed under the CCPA	Conn. Gen. Stat. § 18-101, 52-362
Delaware	CCPA style, exempt to the extent of 85% wages for 60 days	DEL. CODE ANN. tit. 6 § 4345; tit. 10 § 4913
District of Columbia	CCPA style	D.C. Code Ann. § 16-572
Florida	Wages exempt if less than \$500 per week; less protected if greater	Fla. Stat. Ann. § 222.11
Georgia	CCPA style	Ga. Code Ann. § 18-4-20
Hawaii	Scale exemption: 5% of first \$100 monthly income, 10% of next \$100, 20% of all > \$200	Hawaii Rev. Stat. § 652-1
Idaho	CCPA style	Idaho Code § 11-207
Illinois	CCPA style, 85% exempt or 45 times FMW	735 I.L.C.S. 5/12-803, 740 I.L.C.S. 170/4
Indiana	No specific exemption for wages	
Iowa	Scale exemption based on annual earnings, see statutes	Iowa Code Ann. § 642.21

Kansas	CCPA style	Kan. Stat. Ann. § 60-2310
Kentucky	CCPA style	Ky. Rev. Stat. Ann. § 427.010(2)
Louisiana	CCPA style	La. Rev. Stat. Ann. § 13:3881, § 13:3951
Maine	CCPA style, using 40 times FMW	Me. Rev. Stat. Ann. tit. 9-A § 5-105
Maryland	CCPA style, 75% exempt; 3 counties using 75% exempt or 30 times FMW	Md. Com. Law Code Ann. § 15-601.1
Massachusetts	\$125 per week exempt	Mass. Ann. Laws Ch. 246 § 20
Michigan	Householders with family may exempt 60% wages, not less than \$15 per week; without family may exempt 40% but not less than \$10 per week.	Mich. Comp. Laws Ann. § 600.5311
Minnesota	CCPA style, using 40 times FMW and allowing the exemption for only 20 days post-deposit	Minn. Stat. § 550.37(13)
Mississippi	CCPA style	Miss. Code Ann. § 85-3-4
Missouri	CCPA style, allowing 90% exemption for head of a family	Mo. Ann. Stat. § 525.030
Montana	CCPA style, less than full exemption if debtor is not supporting a family	Mont. Code Ann. § 25-13-614
Nebraska	CCPA style, 85% exemption if head of a family	Neb. Rev. Stat. § 25-1558
Nevada	CCPA style	Nev. Rev. Stat. § 21.090

New Hampshire	Exempt to the extent of 50 times FMW; differing exemption amounts for support orders	N.H. Rev. Stat. Ann. §§ 512.21, 161-C:11
New Jersey	No specific wage exemption listed	
New Mexico	CCPA style, using 40 times FMW; only 50% exempt when garnishment is for child support	N.M. Stat. Ann. § 35-12-7
New York	90% of earnings rendered 60 days before execution; 50% post-execution wages exempt if supporting spouse or dependent, 40% otherwise	N.Y. C.P.L.R. 5205(d), 5241
North Carolina	Exempt to extent needed for family support	N.C. Gen. Stat. § 1-362
North Dakota	No specific wage exemption listed	
Ohio	CCPA style	Ohio Rev. Code Ann. § 2329.66(13)
Oklahoma	CCPA style, 75% of wages from previous 90 days exempt; 50% post-execution wages exempt if supporting a spouse or dependent, 40% otherwise	12 Okla. St. Ann §§ 1171.1, 1171.2
Oregon	CCPA style, with a maximum account limit	Or. Rev. Stat. § 18.385
Pennsylvania	Exempt while held by employer, 50% exempt for alimony and child support, 90% exempt for judgment creditor as a result of residential lease	23 Pa. Cons. Stat. Ann § 3703; 42 Pa. Cons. Stat. Ann § 8127

Rhode Island	No specific wage exemption listed	
South Carolina	All personal service earnings exempt in the hands of the employer	S.C. Code Ann. § 15-39-420
South Dakota	CCPA style, 80% exempt or 40 times FMW, unless garnished for support of dependents	S.D. Codified Laws Ann. § 21-18-51, 52
Tennessee	CCPA style, exempt except for 25% or 30 times FMW	Tenn. Code Ann. §§ 26-2-106, 26-2-108
Texas	Current wages for personal services are exempt from garnishment except for child support orders	Tex. Const. art 16 § 28; 1995 Tex. Gen. Laws 20; Tex. Prop. Code § 42.001
Utah	CCPA style	Utah Code Ann. § 70C-7-103
Vermont	CCPA style, 75% or 30 times FMW exempt; 85% or 40 times FMW exempt if from a consumer credit transaction	VT. STAT. ANN. tit 12, § 3170
Virginia	CCPA style	VA. CODE ANN. §§ 34-29, 34-32, 34-33 and 55-165
Washington	CCPA style, 75% or 40 times FMW exempt	Wash. Rev. Code Ann. § 6.27.150
West Virginia	CCPA style, 80% or 30 times FMW exempt	W. Va. Code §§ 38-5A-3, 38-5A-9
Wisconsin	CCPA style	Wis. Stat. Ann. §§ 20.921(1), 815.18
Wyoming	CCPA style	Wyo. Stat. § 1-15-408

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