

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Enrolled**

**Senate Bill 469**

BY SENATORS WILLIAMS AND SYPOLT

[Passed March 9, 2016; in effect 90 days from passage]



1 AN ACT to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and  
2 to amend and reenact §38-8-1 of said code, all relating to suggestions of salary and wages  
3 of persons engaged in private employment and exemptions from levy; increasing the  
4 amount of salary or wages that are protected from a suggestee execution from thirty times  
5 the federal minimum hourly wage then in effect to fifty times the federal minimum hourly  
6 wage then in effect; removing wages and salary from items subject to the one-time,  
7 \$15,000 exemption; providing that wages and salary are automatically exempted from levy  
8 execution up to a certain amount; and clarifying that wages and salary above that  
9 automatic exemption may not be exempted from levy.

*Be it enacted by the Legislature of West Virginia:*

1 That §38-5A-3 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that §38-8-1 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 38. LIENS.**

### **ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.**

#### **§38-5A-3. Application for suggestee execution against salary or wages; extent of lien and continuing levy; exemption; priority among suggestee executions.**

1 (a) A judgment creditor may apply to the court in which the judgment was recovered or a  
2 court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee  
3 execution against any money due or to become due within one year after the issuance of such  
4 execution to the judgment debtor as salary or wages arising out of any private employment. If  
5 satisfactory proof shall be made, by affidavit or otherwise, of such facts and the fact that the  
6 amount due or to become due as salary or wages after the deduction of all state and federal taxes  
7 exceeds in any week fifty times the federal minimum hourly wage then in effect, the court, if not  
8 a court of record, or if a court of record the clerk thereof, shall issue a suggestee execution against  
9 the salary or wages of the judgment debtor and upon presentation of such execution by the officer

10 to whom delivered for collection to the person or persons from which such salary or wages are  
11 due and owing or thereafter may become due and owing to the judgment debtor, the execution  
12 and the expenses thereof shall become a lien and continuing levy upon the salary or wages due  
13 or to become due to the judgment debtor within one year after the issuance of the same, unless  
14 sooner vacated or modified as hereinafter provided, to an amount equal to twenty percent thereof  
15 and no more, but in no event shall the payments in satisfaction of such an execution reduce the  
16 amount payable to the judgment debtor to an amount per week that is less than fifty times the  
17 federal minimum hourly wage then in effect. Only one such execution shall be satisfied, at one  
18 time, except that in the event two or more such executions have been served and satisfaction of  
19 the one having priority is completed without exhausting the amount of the salary or wages then  
20 due and payable that is subject to suggestion under this article the balance of such amount shall  
21 be paid in satisfaction, in the order of their priority, of junior suggestee executions against such  
22 salary or wages theretofore served.

23 (b) The suggestee execution by the judgment creditor provided in this section shall  
24 include, to the extent possible, the present address, the last four digits of the Social Security  
25 number and date of birth of the judgment debtor, which information shall be made available for  
26 the purpose of properly identifying the judgment debtor whose salary or wages are being levied  
27 upon.

**ARTICLE 8. EXEMPTIONS FROM LEVY.**

**§38-8-1. Exemptions of personal property.**

1 (a) Any individual residing in this state, or the dependent of such individual, may set apart  
2 and hold as exempt from execution or other process the following personal property:

3 (1) Such individual's interest, not to exceed \$5,000 in value, in one motor vehicle;

4 (2) Such individual's interest, not to exceed \$8,000 in aggregate value, in household  
5 goods, furniture, toys, animals, appliances, books and wearing apparel that are held primarily for  
6 the personal, family or household use of such individual;

7           (3) Such individual's aggregate interest, not to exceed \$3,000, in any implements,  
8 professional books or tools of such individual's trade;

9           (4) Such individual's funds on deposit in a federally insured financial institution, not to  
10 exceed \$1,100; and

11           (5) Funds on deposit in an individual retirement account (IRA), including a simplified  
12 employee pension (SEP), in the name of such individual: *Provided*, That the amount is exempt  
13 only to the extent it is not, or has not been, subject to an excise or other tax on excess  
14 contributions under Section 4973 or Section 4979 of the Internal Revenue Code of 1986, or both  
15 sections, or any successor provisions, regardless of whether the tax is or has been paid.

16           (b) Notwithstanding the foregoing, in no case may an individual residing in this state, or  
17 the dependent of such individual, exempt from execution or other process more than \$15,000 in  
18 the aggregate in personal property listed in subdivisions (1), (2), (3) and (4), subsection (a) of this  
19 section.

20           (c) Wages or salary are automatically exempt from execution or other process but only to  
21 the extent set forth in section three, article five-a of this chapter. No person may file for an  
22 exemption of wages or salary pursuant to this section in an amount above that set forth in section  
23 three, article five-a of this chapter.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2016.

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*Governor*