National Consumer Law Center

Build a CA Seawall against the Tsunami of Debt Collection Caused by COVID-19: Wage Garnishment

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Key Concepts

More than 25% of Golden Staters have a Debt in Collection: Even before COVID-19, 26% of Californians -- 31% in communities of color -- had one or more debts in collection. These numbers will only increase as families are hit by waves of eviction, foreclosure, and ongoing job loss.

Approximately 458,000 CA Workers' Wages were Seized in 2016: In California, the rate of wage garnishment for consumer debts was 2.4% in 2016. That means that approximately 458,000 Californians were impacted by a wage garnishment (including administrative judgments). As the economic crisis continues to unfold, the threat of wage garnishment will increase.

CA Law Doesn't Protect a Living Wage: A living wage in CA for one adult with two children is $37.46 an hour or approximately $1,498.40 a week before taxes. Current CA law allows collectors to garnish the wages of families with net income above $560/week.

Even Before the COVID Crisis...

CA workers had ≈

$140 Million a Year in Wages Seized

Californians with debts in collections =

31% in Communities of Color

19% in White Communities

RECOMMENDATION: Protect $1,000 a week in net wages (adjusted yearly for inflation) from garnishment, and limit wage garnishment to not more than 10% of net wages over that amount. This will allow families who have fallen on hard times to keep enough money to make ends meet and recover from the recession while also allowing debt collectors to garnish the wages of those who can afford it.

A Deeper Dive

CA Workers May Lose >$140 Million a Year

According to one recent study, 27% of the 437,644 collection cases filed by the 20 largest debt buyers in the 10 most populous counties in California from 2012 to 2017 resulted in wage garnishment. Since the average judgment is $5,925, that could add up to over $700 million in wages seized in just those 10 counties. As the study did not examine all collection cases in all counties, the number may actually be higher.

CA Law Lets Collectors Seize Money Families Need for Necessities

Current California law allows collectors to garnish the lesser of 25% of net wages or 50% of the amount by which the worker's wages exceed 40 times the state or local minimum wage. While courts can protect more if the worker proves in court that a higher amount is needed to protect a worker or their family, no one struggling to make ends meet should be expected to hire a lawyer to make sure they can keep enough of the wages they have earned to support their family. In fact, in a recent study of debt collection cases in CA, over 98% of consumers did not have representation by an attorney.

The law should instead provide an exemption for $1,000 a week (adjusted yearly for inflation) in disposable income—about two-thirds of a gross living wage in California for one adult and two children. Wage garnishment should be limited to 10% of disposable income over $1,000 a week. Ensuring that protections from wage garnishment keep pace with what families need to meet basic expenses is in everyone's interest since it promotes household stability and facilitates economic recovery from the COVID-19 crisis.

How Wage Garnishment Works

After a creditor wins a judgment in court against a consumer, the creditor can take steps to seize a portion of the worker's wages to pay the judgment. The creditor serves a garnishment order on the employer, which then takes money from the worker's paycheck and sends it to the creditor. The worker never sees that money and cannot use it to pay for necessities, such as rent, food, and childcare. Instead, the money goes to pay old debt, such as medical or credit card debts, which the debt buyer may have purchased for pennies on the dollar.

Excessive Wage Garnishment is Also Bad for Employers

While workers whose pay is seized are the parties most harmed by wage garnishment, employers also bear administrative costs to garnish wages and loss of employee productivity as workers find their rent and transit money siphoned off to pay old debts through garnishment.

ADP, one of the nation's largest payroll processors, notes that "stress and anxiety are natural outcomes" from wage garnishment and that '[e]mployers can bear the brunt of this employee anxiety in the form of decreased worker productivity and overall lack of motivation." The administrative burden of garnishment compliance also falls on the employer.

The extraordinary step of reducing a worker's wages beneath what they need to support their families is ultimately bad for workers, businesses, and the communities that rely on both.

A New Model Is Needed to Help Keep Families Afloat

California should be a national leader in creating a new wage garnishment model that ensures that old debts don't push families over the economic precipice. Protecting a living wage from garnishment will not make California an outlier, as four states —NC, PA, SC, and TX—don't allow wage garnishment at all.

Especially in a moment of great economic uncertainty debts in collection are almost certain to greatly expand because of the turmoil caused by the pandemic. Ensuring that families can keep enough wages to pay their basic needs is a powerful and necessary economic development and recovery tool. Reforming wage garnishment will help keep consumers in their homes, able to return to work, and able to invest their wages in their local businesses and communities.

Recommendation

Protect $1,000 a week in net wages (adjusted yearly for inflation) from garnishment, and limit wage garnishment to not more than 10% of net wages over that amount. This will allow families who have fallen on hard times to keep enough money to make ends meet and recover from the recession while also allowing debt collectors to garnish the wages of those who can afford it.

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