National Consumer Law Center
Fighting Together for Economic Justice

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NO FRESH START 2020

WILL STATES LET DEBT COLLECTORS PUSH FAMILIES INTO POVERTY IN THE WAKE OF A PANDEMIC?

EXECUTIVE SUMMARY

State exemption laws, which protect income and property from seizure by creditors, are a fundamental safeguard for families. Exemption laws are designed to protect consumers and their families from poverty, and to preserve their ability to be productive members of society and achieve financial rehabilitation.

Never has the need for strong exemption laws been so starkly apparent. The COVID-19 pandemic has exposed the enormous gaps in the states' exemption laws. Only when stimulus checks started going out to families' bank accounts and were being garnished by debt collectors did many states realize that they had *no* laws to protect a basic amount in a family's bank account. As workers lost jobs and hours, states scrambled to institute moratoriums on wage garnishment, bank account garnishment, and collection lawsuits. But these moratoriums are temporary and some have already expired. Once the pandemic recedes, families struggling to get back on their feet are likely to face a wave of lawsuits for medical bills, back rent, credit card debt, the balance due on repossessed cars, and even utility bills.

Weak exemption laws also exacerbate the racial wealth gap. Communities of color are disproportionately burdened by debt, disproportionately subject to judgments in collection lawsuits, and disproportionately subject to wage garnishment. Because of longstanding discrimination, Black and Latinx households have less wealth and less of a safety net to draw on during challenging financial times. Communities of color have disproportionately suffered the effects of the pandemic—not just job loss and financial hardship but also illness and death.

Without improved exemption laws, garnishment and similar methods of enforcing judgments in collection actions will drain away the wages and resources that families need — and that the local economy needs them to spend at Main Street businesses. Reform of exemption laws will not only protect families from destitution but will act as an economic recovery tool that will steer money into state and local communities.

This National Consumer Law Center report surveys the exemption laws of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Despite the importance of state exemption laws, this report finds that *not one* jurisdiction meets five basic standards:

- Preventing debt collectors from seizing so much of the debtor's wages that the debtor is pushed below a living wage;
- Allowing the debtor to keep a used car of at least average value;
- Preserving the family's home—at least a median-value home;
- Preserving a reasonable amount in a bank account so that the debtor has minimal funds to pay such essential costs as rent, utilities, and commuting expenses for several months; and
- Preventing seizure and sale of the debtor's necessary household goods.

Best states: Massachusetts, which modernized its archaic exemption laws in 2010, and Nevada, which also recently improved its laws, come closest to meeting these five basic standards, each rating a high B grade. Solid B states include California, the District of Columbia, Puerto Rico, and Texas. New York, Oklahoma, and South Carolina rate low B grades. Kansas, North Dakota, and Wisconsin fall just below a B.

Worst states: At the opposite end of the scale are several states whose exemption laws reflect indifference to struggling debtors. These states allow debt collectors to seize nearly everything a debtor owns, even the minimal items necessary for the debtor to continue working and providing for a family. Georgia, Kentucky, Michigan, New Jersey, and Utah are the worst and rate an F. Meanwhile, Alabama, Arkansas, Indiana, Maryland, Missouri, Pennsylvania, Wyoming are nearly as bad, rating a low D.

Since 2019, California made several significant improvements in its exemption laws. Idaho, Maryland, Minnesota, Mississippi, New Hampshire, Utah, and Virginia also made improvements. In addition, in eight jurisdictions—Colorado, Connecticut, the District of Columbia, Illinois, Maine, Massachusetts, North Dakota, and Washington—that base their wage garnishment protection on the higher of the state or federal minimum wage, the amount protected from garnishment increased because of increases in the state minimum wage. On the other hand, the dollar amount of key exemptions continued to erode in many states—those that do not have inflation adjustment provisions built into their laws—simply because of inflation and increasing home values.

Key Recommendations for States

State exemption laws should:

- **Preserve the debtor's ability to work**, by protecting a working car, work tools and equipment, and money for commuting and other daily work expenses.
- **Protect the family's housing, necessary household goods, and means of transportation.**
- **Protect a living wage for working debtors**—a wage that can meet basic needs and maintain a safe, decent standard of living within the community.

- **Protect a reasonable amount of money on deposit** so that debtors can pay commuting costs and upcoming bills such as rent, daycare, and utility bills for several months.
- **Protect retirees from destitution** by restricting creditors' ability to seize retirement funds.
- **Be automatically updated for inflation.**
- **Close loopholes that enable some lenders to evade exemption laws.** For example, states that allow payday lending enable these lenders to evade state laws that protect wages and exempt benefits from creditors. States that allow lenders to take household goods as collateral enable these lenders to avoid state protections of household goods.
- **Be self-enforcing to the extent possible**, so that the debtor does not have to file complicated papers or attend court hearings.

Model language for states to achieve these goals is provided in the National Consumer Law Center's *Model Family Financial Protection Act*. The model law also includes steps that states can take to reduce the pervasive abuse of the court system by debt buyers. Seizure of debtors' wages and property would not be such a problem if debt buyers did not churn out such an endless stream of judgments on old, poorly documented debts – many of them not even owed.

By updating their exemption laws, states can prevent debt buyers from reducing families to poverty. These protections also benefit society at large, by keeping workers in the work force, helping families stay together, and reducing the demand on funds for unemployment compensation and social services.