



# MODEL FAMILY PROPERTY AND INCOME PROTECTION ACT

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## ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state governments and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

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# MODEL FAMILY PROPERTY AND INCOME PROTECTION ACT

<b>Introduction</b>	1
<b>How To Use This Model Law</b>	2
<b>Section 101. Purposes of This Act</b>	2
<b>Section 102. Construction</b>	2
<b>Section 103. Definitions</b>	3
(a) "Creditor"	3
(b) "Deposit Account or Other Asset Account"	3
(c) "Dependent"	3
(d) "Earnings"	3
(e) "Executing Officer"	3
(f) "Execution"	3
(g) "Exempt"	4
(h) "Garnishment"	4
(i) "Garnishable Earnings"	4
(j) "Home"	4
(k) "Judgment Creditor"	5
(l) "Judgment Debtor"	5
(m) "Money Judgment"	5
(n) "Mortgage"	5
(o) "Ownership Interest"	5
(p) "Paid or Payable"	5
(q) "Value"	6
<b>Section 104. Scope</b>	6
(a) Definition of "property obtained by fraud or theft."	6
(b) Support orders and property division.	6
(c) Enforcement of a security interest.	6
<b>Section 105. Interstate Applicability</b>	6
(a) Execution on out-of-state assets.	6
(b) Out-of-state branch of a depository institution.	7
(c) Wage garnishment.	7

<b>Section 106. Personal Property Exempt</b>	8
(a) List of exempt personal property.	8
(b) Property exempt under other laws.	12
(c) Notice to judgment debtor of execution on personal property.	12
(d) Preservation of status quo.	12
<b>Section 107. Earnings Exempt</b>	13
(a) Amount of earnings that is fully exempt.	13
(b) Percent of non-exempt earnings garnishable.	14
(c) Priority for multiple garnishments.	14
(d) Earnings of judgment debtors receiving means-tested public assistance.	14
(e) Pre-garnishment notice.	15
(f) Notice at time of wage garnishment.	16
<b>Section 108. Homestead Exemption</b>	16
(a) What qualifies as a homestead.	16
(b) Amount of homestead exemption.	17
(c) Notice to debtor.	17
(d) Election by debtor.	17
(e) Presumptions.	18
(f) Homestead exemption subordinate to consensual mortgage.	18
(g) Preservation of status quo.	18
<b>Section 109. Protection of Other Necessary Property</b>	18
<b>Section 110. Tracing Exempt Property</b>	19
(a) Proceeds of sale or transfer of exempt property.	19
(b) Compensation for loss or damage to exempt property.	19
(c) First-in, first-out rule to trace funds.	19
<b>Section 111. Waivers and Security Interests</b>	19
(a) Limitations on waiver.	19
(b) Security interests.	19
(c) Void provisions.	19
<b>Section 112. Joint Interest in Exempt Property</b>	20
(a) Notice to persons claiming ownership interest.	20
(b) Interest Subject to Execution.	20
(c) A judgment debtor's interest in a joint deposit account or other asset account is based on the judgment debtor's contributions to the account.	20
(d) Establishing who has an ownership interest.	20

<b>Section 113. Adjustment of Dollar Amounts</b>	20
(a) Adjusting exemptions using the Consumer Price Index.	20
(b) Timing of inflationary adjustments.	21
(c) Announcing changes.	21
(d) Publishing updated dollar amounts.	21
(e) Application of adjusted amounts.	21
(f) Alternate index.	21
<b>Section 114. Notice of Entry of Judgment</b>	21
<b>Section 115. Content of Notice of Wage Garnishment or Execution on Homestead or Personal Property</b>	22
<b>Section 116. Procedures and Notices For Garnishment of Deposit or Asset Account</b>	23
(a) Content of the Garnishment Order form.	24
(b) Content of Notice of Account Garnishment form.	25
(c) Delivery of notices to judgment debtor and judgment creditor.	25
<b>Section 117. Procedures and Notices For Execution on Tangible Personal Property in Debtor's Possession or Control</b>	25
(a) Scope.	26
(b) General notice about execution on personal property.	26
(c) Determining if personal property is exempt.	26
(d) Challenging an Exemption Determination.	27
(e) Recovery of costs.	27
<b>Section 118. Hearings</b>	27
(a) Presumption that judgment debtor's claim of exemption is valid.	27
(b) Right to a timely hearing.	28
(c) Judgment creditor's request for hearing.	28
(d) Video or telephonic participation in hearings.	28
(e) Notice of hearings.	28
(f) Conduct of hearings on exemptions.	29
(g) Judgment debtor's testimony regarding value.	29
<b>Section 119. Discovery in Aid of Execution, Debtor's Examinations, and Similar Post-Judgment Proceedings</b>	29
(a) Restriction on use of debtor's examinations and other post-judgment proceedings.	29
(b) Notice before debtor's examination or other post-judgment proceedings at which judgment debtor's attendance is required.	30
(c) Financial declaration and asserting exemptions.	31
(d) Repeat proceedings.	31
(e) Hearing required before issuance of civil arrest warrant.	31

(f) Satisfaction of a civil arrest warrant.	32
(g) Prohibition of imprisonment for failure to pay.	32
<b>Section 120. Creation of Required Notices and Forms; Translation Requirements; Manner of Providing Notices to Judgment Debtors</b>	33
(a) General requirements.	33
(b) Translation of notices for judgment debtors into other languages.	33
(c) Provision of notices.	34
(d) Proof of service of notices.	35
<b>Section 121. Protection From Adverse Employment Action Due to Wage Garnishment</b>	35
<b>Section 122. Remedies</b>	36
(a) Remedies.	36
(b) Bona fide error defense.	37
<b>SECTION 123. SEVERABILITY</b>	37

## INTRODUCTION

This model legislation provides sample language for state laws to prevent debt collectors from seizing a family's essential income and property to pay old debts. These laws are generally referred to as exemption laws, as they exempt certain income and assets from seizure after a creditor obtains a court judgment to collect a debt.

Background information about the history of debt collection in the United States, the parties typically involved, common collection practices, and the urgent need for debt collection reforms can be found in Chapter 1 of NCLC's [Fair Debt Collection Practices](#) manual. NCLC's annual [No Fresh Start report](#) discusses the importance of state exemption laws and compares protections afforded by different state laws. Additionally, NCLC publishes a compilation of resources in the issue brief [State Policy Resources: Consumer Debt Collection](#), including links to resources with debt collection data and resources to assist in comparing existing state policies.

This model law was formerly Title II of NCLC's Model Family Financial Protection Act, but has been updated and separated out as a free-standing law to make it more easily usable. Title I continues in place, and addresses ways to amend state debt collection statutes to protect consumers who have been sued in collection lawsuits prior to the entry of a judgment for a debt.

### ***A Note About Terminology***

States vary in the terms they use to refer to the procedures by which ***creditors*** seek to seize ***judgment debtor's earnings*** and property. Key terms used in this model law are:

***JUDGMENT DEBTOR:*** A person against whom a court has entered a ***money judgment*** (a ruling that the person owes a certain amount of money to someone else).

***JUDGMENT CREDITOR:*** A person to whom a ***money judgment*** is owed (such as a credit card lender, a finance company, a landlord, a hospital, or a company that purchases or is assigned old debts and tries to collect on them).

***EXECUTION:*** Any of the procedures that a ***judgment creditor*** can use to seize a ***judgment debtor's earnings*** or income.

***GARNISHMENT:*** The procedure that a ***judgment creditor*** can use to seize a ***judgment debtor's earnings*** or income that are in the hands of a third party (for example, to force the ***judgment debtor's*** employer to turn over part of the ***judgment debtor's*** next paycheck to the ***judgment creditor***, or to force a bank to turn over the judgment debtor's money on deposit).

## HOW TO USE THIS MODEL LAW

Advocates seeking to improve state debt collection and exemption laws are not writing on a blank canvas. Instead, they must consider the unique concerns arising in their state and how any reforms should be incorporated to improve existing laws. For that reason, this model law is not designed to be introduced wholesale as a single piece of legislation. Instead, the text here is designed to provide ideas and sample language that can be edited as necessary and incorporated in state law reform efforts.

For example, court procedures in general, and procedures for judgment execution in particular, vary significantly from state to state. This model law therefore focuses on substantive protections, clear requirements for notices and instructions to judgment debtors and other parties, and procedures to make exemptions self-executing to the extent possible. It does not otherwise specify procedures for judgment execution, but assumes that states already have such procedures in place and will adapt the model law to be consistent with those procedures.

## SECTION 101. PURPOSES OF THIS ACT

The purposes of this Act are:

- (a) To protect the income and assets of ***judgment debtors*** and their families at a level permitting them to provide for their everyday living expenses and to maintain employment, while recognizing the rights of ***creditors*** to be paid for debts lawfully owed to them from income and assets not needed for everyday living expenses;
- (b) To encourage and enable individuals and families to save assets and earnings for educational expenses, the purchase and maintenance of a home, medical needs, emergencies, and retirement security;
- (c) To provide ***judgment debtors*** an opportunity to achieve financial rehabilitation for the benefit of themselves, their families and their ***creditors***;
- (d) To protect children and other family members from impoverishment and homelessness, and to reduce the burden upon society of supporting impoverished ***judgment debtors*** and their families;
- (e) To update the laws of this state relating to ***judgment debtors***' exemptions and make those protections self-executing to the maximum extent feasible; and
- (f) To discourage predatory, unaffordable, and improvident lending practices dependent on taking or threatening to take property of ***judgment debtors*** that is necessary for daily living and work.

## SECTION 102. CONSTRUCTION

This Act shall be liberally construed to effectuate its remedial purposes.

## SECTION 103. DEFINITIONS

For purposes of this Act, the following definitions shall apply:

- (a) “**CREDITOR**” is a person to whom a debt is owed. The term includes but is not limited to a *judgment creditor* and any other person that obtains an **execution** on a judgment.
- (b) “**DEPOSIT ACCOUNT OR OTHER ASSET ACCOUNT**” means an asset account that holds or is capable of holding funds, including but not limited to:
  - (1) a demand deposit (checking), savings, or other deposit account;
  - (2) a prepaid account or other asset account whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers;
  - (3) a payroll card account directly or indirectly established through an employer or another entity that pays **earnings** and to which transfers of the employee or person's wages, salary, compensation (such as commissions), or other **earnings** are made, whether the account is operated or managed by the employer or other entity that pays **earnings**, a third-party payroll processor, a depository institution, or any other person;
  - (4) an electronic benefit transaction account or other account for distributing needs-tested benefits; or
  - (5) any account as defined by the Electronic Fund Transfer Act, 15 U.S.C. § 1693 et seq., and regulations thereunder.
- (c) “**DEPENDENT**” means a natural person who relies in whole or in significant part on the *judgment debtor* for support and maintenance.
- (d) “**EARNINGS**” means compensation **paid or payable** for personal services, whether denominated as wages, salary, commission, bonus, payment for skilled, personal or professional services, or otherwise, and whether earned as an employee or as an independent contractor. The term includes income from retirement accounts, pensions, individual retirement accounts, profit-sharing, tax refunds, and annuities.
- (e) “**EXECUTING OFFICER**” means the official or other person who issues or implements an **execution**.
- (f) “**EXECUTION**” includes an attachment, levy, **garnishment**, or other disablement, freeze, or seizure of property, whether pre- or post-judgment, to satisfy a debt.

**Commentary to section 103(f):**

*The model law does not apply to seizure or forced sale of property to enforce a statutory or consensual lien, such as a mechanics lien or a security interest that a car dealer or bank took in connection with financing for a car. Drafters should evaluate whether they should make amendments to the proposed text to apply to any of the consensual or statutory liens that the state law allows.*

*The model law also does not address whether a bank can, without a judgment or a court order, deduct a debt owed to it from a deposit account the borrower holds at the same bank. Banks' and credit unions' loan documents and deposit agreements typically allow this practice, often termed the banker's right of setoff. Advocates may want to amend the model law to apply [section 106](#)'s \$3,000 exemption of funds in a bank account to the banker's right of setoff.*

- (g) “**EXEMPT**” means not subject to **execution**, self-help, or any other form of process, court order, or other legal or equitable claim.
- (h) “**GARNISHMENT**” means any legal or equitable procedure through which the **earnings**, property, or funds of any person are required to be withheld by another person for payment of any debt to a **creditor**.
- (i) “**GARNISHABLE EARNINGS**” means that part of the **earnings** of any individual remaining after the deduction from those **earnings** of any amounts required by law to be withheld, such as taxes, contributions to social security, Medicare, or alternative pension programs, and any amounts, up to fifteen percent of gross pay, that the employer is deducting or withholding for contributions to one or more health insurance plans, a medical expense account, a pension, or a retirement account.
- (j) **HOME.**
  - (1) “**HOME**” means any real or personal property that is or will be used as a residence. The term includes but is not limited to:
    - (A) a unit in a residential cooperative;
    - (B) a manufactured or mobile home, as defined by [insert reference to existing state definitions];
    - (C) a houseboat, recreational vehicle, or other personal property if actually used as a residence;
    - (D) a home under construction;

(E) any auxiliary structures, including an attached or detached residential accessory dwelling unit [insert reference to existing state definition] that is located on the same lot; and

(F) a structure, and the land on which it sits, that consists of up to four units, if the ***judgment debtor*** or a family member resides in one of the units.

**Commentary to section 103(j)(1)(F):**

*An example of the application of this subsection is that a ***judgment debtor*** who owned a duplex and lived in one of the two units would be able to apply the homestead exemption to the entire structure and the land on which it sits.*

(2) A **home** may consist of more than one parcel or separately deeded unit if all of the parcels or units are used for homestead purposes.

- (k) “**JUDGMENT CREDITOR**” is a person to whom a ***money judgment*** is owed. The term includes a person who has purchased or otherwise acquired rights under a judgment that was originally entered in favor of a different person.
- (l) “**JUDGMENT DEBTOR**” is a person against whom a ***money judgment*** has been entered.
- (m) “**MONEY JUDGMENT**” means a judgment for an amount of money, a court order for the payment of money, or a ruling by a court that a person owes money.

**Commentary to section 103(m):**

***Money judgment*** does not include an injunction, temporary restraining order, or similar order (other than one requiring payment of money); an order regarding custody of a person; a declaratory judgment; or rulings about probate issues.

- (n) “**MORTGAGE**” includes an instrument granting a security interest in a manufactured home, a cooperative housing unit, or other personal property used as a dwelling.
- (o) “**OWNERSHIP INTEREST**” includes fee simple ownership, a life estate, a remainder interest, ownership of a share in a residential cooperative, a beneficial interest in a trust, an expectancy in a decedent’s estate, an interest created by a contract, and any form of joint ownership.
- (p) “**PAID OR PAYABLE**” refers to property that a person has received or has a right to receive.

(q) “**VALUE**” means current fair market **value** of accounts, goods, or property less the amount of any liens or security interests in the accounts, goods, or property, based on the price that would be paid, assuming a willing buyer and a willing seller, for comparable accounts, goods, or property of similar age and condition.

## SECTION 104. SCOPE

**(a) Definition of “property obtained by fraud or theft.”**

(1) For purposes of this subsection, “property obtained by theft or fraud” means:

- (i) property that the **judgment debtor** obtained by theft or fraud,
- (ii) the proceeds of such property, or
- (iii) property obtained with the proceeds of such property.

(2) **No exemptions for property obtained by fraud or theft.** Any claim of exemption in property obtained by theft or fraud is not effective against a party who had an **ownership interest** in that property at the time of the fraud or theft, or that party’s heirs, devisees, or assigns, unless the person asserting the exemption acquired that property without knowledge or reason to know of the fraud or theft.

**(b) Support orders and property division.** Except for the exemption of child support in section 106(a)(6) and the priority rules in section 107(c), this Act does not apply to:

- (i) orders for support of a person; or
- (ii) the division of property between former spouses or domestic partners.

**(c) Enforcement of a security interest.** This Act does not apply to self-help repossession or other enforcement of a security interest created by an agreement or enforcement of a lien other than a judgment lien.

## SECTION 105. INTERSTATE APPLICABILITY

**(a) Execution on out-of-state assets.** Notwithstanding [the state’s version of the Uniform Enforcement of Foreign Judgments Act], a court in this state may not issue an authenticated copy of a **money judgment** rendered by a court in this state for purposes of domesticating the judgment in another state unless the **judgment creditor** obtains an order from the court in this state that rendered the judgment. To obtain an order, the **judgment creditor** must prove that the **judgment debtor** has an **ownership interest** in an asset in the other state that is not **exempt** under the law of this state. A judgment domesticated in another state that has not been authenticated as provided herein is void. Such an order shall not be required to the extent that the **judgment creditor** seeks to execute upon real estate in the other state.

**Commentary to section 105(a):**

*This section is designed to prevent **judgment creditors** from evading state exemption protections by trying to execute in other states. It does this by requiring the **judgment creditor** to first demonstrate that the asset in another state is not **exempt** under the laws of the state that granted the judgment.*

*For example, if a Delaware court issued a judgment, the **judgment creditor** must first get an order from a Delaware court that the asset in the other state is not **exempt** under Delaware law. This would, for example, prohibit the **judgment creditor** from domesticating a judgment in New York and then garnishing a bank account in New York when the **garnishment** of such a bank account would be prohibited in Delaware.*

(b) **Out-of-state branch of a depository institution.** Where a depository institution or other entity is holding funds belonging to a **judgment debtor** and is maintaining the account in this state, a **judgment creditor** that has obtained a judgment in this state may not evade the protections provided by this section or [section 2-105](#) by serving a **garnishment** order on an out-of-state office or branch of the depository institution or other entity.

**Commentary to section 105(b):**

*This section is designed to prevent a **judgment creditor** from using one state's **garnishment** procedures to seize funds in an account maintained in a different state. For example, if a court in Delaware entered a judgment, and the debtor maintained a bank account in Delaware, the **judgment creditor** could not evade Delaware's prohibition of bank account **garnishment** by serving a **garnishment** order on an Oklahoma branch of the bank.*

(c) **Wage garnishment.** Notwithstanding [subsection \(a\)](#) of this section, the protections of **earnings** set forth in the law of the state where the **judgment debtor**'s principal physical place of work is located shall apply to any **garnishment** of **earnings**. If the **judgment debtor** does not have a physical place of work that they use more than 50 percent of the time, the law of the **judgment debtor**'s state of residence shall apply to any **garnishment** of **earnings**.

## SECTION 106. PERSONAL PROPERTY EXEMPT

### **Commentary to section 106:**

*To avoid the need to periodically amend the statute to increase the **value** of exemptions, [section 113](#) provides that the dollar amounts in this and other sections of this Act are to be adjusted periodically for inflation. Since the dollar amounts in this Act are 2025 amounts, before enacting this model law jurisdictions should adjust them upward to reflect inflation that has already occurred.*

*This section provides exemptions for both tangible and intangible personal property. [Section 117](#) provides procedures for **execution** on tangible personal property. Among other things, it gives a **judgment debtor** an opportunity to designate which items to **exempt** when there is a cap on the dollar amount of the exemption.*

(a) **List of exempt personal property.** The **judgment debtor**'s interest in the following property shall be exempt:

### **Commentary to section 106(a):**

*Subsection (a) provides a list of different types of **exempt** property. These exemptions are written broadly. Where it is reasonable to **exempt** all property of a certain type without a monetary cap, subsection (a) does so. By eliminating any need to determine the **value** of specific items, or for the debtor to designate specific items to which the exemption will apply, this approach makes the exemptions simpler and more likely to be self-enforcing, and eases the burden on the parties and the courts.*

*This section does not condition exemptions on a determination of whether property is "necessary," the evaluation of which can be overly subjective and even punitive. Instead, it exempts the ordinary run of household goods and personal property, with an exception for high-value items with court permission. If a state decides to limit any exemptions to "necessary" items, it should express the standard broadly and flexibly, such as "ordinarily used for everyday living, including any special needs by reason of health, age, or other factors."*

(1) **Household & Personal Possessions.** All household goods and personal possessions, except that a **judgment creditor** may obtain court permission to execute on any item of furniture, appliance, electronic device, yard equipment, recreational item, or precious item **exempt** under this subsection that has a **value** of more than \$4,000, unless that item is **exempt** under another subsection or is needed for heating, cooling, powering, or maintaining a **home**.

**Commentary to section 106(a)(1):**

*This subsection uses broad language and is intended to be interpreted broadly. If drafters prefer a more specific list, an example of appropriate language to add is: "including but not limited to the **judgment debtor's** and the **judgment debtor's dependents'** eating and cooking utensils, food, bedding, furniture, books, household and yard appliances, equipment, tools, entertainment devices, clothing, pets, personal health aids, toys, recreational items, medications, computers or similar electronic devices, and telephones."*

- (2) **Jewelry.** One piece of jewelry without regard to **value**, and additional jewelry up to a **value** of \$4,000.
- (3) **Motor Vehicle.** The **judgment debtor's** interest in one or more motor vehicles up to \$20,000 in aggregate **value**, except that a motor vehicle that has been adapted for special use because of the disability of the **judgment debtor** or a **dependent** of the **judgment debtor** is fully **exempt** regardless of **value**.

**Commentary to section 106(a)(3):**

*This protection only applies to **execution** upon a judgment, not to repossession due to a security interest in or lien on a vehicle. See [section 103\(f\)](#), *supra*.*

- (4) **Tools of the Trade.** The **judgment debtor's** interest in tools, books, software, websites, social media accounts, electronically stored data, instruments, motor vehicles, machines, or other assets which are or may be used by the **judgment debtor** in the course of an occupation or in search for employment, except that **execution** may be ordered if the **judgment creditor** establishes with probative evidence that the aggregate **value** of the **judgment debtor's** tools of the trade exceed \$75,000 in the case of farm tools, equipment, crops, and animals, or \$40,000 in the case of other tools of the trade.
- (5) **Burial Plot.** A burial plot for the **judgment debtor** or the **judgment debtor's** family.
- (6) **Child support.** Child support payments **paid or payable** to or on behalf of the **judgment debtor** or a **dependent** of the **judgment debtor**.
- (7) **Public benefits.** All public assistance benefits, unemployment compensation benefits, the federal earned income tax credit, the federal child tax credit, payments made under [insert name of any state equivalent of the earned income tax credit or child tax credit], disability benefits, and workers' compensation, **paid or payable** to or on behalf of the **judgment debtor** or a **dependent** of the **judgment debtor**.
- (8) **Health, disability, and long-term care insurance.** The **judgment debtor's** interest in all health insurance, disability insurance, long-term care insurance policies, health

savings accounts, flexible spending accounts, medical expense accounts, and payments or benefits therefrom.

**(9) Compensation funds.** Insurance proceeds, a judgment, a settlement, or other rights, whether **paid or payable** to the **judgment debtor** or a **dependent** of the **judgment debtor**, accruing as a result of:

- (i) bodily injury or loss of future **earnings** of the **judgment debtor**, or
- (ii) wrongful death, bodily injury, or loss of future **earnings** of another individual of whom the **judgment debtor** was a **dependent**, spouse, or domestic partner.

**(10) Crime victim compensation award.** An award under a crime victim's compensation or reparation law, **paid or payable** to the **judgment debtor** or the **judgment debtor's** spouse, domestic partner or **dependent**.

**(11) Life Insurance.** Life insurance benefits **paid or payable** to each beneficiary or **dependent** of the **judgment debtor** to the extent of \$1,500,000. Additionally, the **judgment debtor's** aggregate interest, not to exceed \$15,000, in the loan or redemption **value** of one or more life insurance policies shall be exempt. The **judgment debtor** shall not be required to surrender a life insurance policy.

**Commentary to section 106(a)(11):**

*Some states currently protect life insurance proceeds without regard to the amount involved. As of 2025, Illinois is an example. See 735 Ill. Comp. Stat. § 5/11001(f). This model law proposes a very high cap instead, in order to create greater parity with the rules governing personal property, wages, and bank accounts. However, states with a more generous protection may wish to keep that protection.*

**(12) Annuities and pensions.** A total of up to \$2,000,000, plus an additional \$1,500,000 for each of the **judgment debtor's dependents**, in annuities, pensions, and retirement accounts, or similar plans or contracts providing benefits by reason of age, illness, disability, or length of service, including any interest that arises by inheritance, designation, appointment, or otherwise.

**Commentary to section 106(a)(12):**

*Some states currently protect all or certain types of pensions and retirement funds without regard to the amount involved. Louisiana is an example as of 2025. See La. Rev. Stat. § 13:3881(D). This model law proposes a very high cap instead, in order to create greater parity with the rules governing personal property, wages, and bank accounts. However, states with a more generous protection may wish to keep that protection.*

**(13) Education savings accounts.** The *judgment debtor*'s aggregate interest in educational savings accounts such as 529 plans and similar types of educational savings accounts, not to exceed \$360,000 per beneficiary whether *paid or payable*.

**(14) Savings accounts for individuals with disabilities.** The *judgment debtor*'s aggregate interest in Achieving a Better Life Experience (ABLE) accounts and similar types of savings accounts for individuals with disabilities, not to exceed \$2,000,000 per beneficiary, whether *paid or payable*.

**(15) Deposited exempt funds.** The *judgment debtor*'s interest in **exempt** benefits and funds, including the *exempt* portion of *earnings*, that are deposited into a *deposit account or other asset account*, without a dollar limitation.

**(16) Education loans.** The *judgment debtor*'s interest in proceeds from any loans issued for education expenses, whether *paid or payable*, except to the extent allowed by 20 U.S.C. § 1095a(d).

**(17) Small business loans.** The *judgment debtor*'s interest in proceeds from one or more small business loans, whether *paid or payable*, unless the loan was intended to pay that debt.

**(18) Money on deposit or cash.** In addition to the funds *exempt* under other provisions of this Act or other law, \$3,000 in cash or an equivalent *value* in a *deposit account or other asset account* of the *judgment debtor*, without the need for the *judgment debtor* to assert a claim. This exemption shall apply per account of the *judgment debtor*.

**Commentary to section 106(a)(18):**

*The \$3,000 exemption created by this section is a very modest amount. A 2022 study by the Center for Responsible Lending [determined that protecting \\$12,000 in a bank account represents an average of approximately two to three months' worth of basic expenses.](#) In light of this study, \$3,000 is likely enough for a few weeks of a family's food, rent, utility, transportation, and child care expenses. To the extent it is not needed to protect other property, a *judgment debtor* can draw on the wildcard exemption ([section 106\(a\)\(19\)](#)) to exempt amounts over \$3,000 in a bank account.*

*This exemption applies separately to each account in a garnishee depository. This rule provides the greatest protection for the *judgment debtor*, and also provides the greatest clarity and ease of administration for the bank.*

*This subsection specifies that the \$3,000 exemption is self-executing: it is **exempt** without the need for the debtor to assert a claim. Making this exemption self-executing will ensure that it benefits the individuals and families it is intended to reach and will reduce burdens on courts and banks. Jurisdictions that enact this exemption should also enact [section](#)*

[116](#), which provides notices and procedures to implement the self-executing nature of this exemption.

**(19) Wildcard.** Up to \$15,000 in property of any sort designated by the ***judgment debtor***, including additional interests in property already exempted in part under other provisions of this Act or other law.

(b) **Property exempt under other laws.** Property **exempt** under federal law and other laws of this state shall also be treated as **exempt** under this Act.

(c) **Notice to *judgment debtor* of execution on personal property.**

(1) A ***judgment debtor*** shall be given a notice conforming to [section 115](#) at the time of any ***execution*** on personal property, other than ***garnishment of a deposit account or other asset account***.

(2) If the ***execution*** is on tangible personal property in the possession or control of the ***judgment debtor***, the notice required by [subsection 106\(c\)\(1\)](#) may be combined with the notice required by [section 117](#) and shall be given at the time of service of the ***execution*** or immediately thereafter.

(3) ***Garnishment of a deposit account or other asset account*** shall be conducted in accord with the notice requirements and procedures set forth in [section 116](#).

(d) **Preservation of status quo.** Unless the court orders otherwise after good cause shown, personal property upon which a ***judgment creditor*** is executing shall not be removed, turned over to the ***judgment creditor***, or sold until the time for requesting a hearing has passed, any hearing takes place, and the court issues its decision.

#### **Commentary to section 106(d):**

*This model law does not generally specify deadlines for requesting hearings or otherwise asserting rights, leaving these determinations to the states in light of existing practice and resources.*

## SECTION 107. EARNINGS EXEMPT

### **Commentary to section 107:**

*This section provides protection for wages up through the time of payment by the employer. [Section 106\(a\)\(15\)](#) provides protections for wages that have been deposited or placed on a payroll or other prepaid card.*

*To avoid the need to periodically amend the statute to increase the **value** of exemptions, [section 113](#) provides that the dollar amounts in this and other sections of this Act are to be adjusted periodically for inflation. Since the dollar amounts in this Act are 2025 amounts, before enacting this model law jurisdictions should adjust them upward to reflect inflation that has already occurred.*

(a) **Amount of earnings that is fully exempt.** A *judgment debtor's garnishable earnings* for any week that are less than \$1,000 are **exempt** and not subject to **garnishment**, unless federal law protects a greater amount, in which case that amount is protected. The \$1,000 figure shall be adjusted pro rata for any pay period longer than weekly.

### **Commentary to section 107(a):**

*The \$1,000 figure is based on a 2022 analysis by the Center for Responsible Lending, which determined that [protecting \\$1,000 per week in wages](#) from seizure reflects the “amount a small family needs to meet their basic needs.”*

*To avoid the need to periodically amend the statute to increase the amount of wages that is exempt, drafters should include provisions to index the **exempt** amounts for inflation. See [section 113, infra](#).*

*Alternatively, drafters may consider stating the amount of **exempt** wages as a multiple of the minimum wage, setting the multiple at an amount that will protect approximately \$1,000. If this approach is taken, drafters should specify that the multiple applies to the higher of the federal, state, or local minimum wage applicable to the consumer. Because federal law and most state laws use this multiplier formula, decision-makers may be more comfortable with adjusting the formula rather than instituting a new formula that protects a flat amount. A disadvantage of this approach is there is not an easy way to index the amount to inflation, so the protected amount can become outdated unless advocates are able to raise the minimum wage or increase the multiplier.*

*Most state wage seizure laws are self-executing, because the employer is instructed to calculate the amount that is protected and turn over only any wages that exceed that amount. Drafters should take care to frame any additional protections from wage seizure so that they will be self-executing in this way. Provisions that apply only if the **judgment***

**debtor** files papers or requests and attends a court hearing will not achieve their purpose of protecting **judgment debtors** and their families because most **judgment debtors** are unrepresented and unaware of exemptions or the court procedures needed to claim such exemptions. For this reason, drafters should avoid making a protection against wage seizure, or the size of the protection, dependent on facts such as whether the debtor is the head of a household. At the very least, an exemption based on facts should provide that there is a presumption that the **judgment debtor** meets the standard, with the burden of proving otherwise falling on the **creditor**.

- (b) **Percent of non-exempt earnings garnishable.** If the **judgment debtor's garnishable earnings** exceed the amount provided by [subsection \(a\)](#), no more than 10% of **garnishable earnings** in excess of the amount **exempt** under that subsection shall be subject to **garnishment**. The amount not subject to **garnishment** is exempt.
- (c) **Priority for multiple garnishments.** If more than one **garnishment** is served on a garnishee with respect to the same **judgment debtor**, the **garnishment** served earliest shall take priority, except that a **garnishment** for support of a person shall take priority over any other **garnishment** regardless of the date of service. If a **garnishment** with greater priority consumes the **earnings** that are available for **garnishment** under the preceding subsections, then no part of the **judgment debtor's garnishable earnings** shall be garnished pursuant to the **garnishment** with lower priority.
- (d) **Earnings of judgment debtors receiving means-tested public assistance.**
  - (1) **Source of Income form.** The [state supreme court or court rules committee] shall create a Source of Income form that a **judgment debtor** may fill out and file, to indicate that they are currently receiving, or received during the past twelve months, one or more types of means-tested public assistance. The form shall instruct the **judgment debtor** to file the filled-out form in person or by mailing it to the court and to provide a copy to the **judgment creditor** by first class mail.

#### **Commentary to section 107(d)(1):**

As discussed in the commentary to [section 120\(c\)](#), this model law does not generally specify how documents are to be transmitted to the parties and other persons, instead leaving those questions to existing rules in the states.

This provision is an exception. In order to avoid unnecessary burdens on **judgment debtors**, many of whom are self-represented, it specifies that the **judgment debtor** may give the completed Source of Income form to the court and **judgment creditor** by first class mail.

States may want to adapt these provisions of the model law to conform to the practice in the state, including relevant state provisions related to when and how to use electronic notices.

- (2) **Limitations on Garnishment.** If a **judgment debtor** files a Source of Income form that indicates that they are currently receiving one or more types of means-tested public assistance, no **garnishment** order shall issue, and any existing **garnishment** must be suspended, unless the **judgment creditor** challenges the accuracy of the Source of Income form as provided in subsection (3) and the court rules in the **judgment creditor's** favor.
- (3) **Accuracy of Source of Income Form.** The court shall accept the **judgment debtor's** Source of Income form as accurate and correct unless the **judgment creditor** requests a hearing to challenge it and the court determines that the **judgment debtor** is no longer receiving one or more types of means-tested public assistance and has not received such assistance for a period of at least one year.
- (4) **Basis for Hearing.** The **judgment creditor's** motion for a hearing must state the basis for the **judgment creditor's** belief that the **judgment debtor** has not received any means-tested public assistance for a period of at least one year. The court may sanction the **judgment creditor** or its legal counsel if it finds that the motion for a hearing was frivolous or submitted in bad faith.

(e) **Pre-garnishment notice.** A **judgment creditor** shall serve upon the **judgment debtor** a notice promulgated by the [state supreme court or court rules committee] pursuant to section 120 at least 30 days before seeking an order of **garnishment of earnings**. The notice shall state, in plain language:

- (1) The amount of the original judgment and the amount owed as of the date of the notice;
- (2) The **judgment creditor's** intent to seek to garnish the **judgment debtor's earnings**;
- (3) The name and case number of the case in which the judgment was rendered, the name of the **judgment creditor**, and, if different from the name of the **judgment creditor**, the name of the original **creditor**;
- (4) The amount of **earnings** that is **exempt** from **garnishment** under subsections (a) and (b);
- (5) That the **earnings** of a **judgment debtor** who is receiving means-tested public assistance cannot be garnished, the procedure for the **judgment debtor** to assert this protection, and a Source of Income form to use to assert it;

- (6) The name, address, and contact information – including a telephone number and email address - for the **judgment creditor**'s attorney or a self-represented **judgment creditor**, and
- (7) Information about sources of legal help.

**Commentary to section 107(e):**

*For most of its provisions, this model law avoids specifying the timing of notices or other steps. Instead, it leaves those timing questions open so that they can be tailored to states' existing procedures. This section is an exception: it specifies 30 days in order to give the **judgment debtor** an opportunity to resolve the matter before a wage garnishment occurs.*

- (f) **Notice at time of wage garnishment.** An order to garnish a **judgment debtor**'s wages shall include a notice to the **judgment debtor** that conforms to [section 115](#), and shall instruct the garnishee to provide the notice to the **judgment debtor** simultaneously with or promptly after the **garnishment** is implemented.

**Commentary to section 107(e):**

*This subsection requires the employer to give the **judgment debtor** a notice at the time of **garnishment**. This notice is important as a way of ensuring that the **judgment debtor** gets this information, as the **judgment creditor** may know the **judgment debtor**'s place of employment but not the **judgment debtor**'s **home** address.*

## SECTION 108. HOMESTEAD EXEMPTION

**Commentary to section 108:**

*To avoid the need to periodically amend the statute to increase the value of exemptions, [section 113](#) provides that the dollar amounts in this and other sections of this Act are to be adjusted periodically for inflation. Since the dollar amounts in this Act are 2025 amounts, before enacting this model law jurisdictions should adjust them upward to reflect inflation that has already occurred.*

- (a) **What qualifies as a homestead.** A **judgment debtor** is entitled to a homestead exemption in a **home** in which the **judgment debtor** has an **ownership interest**, if the **home** is or will be used as a place for the **judgment debtor** or a member of the **judgment debtor**'s family to reside.

(b) **Amount of homestead exemption.** The amount of the homestead exemption is the ***judgment debtor***'s interest in the ***home*** up to the ***value*** of \$ [enter the median house price] in [metropolitan county names] and \$ [enter the median house price] in [all other counties]. The ***judgment debtor*** may assert an additional homestead exemption for 50% of that amount for the ***judgment debtor***'s spouse and for each ***dependent*** of the ***judgment debtor*** who resides in the home, whether or not such spouse or ***dependent*** has an ***ownership interest*** in the home.

***Commentary to section 108(b):***

*This subsection bases the amount of the homestead exemption on median home values in the state. Median ***home values*** are published every year in table B25077 of the U.S. Census Bureau's American Community Survey. This resource can be filtered by state.*

*Several states, including California, New York, and Washington, have chosen to set different homestead exemption amounts by county or region to distinguish rural and urban parts of the state, and this provision adopts that approach. This approach is particularly appropriate if the median price of a home varies significantly from region to region within the state. In the alternative, a state can choose to designate a single amount that will be applicable throughout the state, using a statewide median house price.*

*There is no federal resource breaking down median home price by county in individual states but some states have their own data. The National Association of Realtors also has an interactive County Median Home Prices and Monthly Mortgage Payment map with county level median home price data, found at <https://www.nar.realtor/research-and-statistics/housing-statistics/county-median-home-prices-and-monthly-mortgage-payment>.*

(c) **Notice to debtor.** At the time an ***execution*** on a homestead is issued, the ***judgment debtor*** shall be given notice of the ***execution*** conforming to [section 115](#).

(d) **Election by debtor.** Upon receiving a notice of ***execution*** on a home, a ***judgment debtor*** may file an election to allocate the exemption to a different ***home*** that qualifies for the exemption in [subsection \(a\)](#). The debtor may also, upon receiving notice of ***execution*** upon a home, file an election with the relevant court to apply any other or additional available exemptions to the home.

***Commentary to section 108(d):***

*The second sentence of this subsection provides a procedure for a ***judgment debtor*** to supplement the homestead exemption with another exemption, such as the wildcard exemption provided by [section 106\(a\)\(19\)](#).*

**(e) Presumptions.**

- (1)** If the **judgment debtor** has an **ownership interest** in a home, there shall be a presumption that the **judgment debtor** or a family member resides in that **home** and that the homestead exemption applies to it. The **judgment creditor** may seek a hearing to rebut this presumption, with the **judgment creditor** bearing the burden of proving by clear and convincing evidence that neither the **judgment debtor** nor a family member of the **judgment debtor** resides in that home.
- (2)** There shall be a presumption that the amount that would be realized through a foreclosure sale of the **home** to which the homestead exemption applies is less than the homestead exemption. The **judgment creditor** may seek a hearing to rebut this presumption, with the **judgment creditor** bearing the burden of proving by clear and convincing evidence, which must include an appraisal by a qualified appraiser, that the amount realized through **execution** on the property is likely to exceed the homestead exemption. If the **judgment creditor** fails to rebut the presumption, the court shall not allow a foreclosure sale.

**Commentary to section 108(e):**

*This subsection makes it clear that a **judgment debtor** need not record a homestead exemption in advance of an **execution**. It also requires the judicial system to apply the homestead exemption automatically to a **home** in which the **judgment debtor** has an **ownership interest** and resides. Subsection (d) allows a **judgment debtor** to elect to apply the homestead exemption to a different **home** that qualifies for the exemption.*

- (f) Homestead exemption subordinate to consensual **mortgage**.** The homestead exemption shall be subordinate to any **mortgage** encumbering the home. No statement that a homestead shall be subordinate to the **mortgage** shall be required in the **mortgage** instrument.
- (g) Preservation of status quo.** Unless the court orders otherwise after good cause shown, a **judgment debtor**'s possession of and access to a **home** upon which a **judgment creditor** is executing shall not be impaired, and the **home** shall not be sold or altered until the time for requesting a hearing has passed, any hearing has taken place, and the court issues its decision.

## **SECTION 109. PROTECTION OF OTHER NECESSARY PROPERTY**

If a **judgment creditor** obtains an **execution** against income or property of a **judgment debtor**, the **judgment debtor** is entitled to a prompt hearing to claim that the income or property levied upon, while not exempt, is of such value to the financial rehabilitation or future support of the **judgment debtor** or the **judgment debtor's dependents** that it should be declared **exempt** by the court. The court shall have authority to grant an exemption for such property, and may also

order a greater exemption if other exceptional circumstances such as illness, injury, disability, unemployment, death of a family member, or old age make a greater exemption equitable.

**Commentary to section 109:**

*This section applies to any type of income or property that meets the necessity standard it sets forth.*

## SECTION 110. TRACING EXEMPT PROPERTY

- (a) **Proceeds of sale or transfer of exempt property.** Money received or payable from the sale or transfer of property that is **exempt** under this Act or other law, including any surplus proceeds from an involuntary sale or transfer and any compensation for condemnation or other taking of the property, shall remain **exempt** for a period of 18 months after the proceeds are received.
- (b) **Compensation for loss or damage to exempt property.** Money received or payable due to loss, damage, or destruction of property, or a part thereof, that could have been claimed as **exempt** is **exempt** for 18 months after the proceeds are received.
- (c) **First-in, first-out rule to trace funds.** Funds obtained pursuant to (a) or (b) are traceable under this section by application of the first-in, first-out rule.

## SECTION 111. WAIVERS AND SECURITY INTERESTS

- (a) **Limitations on waiver.** The exemptions and protections provided by this Act may not be waived.

**Commentary to section 111(a):**

*A security interest is not considered a waiver for purposes of this subsection. See [subsection 111\(b\)](#) for restrictions on security interests in **exempt** property.*

- (b) **Security interests.** A security interest may not be taken in property listed in [section 106\(a\)\(1\)](#), notwithstanding its **value**, except:
  - (1) to secure a debt for the purchase price, repair or improvement of the property, or
  - (2) as a bona fide pawn transaction in which the pawnbroker takes physical possession of the pawned item.
- (c) **Void provisions.** Any purported waiver or grant of a security interest in violation of this section is void and unenforceable.

## SECTION 112. JOINT INTEREST IN EXEMPT PROPERTY

### *Commentary to section 112:*

*This section sets forth general rules about joint interests in **exempt** property. Drafters in community property states should review the language and revise or supplement it as needed.*

- (a) **Notice to persons claiming ownership interest.** If a **judgment creditor** knows or should know that another person claims an interest in property in addition to or instead of the **judgment debtor**, the **judgment creditor** must provide to such person a copy of any notice required to be given to the **judgment debtor**.
- (b) **Interest Subject to Execution.** Only the **judgment debtor**'s interest in property is subject to **execution**. A **judgment creditor** that knows or should know that another person claims an interest in property shall not execute on that person's interest.
- (c) A **judgment debtor**'s interest in a joint **deposit account or other asset account** is based on the **judgment debtor**'s contributions to the account, as determined by the tracing rules in [section 110](#).
- (d) **Establishing who has an ownership interest.** A **judgment creditor** or any person claiming an **ownership interest** may request a hearing to seek a court determination about who owns property subject to **execution**.

## SECTION 113. ADJUSTMENT OF DOLLAR AMOUNTS

- (a) **Adjusting exemptions using the Consumer Price Index.** The dollar amounts in this Act change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for All Urban Consumers, compiled by the Bureau of Labor Statistics, United States Department of Labor.

### *Commentary to section 113(a):*

*Future-proofing exemption statutes through periodic updates of the protected amount based on inflation is key to protecting working families. Federal bankruptcy laws include adjustment provisions, as do the exemption laws of a number of states. This provision is adapted from the federal Bankruptcy Code, 11 U.S.C. § 104.*

*The dollar amounts stated in this Act are the 2025 amounts. Jurisdictions adopting this Act after 2025 should increase the amounts pursuant to this section to reflect inflation.*

(b) **Timing of inflationary adjustments.** On April 1, \_\_\_\_ [insert a year that is a multiple of 3 years later than 1998], and at each 3-year interval ending on April 1 thereafter, each dollar amount in this Act in effect immediately before such April 1 shall be adjusted—

- (1) to reflect the changes in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, for the most recent 3-year period ending on December 31 of the immediately preceding year, and
- (2) to round to the nearest \$10 the dollar amount that represents such change.

**Commentary to section 113(b):**

*This provision is designed so that adjustments for inflation synchronize with adjustments to exemption amounts under the federal Bankruptcy Code. In many states debtors who file bankruptcy are allowed to choose between the state exemptions and federal bankruptcy exemptions. Synchronizing the dates of adjustments will make it easier to update forms, software, and guides.*

(c) **Announcing changes.** The [appropriate state official] shall announce the changes in dollar amounts required by [subsection \(a\)](#) on or before March 1 of each year in which dollar amounts are to change.

(d) **Publishing updated dollar amounts.** All forms for use in **execution** proceedings promulgated pursuant to [section 120](#) and all printed and on-line versions of this statute published or distributed by any agency or department of the state shall be updated to include the new amounts no later than their effective date.

(e) **Application of adjusted amounts.** When an amount has been adjusted, the adjusted amount shall apply to every **execution** issued on or after the date the adjustment became effective.

(f) **Alternate index.** If the United States Department of Labor ceases publication of the Consumer Price Index for All Urban Consumers, the [insert name of state agency or judicial body] shall designate the most closely comparable index as a substitute, along with any adjustments that need to be made to it so that it continues to provide a measure of inflation that is consistent with the Consumer Price Index for All Urban Consumers.

## SECTION 114. NOTICE OF ENTRY OF JUDGMENT

**Commentary to section 114:**

*This section requires a general notice to **judgment debtors** about exemptions and **execution** procedures. It is to be given at the time a **money judgment** is entered. Other*

sections require notices to **judgment debtors** at the time specific types of judgment execution are initiated.

Upon entry of a **money judgment**, the clerk shall provide the **judgment debtor** with a notice of entry of judgment on a form created by the [state supreme court or court rules committee] that contains the following information:

- (a) the amount of the judgment,
- (b) the rate of any post-judgment interest accruing,
- (c) a statement that state laws protect certain income, assets, and property from collection and that the **judgment debtor** does not have to use these **exempt** income, assets or property to pay the debt,
- (d) a summary of the methods of judgment **execution**,
- (e) a list of the most common exemptions,
- (f) a description of **judgment debtors**' rights and the steps a **judgment debtor** must take to assert them, and
- (g) references to other sources of relevant information and sources of legal help.

#### **Commentary to section 114(g):**

*This model law proposes steps to simplify and streamline state **execution** and exemption procedures in a number of ways—for example, by making certain exemptions self-executing. Nonetheless, **execution** procedures and the process for a **judgment debtor** to assert exemptions will remain complex in many states. In addition to enacting the model law provisions, states can help **judgment debtors** and **judgment creditors**—and ease the burden on the judicial system—by creating Law Help websites with plain language information for a general audience about judgment execution and exemptions, and referring to them in notices to **judgment debtors**.*

## **SECTION 115. CONTENT OF NOTICE OF WAGE GARNISHMENT OR EXECUTION ON HOMESTEAD OR PERSONAL PROPERTY**

The notice required by subsections 106(c) (**execution** on personal property), 107(f) (wage **garnishment**), and 108(c) (homestead) shall:

- (a) Describe the nature of the **execution**;

- (b) Identify the exemptions or other rights that may be available to protect the income or property at which the **execution** is directed;
- (c) Describe the right to seek relief from seizure of necessary non-exempt property;
- (d) Describe the procedure to assert the exemption or right and any deadline for doing so, including a form or a reference to any form that is available to do so;
- (e) List other sources of information about the **execution** procedure in question and **judgment debtors'** rights; and
- (f) List sources of legal help for **judgment debtors**.

**Commentary to section 115:**

*This section specifies the content of the notice that a **judgment debtor** must be given when a wage **garnishment** or an **execution** on personal property or the homestead has been commenced. The notice must describe the exemption procedure and the rights of **judgment debtors**. Subsections 106(c) (**execution** on personal property), 107(f) (wage **garnishment**), and 108(c) (homestead) specify when this notice must be given.*

*Ideally, the state supreme court or its court rules committee will create three alternate versions of this form, one for wage garnishment, one for execution on a home, and one for execution on personal property. The notice will be clearer for judgment debtors if it gives specific information about the procedures and deadlines just for the type of execution the judgment debtor is facing.*

*Notice and procedural requirements for **garnishment** of a **deposit account** or other **asset account** are spelled out by section 116. Section 117 provides additional notices and procedural requirements for **execution** on tangible personal property in the **judgment debtor's** possession or control. See also sections 114 (notice of entry of judgment) and 107(e) (notice prior to wage **garnishment**).*

## SECTION 116. PROCEDURES AND NOTICES FOR GARNISHMENT OF DEPOSIT OR ASSET ACCOUNT

**Commentary to section 116:**

*In some states, bank account **garnishments** are initiated by **judgment creditors** without court involvement. In those states, the reference to a court order in this subsection should be replaced with a reference to the standard procedure in the state.*

(a) **Content of the Garnishment Order form.** A court order to a financial institution to garnish a ***judgment debtor's deposit account or other asset account*** shall be on a Garnishment Order form prescribed by [state supreme court or court rules committee]. The Garnishment Order form shall instruct the garnishee that it is to:

- (1) Protect the amount exempted by [section 106\(a\)\(18\)](#) automatically, without the need for any claim or other action on the part of the ***judgment debtor***,
- (2) Ensure that the ***judgment debtor*** has full and customary access to and the right to retain or use the amount exempted by [section 106\(a\)\(18\)](#),
- (3) Suspend the ***judgment debtor***'s access to non-exempt funds at the time of review,

**Commentary to section 116(a)(3):**

*Only non-exempt funds present at the time of review should be frozen. The ***judgment debtor*** should retain full access to additional funds added to the account while any non-exempt funds are frozen.*

- (4) Delay turning over any suspended funds to the [court or the ***judgment creditor***] until further order of court,
- (5) Fill out a Notice of Account Garnishment form, and
- (6) Provide a copy of the Garnishment Order form and the filled-out Notice of Account Garnishment form to the ***judgment debtor*** and the ***judgment creditor*** within 24 hours of reviewing the funds in the ***deposit account or other asset account***.

**Commentary to section 116(a):**

*This subsection's requirement of specific language in the notice to a financial institution to garnish a bank account is critical. This language means that the exemption is self-executing and automatic: the bank is required to protect the **exempt** amount without the ***judgment debtor*** having to file papers or attend court hearings.*

*Providing the protection automatically greatly increases its effectiveness, and reduces burdens on the parties and the judicial system. Most consumers are unrepresented in collection lawsuits and will be unaware of exemptions or the court procedures needed to claim such exemptions. A study of debt collection lawsuits from 2016 to 2022 in Hamilton County, Tennessee showed that [fewer than 1 percent](#) of people claimed exemptions in cases with a judgment.*

*This provision requires automatic protection of the amount exempted by [section 106\(a\)\(18\)](#) (\$3,000 before inflation adjustments), regardless of its source. In addition, a*

rule adopted by the U.S. Treasury requires banks to identify and protect certain **exempt** federal benefits (primarily Social Security, SSI, and VA benefits) that were electronically deposited within the previous two months. These deposits are electronically tagged, making it possible for a bank to identify them.

As technology develops, it may become common for other types of **exempt** payments, such as state retirement benefits, to be tagged. In that case, states may want to expand this section to require banks to protect those payments, too.

This subsection requires all **garnishment** orders for **judgment debtors**' deposit or asset accounts to use a form created by the state supreme court or court rules committee. Financial institutions want and need clear instructions about **garnishment**, and find it confusing to receive forms from different courts in the state or different **judgment creditors** that use different language. Financial institutions will also appreciate not having to notarize their responses, and simple methods of filing their responses with the court.

- (b) **Content of Notice of Account Garnishment form.** The Notice of Account Garnishment form required by [subsection \(a\)\(5\)](#) shall be a form prescribed by [state supreme court or court rules committee] that:
  - (1) informs the parties that all funds in the account are exempt, or
  - (2) identifies the amount to which the **judgment debtor**'s access has been suspended, and informs the **judgment debtor** about the procedure for asserting additional exemptions.
- (c) **Delivery of notices to judgment debtor and judgment creditor.** The garnishee shall provide a copy of the Garnishment Order form and the filled-out Notice of Account Garnishment form to the **judgment debtor** and the **judgment creditor** within 24 hours of reviewing the funds in the **deposit account or other asset account**.

## SECTION 117. PROCEDURES AND NOTICES FOR EXECUTION ON TANGIBLE PERSONAL PROPERTY IN DEBTOR'S POSSESSION OR CONTROL

### Commentary to section 117:

In most states, **execution** on tangible personal property in the **judgment debtor**'s possession or control—typically household goods or a car—is rare. However, it is a standard method of **execution** in at least a few states. If the state exempts household goods up to a certain dollar amount, there has to be a procedure to determine their

**value and which ones the *judgment debtor* wants to exempt. This section addresses these issues.**

Subsection 106(d) provides that the status quo is to be preserved until a **judgment debtor** has had the opportunity to claim exemptions or object to an **execution** and the court has ruled. Accordingly, when serving a writ of **execution** on tangible personal property, the **executing officer** must leave the property in place, and must not seize any of it until any exemption claims or objections have been resolved.

(a) **Scope.** This section applies to **execution** upon tangible personal property that is in the possession or control of the **judgment debtor**.

**Commentary to section 117(a):**

Subsection (a) provides that the procedures outlined in this section apply only to **execution** upon tangible personal property that is in the possession or control of the **judgment debtor**. Thus, it does not apply to **execution** upon real property. Nor does it apply to **garnishment of earnings**, a bank account, or other property that is in the possession or control of a third party.

(b) **General notice about execution on personal property.** Upon executing upon tangible personal property in the **judgment debtor**'s control or possession, the **executing officer** shall give the **judgment debtor** or an adult member of the **judgment debtor**'s household the general notice about **execution** upon personal property required by section 115. In addition, the **executing officer** shall mail the general notice, the report described in subsection (c)(2), and the form described in subsection (c)(3) to the **judgment debtor** immediately after executing on the property.

(c) **Determining if personal property is exempt.**

(1) The **executing officer** shall make a determination about whether the **judgment debtor**'s tangible personal property is

(A) entirely exempt, or

(B) partially exempt, in which case the officer shall provisionally designate the property to be treated as non-exempt.

(2) The **executing officer** shall report the determination made pursuant to subsection (1) to the court, the **judgment creditor**, and the **judgment debtor**, using a form created by the [state supreme court or court rules committee].

(3) If the **executing officer** determines that some of the **judgment debtor**'s tangible personal property is not **exempt** or is only partially exempt, the **executing officer** shall give the **judgment debtor** a form and written instructions for designating the property to which any wildcard or partial exemption will apply and the deadline for doing so. The form and instructions shall be created by the [state supreme court or court rules committee].

(4) The **judgment debtor** has the right to file the designation form described in subsection (c)(3) with the court within [specify number of days] after receipt of the **executing officer**'s report. If the **judgment debtor** does so, the clerk shall notify the **judgment creditor**.

**(d) Challenging an Exemption Determination**

(1) The **judgment debtor**'s designation of **exempt** property, or the **executing officer**'s report if the **judgment debtor** does not file a designation within [specify number of days] after receipt of the report, is presumed correct unless challenged in accordance with this section.

(2) Within [specify number of days] after the **executing officer**'s report or a designation by the **judgment debtor**, any party can seek a hearing as described in section 118 to challenge the exemption determination. The court must send both parties notice of the hearing.

(3) At the hearing, the party seeking to overturn the exemption determination or designation has the burden of establishing that the determination or designation is incorrect. The opposing party may present evidence to support the determination or designation.

**(e) Recovery of costs.** Costs incurred in executing or seeking to execute on tangible personal property in the debtor's possession or control shall be paid out of the proceeds of a sale of the property if a sale occurs. If the proceeds of a sale of the property are insufficient to cover the costs incurred in the **execution**, the **judgment creditor** shall pay the costs and may not recover them from the **judgment debtor** notwithstanding any agreement to the contrary.

## **SECTION 118. HEARINGS**

**(a) Presumption that *judgment debtor's* claim of exemption is valid.** If a **judgment debtor** files a claim of exemption, it shall be presumed valid without the need for a hearing or other proof unless the **judgment creditor** objects to it, in which case a hearing shall be scheduled.

(b) **Right to a timely hearing.** If a *judgment debtor*, a *judgment creditor*, a garnishee, or a person other than the *judgment debtor* who claims a property interest in the property subject to *execution* requests a hearing regarding any *execution* or *exemption*, the court shall schedule a prompt hearing. In the case of a request for a hearing by a *judgment debtor* or a person other than the *judgment debtor* who claims a property interest in the property subject to *execution*, the person making the request shall be offered a hearing date that is no more than [number of days] after the date of receipt of the request.

**Commentary to section 118(b):**

*Long freezes on exempt funds have been a serious problem for many judgment debtors. For that reason, states should offer judgment debtors very prompt hearings on exemption claims. This subsection does not specify the number of days, but states are encouraged to specify a very short period, no more than 10 days.*

(c) **Judgment creditor's request for hearing.** A *judgment creditor*'s request for a hearing on a *judgment debtor*'s claim of exemption must assert that the *judgment creditor* has a reasonable belief that the claim is not valid and state the basis for such belief. The court may sanction the *judgment creditor* or its legal counsel if it finds that the motion for a hearing was frivolous or submitted in bad faith.

(d) **Video or telephonic participation in hearings.** Parties shall have the option of participating in hearings by telephone or videoconferencing except as otherwise provided in section 119 or as ordered by the court for good cause.

**Commentary to section 118(d):**

*To reduce the hardship and expense associated with appearing in court, this section requires parties to be given the option of video or telephonic appearance. To minimize expense for the parties, and to make it more likely that judgment debtors can engage counsel to represent them at a hearing, courts should develop procedures that give the parties a specific time for any hearings in their case, whether virtual or in-person.*

(e) **Notice of hearings.** The court shall send the parties a notice stating the date, time, and place of any hearing, instructions for participating by telephone or videoconferencing, and instructions about how to prepare for the hearing and what material to bring to the hearing.

- (f) **Conduct of hearings on exemptions.** At hearings required by this Act, unless both parties are represented by counsel, the rules of evidence shall not apply, the court shall allow the parties and any other witnesses to testify and be cross-examined, and the court may question the parties and other witnesses as necessary to determine the matter.
- (g) **Judgment debtor's testimony regarding value.** A *judgment debtor*'s testimony as to the value of property the *judgment debtor* owns or as to the advertised value of property similar to that claimed as *exempt* shall be admissible as evidence of an item's value.

## **SECTION 119. DISCOVERY IN AID OF EXECUTION, DEBTOR'S EXAMINATIONS, AND SIMILAR POST-JUDGMENT PROCEEDINGS**

### **Commentary to section 119:**

*This section deals with debtor's examinations, payment hearings, and similar post-judgment proceedings. These procedures typically require the **judgment debtor**'s in-person or virtual appearance, creating a danger of the abuses discussed below.*

*In some states, debtor's examinations are conducted without court involvement: the **judgment creditor**'s attorney subpoenas the **judgment debtor** to the attorney's office to be examined under oath. In those states, this section should be revised to reflect that practice. For example, the duty of sending the notice required by subsection (b) should be placed on the **judgment creditor**.*

- (a) **Restriction on use of debtor's examinations and other post-judgment proceedings.** No debtor's examination or other post-judgment proceeding at which the *judgment debtor*'s in-person or virtual attendance is required may be scheduled or held unless the original judgment debt, excluding court costs, fees, attorney fees, and interest, exceeds \$2,000.

### **Commentary to section 119(a):**

*Debtor's examinations and other post-judgment proceedings that require the **judgment debtor**'s attendance, whether virtual or in-person, are time-consuming and costly for the court system and the parties. There is no legitimate reason to invest this level of resources into collection of a small dollar debt. This provision limits debtor's examinations and the like to judgment debts of more than \$2,000, preventing the use of these procedures merely to frighten or impose hardship on the **judgment debtor**. Maryland provides a precedent for this limitation: a 2023 statute, Md. Code Ann., Cts. & Jud. Proc. § 11-504(b)(5), bars a court in a small claims action from ordering a person to appear for*

*an examination or interrogatories in aid of **execution** or enforcement of a **money judgment**.*

*Section 113's provision that the dollar amounts in the Act are to be adjusted periodically for inflation applies to this limit. Since the dollar amounts in this Act are 2025 amounts, before enacting this model law jurisdictions should adjust them upward to reflect inflation that has already occurred.*

(b) **Notice before debtor's examination or other post-judgment proceedings at which *judgment debtor's* attendance is required.** The court shall provide written notice, along with the notice of entry of judgment specified by [section 114](#), to the ***judgment debtor*** and the ***judgment creditor*** at least 30 days prior to any subsequent proceeding that relates to the judgment and at which the ***judgment debtor***'s physical or virtual presence is required. The notice shall explain:

- (1) the nature of the examination, hearing, or other proceeding,
- (2) when the proceeding will occur,
- (3) how the parties can participate, including information about telephone and video conferencing participation options, and
- (4) the ***judgment debtor***'s right to file a financial declaration, as set forth in [subsection \(c\)](#).

**Commentary to section 119(b):**

*This subsection is designed to ensure that a ***judgment debtor*** has ample advance notice of a debtor's examination or any post-judgment hearing such as a payment review.*

*For most of its provisions, this model law avoids specifying the timing of notices or other steps. Instead, it leaves those timing questions open so that they can be tailored to states' existing procedures. However, given the difficulties a ***judgment debtor*** may face in attending a hearing, and the time necessary to fill out and return a financial declaration in lieu of attending a hearing, at least 30 days advance notice should be required in all jurisdictions, and this section so provides.*

(c) **Financial declaration and asserting exemptions.** A *judgment debtor* who receives a notice pursuant to [subsection \(b\)](#) shall have an opportunity to submit a financial declaration to assert exemptions using a form created by the [state supreme court or court rules committee]. If the *judgment debtor* files a financial declaration that indicates that all the *judgment debtor*'s income and assets are exempt, the court shall inform both parties that the debtor's examination, hearing, or other proceeding is canceled. Once a signed financial declaration form indicating that all income and assets are *exempt* is on file in that case, no further proceedings at which the *judgment debtor*'s virtual or physical presence is required may be scheduled unless the *judgment creditor* presents evidence of the *judgment debtor*'s non-exempt income or assets. The court may then determine that there is a reasonable basis to believe that there are non-exempt assets or income warranting the scheduling of a new proceeding to determine what income or assets are not exempt.

**Commentary to section 119(c):**

*This section requires **judgment debtors** to be given a financial declaration form before any post-judgment collection proceedings that require the **judgment debtor**'s virtual or physical appearance, and to be allowed to use that declaration to assert exemptions without the need to appear in court.*

(d) **Repeat proceedings.** If the court determines at a debtor's examination or other post-judgment proceeding at which the *judgment debtor*'s virtual or physical attendance is required that the *judgment debtor* does not have the ability to make payments on the judgment and does not have non-exempt property, the *judgment creditor* must not request another such examination or post-judgment proceeding unless the *judgment creditor* has a reasonable belief that the debtor's financial circumstances have changed.

(e) **Hearing required before issuance of civil arrest warrant.** No civil warrant for arrest to compel the attendance of a *judgment debtor* shall be issued for failure of the *judgment debtor* to appear at any proceeding related to the collection of a judgment debt without a hearing for the court to determine whether such warrant should issue. No such warrant shall issue unless evidence is presented at that hearing that notice of the hearing to determine whether a civil arrest warrant should issue was served on the *judgment debtor* either by certified mail return receipt signed by the *judgment debtor* or a sworn return of personal service.

**Commentary to section 119(e):**

*This section sets forth steps that courts must follow before they issue civil arrest warrants (also known as *capias* or *bench warrants*). Ostensibly these warrants are issued because the *judgment debtor* has failed to appear at a court-mandated hearing, such as a*

*debtor's examination in which the debtor is required to reveal information about assets to pay a judgment. However, such arrest warrants are often misused to frighten consumers and coerce payment. For additional recommendations about reforms to civil arrest warrants, see the ACLU's 2018 report, [A Pound of Flesh: The Criminalization of Private Debt](#).*

*The model law does not revoke the power of courts to compel **judgment debtors** to appear before them, but instead creates procedural safeguards before a civil arrest warrant can be issued. If a **judgment debtor** does not submit a declaration or appear in court as ordered, instead of an arrest warrant automatically being generated, a hearing must be scheduled to determine whether a warrant is necessary. If the **judgment debtor** does not appear at that hearing, an arrest warrant may be issued if the **judgment creditor** presents evidence of proper service upon the **judgment debtor**. For an implemented example of this approach see Cal. Civ. Proc. Code § 708.111.*

*In general, the model law does not specify how notices and documents are to be provided to **judgment debtors** or other parties. However, to ensure that **judgment debtors** are not arrested without having had a full opportunity to comply with a debtor's examination or similar post-judgment proceeding, this section specifies personal service or service by certified mail, with a receipt signed by the **judgment debtor**.*

(f) **Satisfaction of a civil arrest warrant.** A **judgment debtor** who is compelled to attend court pursuant to a civil arrest warrant shall be brought before the court the same day. The **judgment debtor** shall be given the opportunity to complete the financial declaration described in [subsection \(c\)](#). The civil arrest warrant shall be satisfied by the **judgment debtor**'s appearance in court or completion of the financial declaration.

**Commentary to section 119(f):**

*If an arrest warrant is issued, the **judgment debtor** must be brought before a court that same day that they are arrested, so that no one is imprisoned. The warrant is satisfied by the consumer's appearance in court or completion of a financial declaration.*

(g) **Prohibition of imprisonment for failure to pay.** Notwithstanding any other law or court rule, no person shall be imprisoned or jailed for failure to pay a debt, nor shall any person be imprisoned or jailed for contempt of court or otherwise for failure to comply with a court order to pay a debt in part or in full.

## SECTION 120. CREATION OF REQUIRED NOTICES AND FORMS; TRANSLATION REQUIREMENTS; MANNER OF PROVIDING NOTICES TO JUDGMENT DEBTORS

(a) **General requirements.** The [state supreme court or court rules committee] shall:

(1) Prescribe forms and notices that meet the requirements of:

- (A) [section 115](#) (notice of **execution**, required by [section 106\(c\)](#) for personal property, [107\(f\)](#) for wage **garnishment**, and [108\(c\)](#) for **execution** on a homestead),
- (B) [section 107\(e\)](#) (advance notice of wage **garnishment**),
- (C) [section 114](#) (notice of entry of judgment),
- (D) [section 116\(a\)](#) (order for **garnishment** of **deposit account or other asset account**),
- (E) [section 116\(b\)](#) (Notice of Account Garnishment), and
- (F) [section 117\(c\)](#) (forms and instructions for **execution** on tangible personal property in **judgment debtor**'s possession or control).

(2) Mandate the use of these forms and notices,

(3) Write forms and notices in plain language, designed to be understood by non-attorneys,

(4) Require the written notices required by [sections 114](#) and [115](#) to be provided to all recipients in both English and Spanish.

### **Commentary to section 120(a):**

*One of the goals of this model law is to ensure that **judgment debtors** and other parties involved in judgment **execution** have clear notice of any **execution** procedure and clear instructions about their rights and duties. This model law therefore specifies a number of notices that parties must receive.*

(b) **Translation of notices for **judgment debtors** into other languages.** Every three years, on the same schedule as the inflation adjustments required by [section 113](#), the [state supreme court or court rules committee] shall identify languages other than Spanish spoken by a substantial number of residents of the state with limited English proficiency and shall:

- (1) create versions of the notices required by [sections 114](#) and [115](#) translated into such languages.
- (2) include taglines in those languages in the English language version of the notices required by [sections 114](#) and [115](#) that state the purpose of the document, the availability of such translated notices, and how to access such notices by telephone and online.

**Commentary to section 120(b):**

*One of the goals of this model law is to make the court system easier to navigate for **judgment debtors** by giving them clear, carefully drafted notices about their rights and the procedures to assert them. Providing those notices in a language the **judgment debtor** can understand is a key part of this effort, and will also pay off for the court system by improving the orderliness of proceedings and saving staff time.*

*[Subsection \(a\)\(4\)](#) requires translation of two basic notices into Spanish: the notice of entry of judgment and a notice about wage garnishment or **execution** on a home or personal property. These two notices provide information about the most common methods of judgment **execution**, so will benefit the broadest range of **judgment debtors**. [Subsection \(b\)](#) requires the court system to identify any other languages that are spoken by a substantial number of state residents who have limited English proficiency, and translate the two notices into those languages as well. Drafters may prefer to delegate to a state agency the process and standards for determining whether a language meets this standard. While this subsection requires only those two notices to be translated, states are encouraged to translate the other notices required by this model law as well.*

*Once the notices are translated, they are likely to need only minor revisions, for example to reflect inflation adjustments. While [subsection \(b\)](#) requires re-evaluation of the language needs within the state every three years, changes are likely to be rare.*

*If a state's courts have language access plans in place for court notices and forms, drafters may want to replace [subsections \(a\)\(4\)](#) and [\(b\)](#) with a reference to complying with the existing policy.*

*This section only addresses translation of notices, not any oral interpretation requirements. Courts should provide oral interpretation with respect to the forms identified in [section 120\(a\)](#) pursuant to existing language access policies.*

- (c) **Provision of notices.** Where this Act requires a notice to be given to a **judgment debtor**, the **judgment debtor** must be given a physical copy of the notice.

#### **Commentary to section 120(c):**

*In most cases, the model law does not specify how physical copies of notices are to be provided to the debtor: first class mail, certified mail, formal service by a court official, some less formal means of personal delivery, or some other method. It assumes that states already have rules and standard practices on this topic. States may want to adapt these provisions of the model law to conform to the practice in the state, including relevant state provisions about when and how to use electronic notices.*

*The model law also does not generally specify who is to provide the notice to the **judgment debtor**, because the responsible party will vary based on whether **executions** are issued with or without a court order or other court involvement. (There are, however, exceptions. For example, since a **judgment debtor**'s employer will have the debtor's most current address, while the **judgment creditor** may not, [section 107\(f\)](#) requires the employer to give the debtor notice that it has received a wage **garnishment** order.) In states that do not require court involvement, the **judgment creditor** should be made generally responsible for sending the **judgment debtor** notices about **execution**. In states that require a court order to issue some or all **executions**, either the court clerk or **judgment creditor** can be made generally responsible for providing the notice.*

(d) **Proof of service of notices.** The person serving a notice required by this Act upon a **judgment debtor** shall file proof of service with the court. The forms and notices created by the [state supreme court or court rules committee] shall include filing instructions and a proof of service section or form.

#### **Commentary to section 120(d):**

*The complexities of post-judgment **execution** and the gravity of the interests at stake for **judgment debtors** heighten the importance of the notices required by this Act. In order to enable monitoring of compliance with the Act's notice requirements, [subsection 120\(d\)](#) requires a proof of service to be filed with the court for all notices required by the Act. Documenting **execution** attempts is also important for **judgment creditors** in states that treat a judgment as expired if more than a certain number of years pass without **execution** attempts.*

## **SECTION 121. PROTECTION FROM ADVERSE EMPLOYMENT ACTION DUE TO WAGE GARNISHMENT**

Regardless of the number of **garnishments** for debts, no person may, because of a **garnishment** for a debt or because of any obligation such **garnishment** imposes:

- (a) discipline, suspend, terminate, discharge, demote, or take any other adverse employment action with respect to an employee or a person under an independent contract for personal services, or
- (b) refuse to hire or contract with any person.

**Commentary to section 121:**

*Federal law prohibits discharge of an employee because of the employee's earnings having been garnished for a single indebtedness. 15 U.S.C. § 1674. This section provides a stronger protection. It applies both to employees and independent contractors; it is not limited to **garnishment** for a single debt; and it prohibits not just discharge but other adverse employment actions, including refusal to hire.*

## SECTION 122. REMEDIES

**Commentary to section 122:**

*This model law is intended to provide sample language to address a variety of weaknesses in existing state exemption laws. States may choose to enact just parts of the model law, focusing on the areas of their exemption laws that they identify as particularly in need of improvement.*

*Whatever protections a state chooses to adopt, it is important to provide a mechanism to enforce them. Section 122 provides an enforcement mechanism for any violation of the Act. If a jurisdiction enacts only part of the model law, this section may be used as a template for an enforcement provision for that part.*

- (a) **Remedies.** Any person who violates this Act shall be liable to the injured party for:
  - (1) actual damages, including emotional distress damages;
  - (2) statutory damages up to \$2,000 per violation;
  - (3) injunctive or other equitable relief;
  - (4) reasonable attorney's fees.

**Commentary to section 122(a):**

*This subsection provides for two types of damages: actual damages, intended to make a person whole, and statutory damages of up to \$2,000 per violation. The "up to" language*

*means that the court will have discretion to determine the amount of statutory damages to award for a violation, with \$2,000 acting as a ceiling.*

*Section 113's provision that the dollar amounts in the Act are to be adjusted periodically for inflation applies to this statutory damages provision. Since the dollar amounts in this Act are 2025 amounts, before enacting this model law jurisdictions should adjust them upward to reflect inflation that has already occurred.*

(b) **Bona fide error defense.** It is a defense to liability for statutory damages under subsection (a)(2) if the person shows that the violation was not intentional and resulted from a bona fide error of fact notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

## SECTION 123. SEVERABILITY

If any provision of this Act or its application to any person or circumstance is held invalid, the remainder of the Act or the application of the provision to other persons or circumstances is not affected.



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