

The Uniform Wage Garnishment Act: Benefits and Dangers for Wage Earners

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In 2016, the Uniform Law Commission (formerly the National Conference of Commissioners on Uniform State Laws or NCCUSL) approved a Uniform Wage Garnishment Act, which is now being introduced in the states. Intended to make wage garnishment law more uniform, it has some good features, but is inadequate in other ways, and ***carries the potential for rolling back important existing protections against wage garnishment***. Advocates can track state legislation here.

The inadequacies, the dangers, and the positive features of the uniform law are summarized below.

Inadequacies of the Uniform Law

Deposited wages. The main inadequacy of the uniform law is that it does not address deposited wages. Consumer advocates urged the drafting committee to address this central issue, but the committee's approach was so weak that we advocated for removing the proposed language. As direct deposit and payroll cards grow as methods of paying wages, the failure to protect deposited wages threatens to make wage garnishment protections obsolete. Without protections for deposited wages, creditors can completely bypass the limits on wage garnishment by seizing the worker's bank account instead.

Amount of wages protected. The uniform law leaves blanks for states to fill in regarding the amount of wages that are protected. A Legislative Note to section 13 of the uniform law provides some encouragement to states to protect more than the federal minimum, but the uniform law would be much more helpful to debtors if it included recommendations for increases to the woefully-inadequate federal minimums. The introduction of the uniform law in a state will create the opportunity to increase the amount of wages that are protected—but only if advocates and workers are prepared to mount a campaign for this.

Dangers of the Uniform Law

Rollback. Despite clauses in the uniform law stating that it does not repeal a state's existing limits on wage garnishment, we expect creditors to use the introduction of the uniform law as a vehicle to roll back existing consumer protections. Advocates should carefully review any draft in their state to make sure existing consumer protection provisions are not repealed or replaced.

Makes garnishment easier. One of the goals of the uniform law is to streamline wage garnishment and make it less expensive, which may incrementally benefit debtors because the costs of garnishment are passed on to them. However, streamlining the process does not deal with the overarching issues left unaddressed by the uniform law—its failure to increase the amount of wages protected and to protect wages deposited in bank accounts. It would be a particular disservice to debtors to make wage garnishment a more attractive tool for debt collectors without increasing the amount of wages protected and protecting deposited wages.

Positive Elements of the Uniform Law

No gaming of venue. The uniform law generally requires that the garnishment be commenced in a

court in the jurisdiction where the employee works, and requires that state to apply its wage garnishment protections. This gives the employee better access to the court, and prevents creditors from evading the debtor's home-state garnishment protections by issuing a garnishment order from another state.

Application to employee-like independent contractors. The uniform law applies the state's limits on wage garnishment to individuals who are classified as independent contractors but are virtually indistinguishable from employees.

Plain-language notice 30 days before garnishment. The uniform law requires the worker to be given, 30 days before the wage garnishment starts, a plain-language notice about garnishment and the steps he or she can take to contest it.

Private cause of action. The uniform law creates a private cause of action for up to \$1000 in statutory damages for bad faith garnishment, plus \$50 a day and attorney fees if a creditor fails to stop the garnishment and refund any garnished funds or request a court hearing on the legality of the garnishment within seven days after receiving an objection to the garnishment from the worker or the employer.

Protection against adverse employment action. The uniform law prohibits an employer from taking any adverse action against a worker because of a garnishment, regardless of the number of garnishments, thus going well beyond the federal protection.

Model Amendments

The National Consumer Law Center has drafted model pro-consumer amendments to the uniform law.

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