

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0787.01 Megan Waples x4348

HOUSE BILL 19-1089

HOUSE SPONSORSHIP

Tipper and Valdez A.,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXEMPTION FROM GARNISHMENT FOR LIENS ARISING**
102 **FROM JUDGMENTS FOR MEDICAL DEBT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill exempts a person's earnings from garnishment if the person's family income does not exceed 400% of current federal poverty guidelines and the judgment is for medical debt. A writ of continuing garnishment must include notice that a person's earnings may be exempt if those criteria are met, notice of the judgment debtor's right to object and have a hearing on that objection, and a statement that, to the best of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the judgment creditor's knowledge, the judgment debtor's earnings are not exempt.

The bill takes effect on January 1, 2020, and applies to judgments entered on or after that date.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-54-101, **amend**
3 the introductory portion; and **add** (4.5) as follows:

4 **13-54-101. Definitions.** As used in this ~~article~~ ARTICLE 54, unless
5 the context otherwise requires:

6 (4.5) "MEDICAL DEBT" MEANS ANY OBLIGATION OR ALLEGED
7 OBLIGATION OF A PERSON TO PAY MONEY ARISING OUT OF THE PROVISION
8 OF HEALTH CARE SERVICES AS DEFINED IN SECTION 10-16-102 (33).

9 **SECTION 2.** In Colorado Revised Statutes, 13-54-104, **add** (3.5)
10 as follows:

11 **13-54-104. Restrictions on garnishment and levy under**
12 **execution or attachment - definitions.** (3.5) THE EARNINGS OF AN
13 INDIVIDUAL WHOSE FAMILY INCOME DOES NOT EXCEED FOUR HUNDRED
14 PERCENT OF THE CURRENT FEDERAL POVERTY GUIDELINES, ADJUSTED FOR
15 FAMILY SIZE, ARE NOT SUBJECT TO GARNISHMENT OR LEVY UNDER
16 EXECUTION OR ATTACHMENT IF THE WRIT IS THE RESULT OF A JUDGMENT
17 FOR MEDICAL DEBT ENTERED ON OR AFTER JANUARY 1, 2020.

18 **SECTION 3.** In Colorado Revised Statutes, **amend** 13-54.5-105
19 as follows:

20 **13-54.5-105. Notice to judgment debtor in continuing**
21 **garnishment.** (1) In a case of continuing garnishment, the judgment
22 creditor shall serve two copies of the writ of continuing garnishment upon
23 the garnishee, one copy of which the garnishee shall deliver to the

1 judgment debtor as provided in section 13-54.5-107. Such writ ~~shall~~ MUST
2 include:

3 (a) Notice to the judgment debtor:

4 (I) Of the formula used to calculate the amount of exempt
5 earnings owed to the judgment debtor for a single pay period and the
6 amount of nonexempt earnings payable to the judgment creditor for a
7 single pay period; ~~and such writ shall contain notice to the judgment~~
8 ~~debtor~~

9 (II) THAT THE JUDGMENT DEBTOR'S EARNINGS MAY BE EXEMPT IF
10 THE GARNISHMENT IS FOR A JUDGMENT FOR MEDICAL DEBT, AS DEFINED IN
11 SECTION 13-54-101 (4.5), ENTERED ON OR AFTER JANUARY 1, 2020, AND
12 THE JUDGMENT DEBTOR'S FAMILY INCOME DOES NOT EXCEED FOUR
13 HUNDRED PERCENT OF CURRENT FEDERAL POVERTY GUIDELINES,
14 ADJUSTED FOR FAMILY SIZE;

15 (III) Of ~~his~~ THE JUDGMENT DEBTOR'S right to object to ~~such~~ THE
16 calculation of exempt and nonexempt earnings AND TO OBJECT TO THE
17 GARNISHMENT ON THE GROUNDS THAT THE JUDGEMENT DEBTOR'S
18 EARNINGS ARE EXEMPT; and

19 (IV) ~~his~~ OF THE JUDGEMENT DEBTOR'S right to a hearing on such
20 ~~objection~~ OBJECTIONS; AND

21 (b) A STATEMENT THAT, TO THE BEST OF THE JUDGMENT
22 CREDITOR'S KNOWLEDGE AND BELIEF, THE JUDGMENT DEBTOR'S EARNINGS
23 ARE NOT EXEMPT UNDER SECTION 13-54-104 (3.5).

24 **SECTION 4.** In Colorado Revised Statutes, 13-54.5-108, **amend**
25 (1)(a) as follows:

26 **13-54.5-108. Judgment debtor to file written objection or**
27 **claim of exemption.** (1) (a) In a case of continuing garnishment where

1 the judgment debtor objects to GARNISHMENT ON THE GROUNDS THE
2 JUDGMENT DEBTOR'S EARNINGS ARE EXEMPT OR OBJECTS TO the
3 calculation of the amount of exempt earnings, the judgment debtor ~~shall~~
4 ~~have~~ HAS seven days from receipt of the copy of the writ of continuing
5 garnishment required by section 13-54.5-105 within which to resolve the
6 issue of such miscalculation OR EXEMPTION, by agreement with the
7 garnishee, during which time the garnishee shall not tender any ~~moneys~~
8 MONEY to the clerk of the court. If such objection is not resolved within
9 seven days and after good faith effort, the judgment debtor may file a
10 written objection with the clerk of the court in which the judgment was
11 entered setting forth with reasonable detail the grounds for such
12 objection. The judgment debtor shall, by certified mail, return receipt
13 requested, deliver immediately a copy of such objection to the judgment
14 creditor or his or her attorney of record.

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect January 1, 2020; except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within the ninety-day period after final adjournment of the general
20 assembly, then the act, item, section, or part will not take effect unless
21 approved by the people at the general election to be held in November
22 2020 and, in such case, will take effect on the date of the official
23 declaration of the vote thereon by the governor.

24 (2) This act applies to judgments entered on or after the applicable
25 effective date of this act.