

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4417

(BY DELEGATES SHOTT, HANSHAW, ROWE, MARCUM,
SHAFFER, MANCHIN, SUMMERS, KESSINGER, IRELAND
AND SKINNER)

[Introduced February 5, 2016; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §46A-2-130 the Code of West Virginia, 1931, as amended, relating
 2 to limitations on garnishment generally; potentially increasing wages protected from
 3 garnishment.

Be it enacted by the Legislature of West Virginia:

1 That §46A-2-130 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-130. Limitation on garnishment.

1 (1) For the purposes of the provisions in this chapter relating to garnishment:

2 (a) "Disposable earnings" means that part of the earnings of an individual remaining after
 3 the deduction from those earnings of amounts required by law to be withheld; and

4 (b) "Garnishment" means any legal or equitable procedure through which the earnings of
 5 an individual are required to be withheld for payment of a debt.

6 (2) The maximum part of the aggregate disposable earnings of an individual for any
 7 workweek which is subjected to garnishment to enforce payment of a judgment arising from a
 8 consumer credit sale or consumer loan may not exceed the lesser of:

9 (a) Twenty percent of his or her disposable earnings for that week, or

10 (b) The amount by which his or her disposable earnings for that week exceed ~~thirty~~ fifty
 11 times the federal minimum hourly wage prescribed by section 6(a) (1) of the "Fair Labor Standards
 12 Act of 1938," U.S.C. Title 19, Sec. 206(a)(1), in effect at the time the earnings are payable.

13 (c) In the case of earnings for a pay period other than a week, the commissioner shall
 14 prescribe by rule a multiple of the federal minimum hourly wage equivalent in effect to that set
 15 forth in subdivision (b), subsection (2) of this section.

16 (3) No court may make, execute or enforce an order or process in violation of this section.
 17 Any time after a consumer's earnings have been executed upon pursuant to article five-a or article
 18 five-b, chapter thirty-eight of this code by a creditor resulting from a consumer credit sale,

19 consumer lease or consumer loan, such consumer may petition any court having jurisdiction of
20 such matter or the circuit court of the county wherein he or she resides to reduce or temporarily
21 or permanently remove such execution upon his or her earnings on the grounds that such
22 execution causes or will cause undue hardship to him or her or his or her family. When such fact
23 is proved to the satisfaction of such court, it may reduce or temporarily or permanently remove
24 such execution.

25 (4) No garnishment governed by the provisions of this section will be given priority over a
26 voluntary assignment of wages to fulfill a support obligation, a garnishment to collect arrearages
27 in support payments, or a notice of withholding from wages of amounts payable as support,
28 notwithstanding the fact that the garnishment in question or the judgment upon which it is based
29 may have preceded the support-related assignment, garnishment, or notice of withholding in point
30 of time or filing.

NOTE: The purpose of this bill is to potentially increase wages protected from garnishment.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.