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AB-2837 Civil actions: enforcement of money judgments. (2023-2024)

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Assembly Bill No. 2837

CHAPTER 514

An act to amend Sections 684.130, 685.070, 703.510, 703.570, 703.580, 703.610, 704.115, 704.220, 706.021, 706.022, 706.103, and 706.105 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 24, 2024. Filed with Secretary of State September 24, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2837, Bauer-Kahan. Civil actions: enforcement of money judgments.

Existing law defines what types of property are subject to and exempt from the enforcement of money judgments, as specified, including certain retirement plans. Existing law also requires judgment creditors seeking to enforce money judgments to provide notice to judgment debtors, as specified. Existing law provides rules for claiming exemptions from the enforcement of money judgments and provides requirements for the adjudication of such exemptions. Existing law defines "personal debt" for the purposes of renewing the period of enforceability of a judgment to mean money due or owing or alleged to be due or owing from a natural person arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for the debtor's personal, family, or household purposes.

This bill would expand the types of retirement plans exempt from money judgments, as specified, and exempt such property to the extent necessary to provide specified support for, and satisfy tax obligations of, the judgment debtor. The bill would revise the enforcement provisions described above by requiring a judgment creditor to take additional steps to verify a judgment debtor's address and provide notice of enforcement to a judgment debtor, by requiring a court to order the return of exempt property that has been levied upon, and limiting the time period during which an earnings withholding order may be enforced and the frequency with which such an order may be sought. The bill would require a financial institution to protect from levy cumulatively exempt funds belonging to the debtor and held in multiple accounts. The bill would generally apply these revised enforcement provisions to cases in which the judgment creditor seeks to enforce judgment based on recovery of personal debt described above.

This bill would incorporate additional changes to Section 703.580 of the Code of Civil Procedure proposed by AB 3283 to be operative only if this bill and AB 3283 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 684.130 of the Code of Civil Procedure is amended to read:

684.130. (a) If the levying officer is required by any provision of this title to serve any writ, order, notice, or other paper on any person, the judgment creditor shall include in the instructions to the levying officer the correct name and address of the person.

The judgment creditor shall use reasonable diligence to ascertain the correct name and address of the person.

(b) (1) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, this subdivision shall apply.

(2) The judgment creditor shall also provide the levying officer with a declaration stating that the judgment creditor has verified using reasonable diligence within the past 12 months that the judgment debtor's address is correct to the best of the declarant's knowledge, and describing the verification dates and the methods used, which may include, but are not limited to, the following methods:

(A) Receipt of correspondence from the judgment debtor, dated no more than 12 months before the execution of the declaration, that includes a return address or other comparable verification of the judgment debtor's address.

(B) Transmittal of a letter by certified mail, or other method of transmission through the United States Postal Service providing a return receipt, to the judgment debtor's address, with a return receipt dated no more than 12 months before the execution of the declaration that is signed by the judgment debtor.

(C) Verification of the judgment debtor's current address by a commercial address verification service, including skip-tracing, or, if reasonably available, a public record database, followed by dispatch of a letter, by first-class mail to the verified address, that was not returned to sender.

(3) The levying officer shall not accept or serve any writ, order, notice, or other paper on any person if the judgment creditor fails to provide a declaration as described in paragraph (2).

(4) Upon notice by the judgment debtor that the requirements of this section have not been met, the court shall stay the notice of levy or earnings withholding order until the requirements of this section have been satisfied.

(5) The judgment creditor's cost of verification of the judgment debtor's address is not recoverable.

(6) The judgment creditor shall file with the court the signed declaration within five business days after delivering the declaration to the levying officer.

(c) Unless the levying officer has actual knowledge that the name or address included in the instructions is incorrect, the levying officer shall rely on the instructions in serving the writ, order, notice, or other paper on the person.

SEC. 2. Section 685.070 of the Code of Civil Procedure is amended to read:

685.070. (a) The judgment creditor may claim under this section the following costs of enforcing a judgment, which shall not include costs exempted under this title:

(1) Statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment.

(2) Statutory fees for filing a notice of judgment lien on personal property.

(3) Statutory fees for issuing a writ for the enforcement of the judgment to the extent that the fees are not satisfied pursuant to Section 685.050.

(4) Statutory costs of the levying officer for performing the duties under a writ to the extent that the costs are not satisfied pursuant to Section 685.050 and the statutory fee of the levying officer for performing the duties under the Wage Garnishment Law to the extent that the fee has not been satisfied pursuant to the wage garnishment.

(5) Costs incurred in connection with any proceeding under Chapter 6 (commencing with Section 708.010) of Division 2 that have been approved as to amount, reasonableness, and necessity by the judge or referee conducting the proceeding.

(6) Attorney's fees, if allowed by Section 685.040.

(b) Before the judgment is fully satisfied but not later than two years after the costs have been incurred, the judgment creditor claiming costs under this section shall file a memorandum of costs with the court clerk and serve a copy on the judgment debtor. Service shall be made personally or by mail. The memorandum of costs shall be executed under oath by a person who has knowledge of the facts and shall state that to the person's best knowledge and belief the costs are correct, are reasonable and necessary, and have not been satisfied.

(c) Within 10 days after the memorandum of costs is served on the judgment debtor, the judgment debtor may apply to the court on noticed motion to have the costs taxed by the court. The notice of motion shall be served on the judgment creditor. Service

shall be made personally or by mail. The court shall make an order allowing or disallowing the costs to the extent justified under the circumstances of the case.

(d) If no motion to tax costs is made within the time provided in subdivision (c), the costs claimed in the memorandum are allowed.

(e) If a memorandum of costs for the costs specified in subdivision (a) is filed at the same time as an application for a writ of execution, these statutory costs not already allowed by the court in an amount not to exceed one hundred dollars (\$100) in the aggregate may be included in the amount specified in the writ of execution, subject to subsequent disallowance as ordered by the court pursuant to a motion to tax if filed by the debtor. The memorandum of costs shall contain the following statement: "The fees sought under this memorandum may be disallowed by a court upon a motion to tax filed by the debtor notwithstanding the fees having been included in the writ of execution." The inclusion of the above costs in the writ of execution or the pendency of the motion to tax on these costs shall not be cause for the clerk of the court to delay issuing the writ of execution or for the levying officer to delay enforcing the writ of execution.

(f) Section 1013, extending the time within which a right may be exercised or an act may be done, applies to this section.

SEC. 3. Section 703.510 of the Code of Civil Procedure is amended to read:

703.510. (a) Except as otherwise provided by statute, property that has been levied upon may be claimed to be exempt as provided in this article.

(b) If property in a deposit account that is exempt without making a claim, as described in subdivision (b) of Section 704.080 or subdivision (a) of Section 704.220, is levied upon, the property shall be released by the financial institution holding the judgment debtor's deposit account within five business days of the financial institution receiving written notice from the judgment debtor setting forth the facts supporting the exemption without the necessity of making a claim under this title. The judgment debtor's written notice to the financial institution shall be served via first-class mail on the judgment creditor or judgment creditor's attorney of record within five business days of notice being sent by the judgment debtor to the financial institution. The written notice shall be addressed to the financial institution identified pursuant to subdivision (c) or (d) of Section 684.110.

(c) If property that is exempt without making a claim is levied upon, other than the property in a deposit account described in subdivision (b), the property may be released pursuant to the exemption procedure provided in this article.

SEC. 4. Section 703.570 of the Code of Civil Procedure is amended to read:

703.570. (a) The hearing on the motion shall be held not later than 30 days from the date the notice of motion was filed with the court unless continued by the court for good cause. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, if the hearing is delayed by the court and cannot be set within 30 days of notice of the motion, a party may seek by ex parte application, and the court shall issue, an order staying any levy or garnishment with respect to the property subject to the claim of exemption until the hearing occurs.

(b) Not less than 10 days prior to the hearing, the judgment creditor shall serve a notice of the hearing and a copy of the notice of opposition to the claim of exemption on the claimant and on the judgment debtor, if other than the claimant. Service shall be made personally or by mail.

SEC. 5. Section 703.580 of the Code of Civil Procedure is amended to read:

703.580. (a) The claim of exemption and notice of opposition to the claim of exemption constitute the pleadings, subject to the power of the court to permit amendments in the interest of justice.

(b) At a hearing under this section, the exemption claimant has the burden of proof.

(c) The claim of exemption is deemed controverted by the notice of opposition to the claim of exemption and both shall be received in evidence. If no other evidence is offered, the court, if satisfied that sufficient facts are shown by the claim of exemption (including the financial statement if one is required) and the notice of opposition, may make its determination thereon. If a claim of exemption asserts that money in a judgment debtor's deposit account is or was necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor as provided in Section 704.225, the court shall review the judgment debtor's financial statement and make findings thereon. If not satisfied, the court may order the hearing continued for the production of other evidence, oral or documentary.

(d) At the conclusion of the hearing, the court shall determine by order whether or not the property is exempt in whole or in part.

(1) Subject to Section 703.600, the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment.

(2) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return of any property that was exempt without the need for a claim and that was levied upon within the 12 months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than 12 months preceding the date of the order on the claim of exemption.

(3) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return of any property that the debtor has demonstrated would have been exempt by claim of exemption and that was levied upon within the six months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than six months preceding the date of the order on the claim of exemption.

(4) If property is exempt without the need for a claim under this title or as a result of a claim of exemption, the court shall order the return of the exempt property from the levying officer, judgment creditor, or other person who is in possession of the property, to the judgment debtor. A levying officer shall return the exempt property within 20 business days of receipt of notice of the order. A judgment creditor shall return the exempt property within 10 business days of entry of the order.

(e) The court clerk shall promptly transmit a certified copy of the order to the levying officer. Subject to Section 703.610, the levying officer shall, in compliance with the order, release the property or apply the property to the satisfaction of the money judgment.

(f) Unless otherwise ordered by the court, if an exemption is not determined within the time provided by Section 703.570, the property claimed to be exempt shall be released.

SEC. 5.5. Section 703.580 of the Code of Civil Procedure is amended to read:

703.580. (a) The claim of exemption and notice of opposition to the claim of exemption do not constitute an appearance pursuant to Section 1014. The power of the court over the exemption claimant is limited to determining the claim of exemption.

(b) At a hearing under this section, the exemption claimant has the burden of proof.

(c) The claim of exemption is deemed controverted by the notice of opposition to the claim of exemption and both shall be received in evidence. If no other evidence is offered, the court, if satisfied that sufficient facts are shown by the claim of exemption (including the financial statement if one is required) and the notice of opposition, may make its determination thereon. If a claim of exemption asserts that money in a judgment debtor's deposit account is or was necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor as provided in Section 704.225, the court shall review the judgment debtor's financial statement and make findings thereon. If not satisfied, the court may order the hearing continued for the production of other evidence, oral or documentary.

(d) At the conclusion of the hearing, the court shall determine by order whether or not the property is exempt in whole or in part.

(1) Subject to Section 703.600, the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment.

(2) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return of any property that was exempt without the need for a claim and that was levied upon within the 12 months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than 12 months preceding the date of the order on the claim of exemption.

(3) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return of any property that the debtor has demonstrated would have been exempt by claim of exemption and that was levied upon within the six months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than six months preceding the date of the order on the claim of exemption.

(4) If property is exempt without the need for a claim under this title or as a result of a claim of exemption, the court shall order the return of the exempt property from the levying officer, judgment creditor, or other person who is in possession of the property, to the judgment debtor. A levying officer shall return the exempt property within 20 business days of receipt of notice of the order. A judgment creditor shall return the exempt property within 10 business days of entry of the order.

(e) The court clerk shall promptly transmit a certified copy of the order to the levying officer. Subject to Section 703.610, the levying officer shall, in compliance with the order, release the property or apply the property to the satisfaction of the money judgment.

(f) Unless otherwise ordered by the court, if an exemption is not determined within the time provided by Section 703.570, the property claimed to be exempt shall be released.

SEC. 6. Section 703.610 of the Code of Civil Procedure is amended to read:

703.610. (a) Except as otherwise provided by statute or ordered by the court, the levying officer shall not release, sell, or otherwise dispose of the property for which an exemption is claimed until an appeal is waived, the time to file an appeal has expired, or the exemption is finally determined.

(b) At any time while the exemption proceedings are pending, upon motion of the judgment creditor or a claimant, or upon its own motion, the court may make any orders for disposition of the property that may be proper under the circumstances of the case, except that such order may not require the release to the judgment creditor of property that would be exempt without a claim of exemption. The order may be modified or vacated by the court at any time during the pendency of the exemption proceedings upon any terms that are just, except that such order may not require the release to the judgment creditor of property that would be exempt without a claim of exemption.

(c) If an appeal of the determination of a claim of exemption is taken, notice of the appeal shall be given to the levying officer and the levying officer shall hold, release, or dispose of the property in accordance with the provisions governing enforcement and stay of enforcement of money judgments pending appeal. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, if an earnings withholding order has been served upon the judgment debtor's employer, notice of the appeal shall also be given to the judgment debtor's employer who shall, upon receipt of the notice, immediately suspend any further garnishment of the judgment debtor's wages for the pendency of the appeal and until ordered by the court to resume garnishment.

SEC. 7. Section 704.115 of the Code of Civil Procedure is amended to read:

704.115. (a) As used in this section, "retirement plan" means:

(1) Private retirement plans, including, but not limited to, union retirement plans.

(2) Profit-sharing plans designed and used for retirement purposes.

(3) Self-employed retirement plans and individual retirement annuities or accounts provided for in the Internal Revenue Code of 1986, as amended, including individual retirement accounts qualified under Section 408 or 408A of that code, to the extent the amounts held in the plans, annuities, or accounts do not exceed the maximum amounts exempt from federal income taxation under that code.

(4) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under Sections 403, 414, or 457 of the Internal Revenue Code of 1986, as amended, to the extent the amounts held in the plans, annuities, or accounts do not exceed the maximum amounts exempt from federal income taxation under that code and are not otherwise exempt under federal law.

(b) All amounts held, controlled, or in process of distribution by a retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a retirement plan are exempt.

(c) Notwithstanding subdivision (b), where an amount described in subdivision (b) becomes payable to a person and is sought to be applied to the satisfaction of a judgment for child, family, or spousal support against that person:

(1) Except as provided in paragraph (2), the amount is exempt only to the extent that the court determines under subdivision (c) of Section 703.070.

(2) If the amount sought to be applied to the satisfaction of the judgment is payable periodically, the amount payable is subject to an earnings assignment order for support as defined in Section 706.011 or any other applicable enforcement procedure, but the amount to be withheld pursuant to the assignment order or other procedure shall not exceed the amount permitted to be withheld on an earnings withholding order for support under Section 706.052.

(d) After payment, the amounts described in subdivision (b) and all contributions and interest thereon returned to any member of a retirement plan are exempt.

(e) (1) Notwithstanding subdivisions (b) and (d), except as provided in subdivision (f), the amounts described in paragraphs (3) and (4) of subdivision (a) are exempt only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires.

(2) For personal debt, as defined in subdivision (d) of Section 683.110, the amount necessary to provide for the support of the judgment debtor cannot be, unless otherwise provided by federal law, less than the amount listed in subsection (n) of Section 522 of Title 11 of the United States Code, as adjusted in accordance with subsection (b) of Section 104 of Title 11 of the United States Code. The exempt amount may be aggregated across all retirement plans in the judgment debtor's name. The exempt amount may be reduced to the extent that such value is attributable to any portion of any property the debtor disposed of with the intent to hinder, delay, or defraud a creditor, and that the debtor could not have exempted at the time the debtor so disposed of the property.

(3) In determining the amount to be exempt under this subdivision, the court shall allow the judgment debtor such additional amount as is necessary to pay any federal and state income taxes owed as a result of the application of funds in a retirement plan to the satisfaction of the money judgment.

(f) Where the amounts described in paragraphs (3) and (4) of subdivision (a) are payable periodically, the amount of the periodic payment that may be applied to the satisfaction of a money judgment is the amount that may be withheld from a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law). To the extent a lump-sum distribution from an individual retirement account is treated differently from a periodic distribution under this subdivision, any lump-sum distribution from an account qualified under Section 408A of the Internal Revenue Code shall be treated the same as a lump-sum distribution from an account qualified under Section 408 of the Internal Revenue Code for purposes of determining whether any of that payment may be applied to the satisfaction of a money judgment.

SEC. 8. Section 704.220 of the Code of Civil Procedure is amended to read:

704.220. (a) Money in the judgment debtor's deposit account in an amount equal to or less than the minimum basic standard of adequate care for a family of four for Region 1, established by Section 11452 of the Welfare and Institutions Code and as annually adjusted by the State Department of Social Services pursuant to Section 11453 of the Welfare and Institutions Code, is exempt without making a claim.

(b) (1) Subdivision (a) does not preclude or reduce a judgment debtor's right to any other exemption provided by state or federal law.

(2) If the financial institution holding the judgment debtor's deposit account has actual knowledge that the judgment debtor is entitled to one or more exemptions that the financial institution is required to apply pursuant to federal law or state law other than that set forth in subdivision (a), the following shall apply:

(A) If the sum of the amount of money in the deposit account that would be exempt from levy under the additional exemptions is less than or equal to the amount set forth in subdivision (a), the additional exemptions described in this paragraph shall be considered encompassed within the exemption set forth in subdivision (a) and subdivision (a) shall apply.

(B) If the sum of the amount of money in the deposit account that would be exempt from levy under the additional exemptions is greater than the amount set forth in subdivision (a), subdivision (a) shall not apply and instead money in the deposit account equal to or less than the sum of the additional exemptions is exempt without making a claim.

(c) Subdivision (a) does not apply to money levied upon to satisfy any of the following:

(1) A levy to satisfy a judgment for wages owed, child support, or spousal support. For purposes of this paragraph, "wages owed" includes damages and penalties.

(2) A provision of the Public Resources Code, Revenue and Taxation Code, or Unemployment Insurance Code.

(3) A warrant or notice of levy issued by the state, or any department or agency thereof, for the collection of a liability.

(d) A levy against a judgment debtor's deposit account shall include a written description of the requirements of this section.

(e) (1) The exemption applies per debtor, not per account.

(2) If a judgment debtor holds an interest in multiple accounts at a single financial institution, the judgment creditor or judgment debtor may file an ex parte application in the superior court in which the judgment was entered for a hearing to establish how and to which account the exemption should be applied. Subject to a service of an order issued in that hearing, if any, the financial institution may determine how and to which account the exemption should be applied. This paragraph does not create

a cause of action against a judgment creditor who executes a levy or against a financial institution that complies with a levy pursuant to the court's determination.

(3) If a judgment debtor holds an interest in multiple accounts at two or more financial institutions, the judgment creditor shall, and the judgment debtor may, file an ex parte application in the superior court in which the judgment was entered for a hearing to establish how and to which account the exemption should be applied. Subject to a service of an order issued in that hearing, if any, the financial institutions shall comply with the levy subject to the exemption. This paragraph does not create a cause of action against a judgment creditor who executes a levy or against a financial institution which complies with a levy pursuant to the court's determination.

(4) Notwithstanding paragraph (2), if a judgment debtor holds multiple accounts at a single financial institution, and those accounts cumulatively contain an amount less than or equal to the amount specified in subdivision (a), the financial institution shall protect the full amount in those accounts.

(5) Notwithstanding paragraph (2), if a judgment debtor holds multiple accounts at a single financial institution, and each of those accounts contains an amount less than the amount specified in subdivision (a) but the accounts cumulatively contain an amount greater than the amount specified in subdivision (a), the financial institution shall protect an aggregate amount equal to the amount specified in subdivision (a).

(f) Subdivision (e) of Section 700.140 applies to a financial institution acting under this section.

(g) The Judicial Council shall amend or adopt all forms necessary to implement this section. The forms shall clearly delineate the amount of funds exempt from levy by a financial institution, including funds exempted by this section.

(h) This section shall become operative on September 1, 2020.

SEC. 9. Section 706.021 of the Code of Civil Procedure is amended to read:

706.021. Notwithstanding any other provision of this title, a levy of execution upon the earnings of an employee shall be made by service of an earnings withholding order upon the employer and judgment debtor in accordance with this chapter.

SEC. 10. Section 706.022 of the Code of Civil Procedure is amended to read:

706.022. (a) A judgment creditor shall not enforce an earnings withholding order beyond the period of enforceability as defined in Section 683.020 or, if renewed, as provided for in subdivision (c) of Section 683.120. As used in this section, "withholding period" means the period which commences on the 30th day after service of an earnings withholding order upon the judgment debtor. If a claim of exemption is filed with the levying officer, and the employer is given actual notice before the close of business on the 29th day after the service of the earnings withholding order on the judgment debtor, the withholding period commences on the 45th day after service of the earnings withholding order on the judgment debtor. The withholding period shall continue until the earliest of the following dates:

- (1) The date the employer has withheld the full amount required to satisfy the order.
- (2) The date of termination specified in a court order served on the employer.
- (3) The date of termination specified in a notice of termination served on the employer by the levying officer.
- (4) The date of termination of a dormant or suspended earnings withholding order as determined pursuant to Section 706.032.

(b) Except as otherwise provided by statute, an employer shall withhold the amounts required by an earnings withholding order from all earnings of the employee payable for any pay period of the employee which ends during the withholding period.

(c) An employer is not liable for any amounts withheld and paid over to the levying officer pursuant to an earnings withholding order prior to service upon the employer pursuant to paragraph (2) or (3) of subdivision (a).

SEC. 11. Section 706.103 of the Code of Civil Procedure is amended to read:

706.103. (a) The levying officer shall serve upon the designated employer all of the following:

- (1) The original and one copy of the earnings withholding order.
- (2) The form for the employer's return.
- (3) The notice to the employee of the earnings withholding order.

(4) A copy of the form that the judgment debtor may use to make a claim of exemption.

(5) A copy of the form the judgment debtor may use to provide a financial statement.

(b) At the time the levying officer makes service pursuant to subdivision (a), the levying officer shall provide the employer with a copy of the employer's instructions referred to in Section 706.127. The Judicial Council may adopt rules prescribing the circumstances when compliance with this subdivision is not required.

(c) No earnings withholding order shall be served upon the employer after the time specified in subdivision (b) of Section 699.530.

SEC. 12. Section 706.105 of the Code of Civil Procedure is amended to read:

706.105. (a) A judgment debtor may claim an exemption under Section 706.051 under either of the following circumstances:

(1) No prior hearing has been held with respect to the earnings withholding order.

(2) There has been a material change in circumstances since the time of the last prior hearing on the earnings withholding order.

(b) A claim of exemption shall be made by filing with the levying officer an original and one copy of (1) the judgment debtor's claim of exemption and (2) the judgment debtor's financial statement.

(c) Upon filing of the claim of exemption, the levying officer shall promptly send to the judgment creditor, at the address stated in the application for the earnings withholding order, by first-class mail, postage prepaid, all of the following:

(1) A copy of the claim of exemption.

(2) A copy of the financial statement.

(3) A notice of claim of exemption. The notice shall state that the claim of exemption has been filed and that the earnings withholding order will be terminated, or modified to reflect the amount of earnings claimed to be exempt in the claim of exemption, unless a notice of opposition to the claim of exemption is filed with the levying officer by the judgment creditor within 10 days after the date of the mailing of the notice of claim of exemption.

(d) A judgment creditor who desires to contest a claim of exemption shall, within 10 days after the date of the mailing of the notice of claim of exemption, file with the levying officer a notice of opposition to the claim of exemption.

(e) If a notice of opposition to the claim of exemption is filed with the levying officer within the 10-day period, the judgment creditor is entitled to a hearing on the claim of exemption. If the judgment creditor desires a hearing on the claim of exemption, the judgment creditor shall file a notice of motion for an order determining the claim of exemption with the court within 10 days after the date the levying officer mailed the notice of claim of exemption. If the notice of motion is so filed, the hearing on the motion shall be held not later than 30 days from the date the notice of motion was filed unless continued by the court for good cause. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, if the hearing is delayed by the court and cannot be set within 30 days of notice of the motion, a party may seek by ex parte application, and the court shall issue, an order staying any levy or garnishment with respect to the property subject to the claim of exemption until the hearing occurs. At the time prescribed by subdivision (b) of Section 1005, the judgment creditor shall give written notice of the hearing to the levying officer and shall serve a notice of the hearing and a copy of the notice of opposition to the claim of exemption on the judgment debtor and, if the claim of exemption so requested, on the attorney for the judgment debtor. Service is deemed made when the notice of the hearing and a copy of the notice of opposition to the claim of exemption are deposited in the mail, postage prepaid, addressed to the judgment debtor at the address stated in the claim of exemption and, if service on the attorney for the judgment debtor was requested in the claim of exemption, to the attorney at the address stated in the claim of exemption. The judgment creditor shall file proof of the service with the court. After receiving the notice of the hearing and before the date set for the hearing, the levying officer shall file the claim of exemption and the notice of opposition to the claim of exemption with the court.

(f) If the levying officer does not receive a notice of opposition to the claim of exemption within the 10-day period after the date of mailing of the notice of claim of exemption and a notice of the hearing not later than 10 days after the filing of the notice of opposition to the claim of exemption, the levying officer shall serve on the employer one of the following:

(1) A notice that the earnings withholding order has been terminated if all of the judgment debtor's earnings were claimed to be exempt.

(2) A modified earnings withholding order that reflects the amount of earnings claimed to be exempt in the claim of exemption if only a portion of the judgment debtor's earnings was claimed to be exempt.

(g) If, after hearing, the court orders that the earnings withholding order be modified or terminated, the clerk shall promptly transmit a certified copy of the order to the levying officer who shall promptly serve on the employer of the judgment debtor (1) a copy of the modified earnings withholding order or (2) a notice that the earnings withholding order has been terminated.

(1) Where the judgment debtor's wages are exempt without making a claim, the court shall terminate or modify the earnings withholding order, and shall order the return by a date certain of all of the judgment debtor's exempt wages. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return by a date certain of any wages that were exempt without the need for a claim and that were garnished for up to 12 months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than 12 months preceding the date of the order on the claim of exemption.

(2) Where the judgment debtor's wages are exempt as the result of a claim of exemption, the court shall terminate or modify the earnings withholding order, and shall order the return by a date certain of all of the judgment debtor's exempt wages. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return by a date certain any wages that the debtor has demonstrated would have been exempt by claim of exemption and that were garnished for up to six months preceding the date of the order on the claim of exemption. This paragraph does not limit a judge's authority to order, for good cause, the return of any exempt property taken more than six months preceding the date of the order on the claim of exemption.

(3) If the court determines that any amount withheld pursuant to the earnings withholding order should be paid to the judgment debtor, the court shall order the levying officer, judgment creditor, or other person, who is in possession of the property, to return the exempt property to the judgment debtor. A levying officer shall return the exempt property within 20 business days of receipt of notice of the order. A judgment creditor shall return the exempt property within 10 business days of entry of the order.

(h) If the earnings withholding order is terminated by the court, unless the court otherwise orders or unless there is a material change of circumstances since the time of the last prior hearing on the earnings withholding order, the judgment creditor may not apply for another earnings withholding order directed to the same employer with respect to the same judgment debtor for a period of 100 days following the date of service of the earnings withholding order or 60 days after the date of the termination of the order, whichever is later. Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the judgment creditor may not apply for another earnings withholding order directed to the same employer with respect to the same judgment debtor for a period of 100 days following the date of service of the earnings withholding order or 60 days after the date of the termination of the order, whichever is later.

(i) If an employer has withheld and paid over amounts pursuant to an earnings withholding order after the date of termination of the order but prior to the receipt of notice of its termination, the judgment debtor may recover those amounts only from the levying officer if the levying officer still holds those amounts or, if those amounts have been paid over to the judgment creditor, from the judgment creditor. If the employer has withheld amounts pursuant to an earnings withholding order after termination of the order but has not paid over those amounts to the levying officer, the employer shall pay those amounts to the judgment debtor within five business days of the end of the next pay period.

(j) An appeal lies from any court order under this section denying a claim of exemption or modifying or terminating an earnings withholding order. An appeal by the judgment creditor from an order modifying or terminating the earnings withholding order does not stay the order from which the appeal is taken. Notwithstanding the appeal, until the order modifying or terminating the earnings withholding order is set aside or modified, the order allowing the claim of exemption in whole or in part shall be given the same effect as if the appeal had not been taken.

(k) This section does not apply to a withholding order for support or a withholding order for taxes.

SEC. 13. Section 5.5 of this bill incorporates amendments to Section 703.580 of the Code of Civil Procedure proposed by both this bill and Assembly Bill 3283. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 703.580 of the Code of Civil Procedure, and (3) this bill is enacted after Assembly Bill 3283, in which case Section 5 of this bill shall not become operative.