No Clear Relationship Between Wage Seizure Protections and Access to Credit

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HOW STATE AND FEDERAL LAWS RESTRICT WAGE SEIZURE

When creditors sue consumers in court for debts, one of the ways that they can usually collect on any judgments they receive is to seize a portion of the consumer's wages.

Federal and state laws specify the amount of wages protected from seizure, with a focus on ensuring that the consumer can still afford to pay for critical expenses like rent, health care, food, and transportation to work.

But state protections vary significantly from protecting only the federal minimum ($217.50 per week) to banning wage garnishment altogether for most debts.[1]

NO CLEAR EVIDENCE THAT LIMITS ON WAGE SEIZURE LIMIT ACCESS TO CREDIT

When state advocates seek to increase protections for working people's wages, opponents, broadly citing academic literature to support their position, often argue that increased protections for wages will decrease access to credit or increase the cost of credit.

Upon closer inspection, however, many of these studies do not examine wage seizure at all, or, when they do examine wage seizure directly, there are often significant limitations to the study.

Additionally, opponents to strengthening protections for wages neglect to mention academic literature suggesting that wage seizure protections may improve credit access or that the benefits of the protections outweigh the costs.

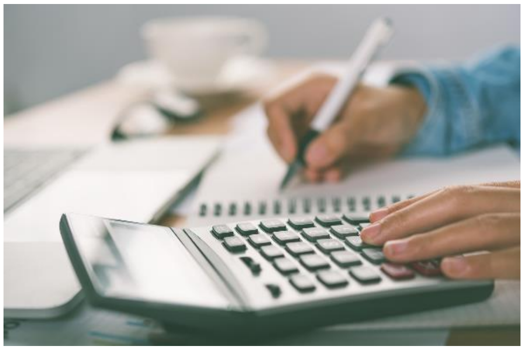
Ultimately, the relevant academic articles do not show a clear relationship between increasing the protections from wage seizure and decreasing access to credit.

Many of the articles do not speak to the relationship between wage seizure and access to credit.

Instead of directly addressing the relationship between wage seizure and access to credit, many academic articles:

- Examine collection restrictions generally but do not examine increased protections from wage seizure specifically;[2]
- Explicitly or implicitly *exclude* garnishment from their analyses;[3] or
- Specifically examine other types of collection restrictions and *not* wage seizure.[4]

When academic articles directly address wage seizure, there are frequently important limitations to the referenced studies.



The studies that *do* explicitly consider wage seizure protections often suffer from important limitations,[5] such as:

- Focusing their analyses on a single category of credit;[6]
- Failing to show that their findings are actually the result of the debt collection laws they are analyzing;[7] or
- Failing to use the standard statistical approach for their study.[8]

Other research found a favorable relationship between wage seizure and access to credit.

Some academic literature finds that wage seizure protections may improve access to credit or that the benefits outweigh the costs.

- A 1990 study concluded that wage seizure protections actually *raised* the amount of credit available and increased net benefits to consumers and credit providers.[9]
- Even if wage seizure protections do decrease credit access, the benefits of those protections could outweigh the costs.[10]

For more information about how to improve wage seizure protections in your state, see No Fresh Start 2023: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars? (Dec. 2023) or contact National Consumer Law Center senior attorneys April Kuehnhoff (akuehnhoff@nclc.org) or Michael Best (mbest@nclc.org).

ENDNOTES

[1] *See* Carolyn Carter & Michael Best, National Consumer Law Center, No Fresh Start 2023: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?, at 11 tbl. 1 (Dec. 11, 2023).

[2] *See, e.g.*, Julia Fonseca, *Less Mainstream Credit, More Payday Borrowing? Evidence from Debt Collection Restrictions*, 78 J. Fin. 63 (Feb. 2023); Charles Romeo & Ryan Sandler, The Effect of Debt Collection Laws on Access to Credit 5 (CFPB Office of Research Working Paper Series, Sept. 2020); Julia Fonseca, Katherine Strair & Basit Zafar, Federal Reserve Bank of N.Y., Access to Credit and Financial Health: Evaluating the Impact of Debt Collection, Staff Report No. 814 (May 2017); Richard Hynes & Eric A. Posner, *The Law and Economics of Consumer Finance*, 4 Am. L. & Econ. Rev. 168, 182 (2002).

[3] *See, e.g.*, Viktar Fedaseyeu, Federal Reserve Bank of Phila., Debt Collection Agencies and the Supply of Consumer Credit, Working Paper No. 20-06 (Feb. 2020); Todd J. Zywicki. *The*

Law and Economics of Consumer Debt Collection and Its Regulation, 28 Loy. Consumer L. Rev. 167 (2016) (focusing on the CFPB's forthcoming debt collection regulations, which did not address wage seizure).

[4] *See, e.g.,* Colleen Honigsberg, Robert J. Jackson, Jr. & Richard Squire, *How Does Legal Enforceability Affect Consumer Lending? Evidence from a Natural Experiment,* 60 J.L. & Econ. 673 (Nov. 2017) (state usury laws); Marshall Lux & Robert Greene, Harvard Kennedy School Mossavar-Rahmani Center for Bus. & Gov't, Out of Reach: Regressive Trends in Credit Card Access, M-RCBG Associate Working Paper Series No. 54 (Apr. 2016) (credit card restrictions).

[5] *See also* Debt Collection Practices (Regulation F), 84 Fed. Reg. 23,274, 23,390-91 (May 21, 2019) (noting limitations in three frequently cited studies).

[6] *See, e.g.*, James R. Barth, Padma Gotur, Neela Manage & Anthony M. J. Yezer, *The Effect of Government Regulations on Personal Loan Markets: A Tobit Estimation of a Microeconomic Model*, 38 J. Fin. 1233 (Sept.1983) (personal loans from national finance companies).

[7] *See, e.g.,* James R. Barth, Joseph J. Cordes & Anthony M. J. Yezer, *Benefits and Costs of Legal Restrictions on Personal Loan Markets*, 29 J.L. & Econ. 375 (1986) ("The use of simple dummy variables for entire states ignores this specification issue and certainly tends to produce bias in the estimated regulatory effects."). *Cf.* Fedaseyeu, *supra* note 3, at 11 n.10 ("[I]t is sometimes virtually impossible to determine the precise relative impact of each law change."); Debt Collection Practices (Regulation F), 84 Fed. Reg. 23,274, 23,390 (May 21, 2019) (suggesting that Fonseca, Strair & Zafar, *supra* note 2 "was not successful in isolating the causal effect of the debt collection laws, but instead was picking up other, unrelated, factors.").

[8] Scott Fulford & Eva Nagypal, Consumer Fin. Prot. Bureau Office of Research, Using the Courts for Private Debt Collection: How Wage Garnishment Laws Affect Civil Judgments and Access to Credit, Working Paper No. 23-02, 37 (2023). *See also* Missy Meggison, "CFPB Uses Aged Data in Report on Judgments and Why it's a Big Deal" (InsideARM May 15, 2023).

[9] Daniel J. Villegas, *Regulation of Creditor Practices: An Evaluation of the FTC's Credit Practice Rule*, 42 J. Econ. & Bus. 51, 61 (1990). *Cf.* Leslie Parrish, Bill Sermons & Lisa Stifler, Center for Responsible Lending**,** Past Due: Debt-Collection Reforms That Protect Consumers Not Found to Restrict Credit Availability (2016) ("North Carolina and Maryland consumers seeking new credit cards generally fared better than consumers in peer states").

[10] *See, e.g.*, Anthony A. DeFusco, Brandon M. Enriquez & Margaret B. Yellen, National Bureau of Econ. Research, Wage Garnishment in the United States: New Facts from Administrative Payroll Records*,* Working Paper No. 30724, 9 (rev. Feb. 2023) ("While the ability for creditors to garnish wages at these rates likely facilitates expanded access to credit, this benefit comes at a cost of a potentially heavy garnishment burden"). *Cf.* Romeo & Sandler, *supra* note 2 ("We find that such restrictions reduce access to credit card accounts and raise interest rates, but that this effect is very small."); Robert M. Hunt, *Collecting Consumer Debt in America*, 96 Fed. Reserve Bank of Phila. Bus. Rev. 11 (Q2 2007) ("The more difficult (or costly) it is to ensure that a loan is repaid, the higher will be the costs of borrowing, and less credit will generally be available. But certain collection tactics can be hard on consumers, and regulations at the federal and state levels reflect this concern.").