
A BILL FOR AN ACT

RELATING TO ATTACHMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that current law on
2 exemption from real property attachment and from certain
3 personal property attachment needs to be updated to ease the
4 financial burden on Hawaii families who struggle to earn a
5 living while simultaneously living under heavy debt obligations.
6 Some of these individuals collect unemployment compensation
7 benefits and must hope for a job before the benefits run out.
8 Meanwhile they risk losing their assets for lack of income to
9 pay their debts.

10 SECTION 2. Section 651-92, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§651-92 Real property exempt. (a) [Real property shall~~
13 ~~be exempt from attachment or execution as follows:~~

14 ~~(1)] An interest in one parcel of real property in the~~
15 State of Hawaii of a fair market value not exceeding
16 ~~[\$30,000] the most recent real property tax assessment~~
17 of the property, that is owned by the defendant [who
18 ~~is either the head of a family or an individual sixty-~~



1 ~~five years of age or older.~~], including properties
2 under the department of Hawaiian home lands, shall be
3 exempt from attachment or execution.

4 ~~[(2) An interest in one parcel of real property in the~~
5 ~~State of Hawaii of a fair market value not exceeding~~
6 ~~\$20,000 owned by the defendant who is a person.]~~

7 The fair market value of the interest exempted in [paragraphs
8 ~~(1) or (2)] this subsection shall ~~[be determined by appraisal~~
9 ~~and shall]~~ be an interest ~~[which]~~ that is over and above all
10 liens and encumbrances on the real property recorded prior to
11 the lien under which the attachment or execution is to be made.
12 Not more than one exemption shall be claimed on any one parcel
13 of real property even though more than one person residing on
14 ~~[such]~~ the real property may otherwise be entitled to an
15 exemption.~~

16 Any claim of exemption under this section made before
17 ~~[May 27, 1976,]~~ July 1, 2014, shall be deemed to be amended on
18 ~~[May 27, 1976,]~~ July 1, 2014, by increasing the exemption to the
19 amount permitted by this section on ~~[May 27, 1976,]~~ July 1,
20 2014, to the extent that ~~[such]~~ the increase does not impair or
21 defeat the right of any creditor who has executed upon the real
22 property prior to ~~[May 27, 1976.]~~ July 1, 2014.



1 (b) No exemption authorized under this section shall apply
2 to process arising from:

3 (1) A lien as provided by section 507-42;

4 (2) A lien or security interest created by a mortgage,
5 security agreement, or other security instrument;

6 (3) A tax lien in the name of the federal or state
7 government;

8 (4) An improvement district lien of any county of the
9 State; or

10 (5) A lien or encumbrance recorded against the real
11 property prior to the acquisition of interest in and
12 commencement of residence on such real property.

13 (c) Attachment or execution shall not apply to a debtor
14 who is not delinquent in payment of income taxes, real property
15 taxes, or mortgages, as applicable."

16 SECTION 3. Section 651-121, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§651-121 Certain personal property and insurance thereon,**
19 **exempt.** The following described personal property of an
20 individual up to the value set forth shall be exempt from
21 attachment and execution as follows:



- 1 (1) All necessary household furnishings and appliances,
2 books and wearing apparel, ordinarily and reasonably
3 necessary to, and personally used by a debtor or the
4 debtor's family residing with the debtor; and, in
5 addition thereto, jewelry, watches, and items of
6 personal adornment up to an aggregate cash value not
7 exceeding [~~\$1,000.~~] the fair market value of such
8 items as adjusted by the most recent consumer price
9 index.
- 10 (2) One motor vehicle up to [a] the fair market value of
11 ~~[\$2,575,]~~ the vehicle as adjusted by the most recent
12 consumer price index, over and above all liens and
13 encumbrances on the motor vehicle; provided that the
14 value of the motor vehicle shall be measured by
15 established wholesale used car prices customarily
16 found in guides used by Hawaii motor vehicle dealers;
17 or, if not listed in such guides, fair wholesale
18 market value, with necessary adjustment for condition.
- 19 (3) Any combination of the following: tools, implements,
20 instruments, uniforms, furnishings, books, equipment,
21 one commercial fishing boat and nets, one motor
22 vehicle, and other personal property ordinarily and



1 reasonably necessary to and personally owned and used
2 by the debtor in the exercise of the debtor's trade,
3 business, calling, or profession by which the debtor
4 earns the debtor's livelihood.

5 (4) One parcel of land, not exceeding two hundred fifty
6 square feet in size, niche or interment space owned,
7 used, or occupied by any person, or by any person
8 jointly with any other person or persons, in any
9 graveyard, cemetery, or other place for the sole
10 purpose of burying the dead, together with the railing
11 or fencing enclosing the same, and all gravestones,
12 tombstones, monuments, and other appropriate
13 improvements thereon erected.

14 (5) The proceeds of insurance on, and the proceeds of the
15 sale of, the property in this section mentioned, for
16 the period of six months from the date the proceeds
17 are received.

18 (6) The wages, salaries, commissions, and all other
19 compensation for personal services due to the debtor
20 for services rendered during the thirty-one days
21 before the date of the proceeding.



1 (7) Child support, as defined in section 576D-1,
2 notwithstanding that the moneys for child support may
3 be comingled in a bank account.

4 (8) Tax refunds that result from a federal earned income
5 tax credit.

6 (9) Tax refunds that result from federal or state child
7 tax credits."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2014;
11 provided that the amendments made to section 651-121(8) and (9),
12 Hawaii Revised Statutes, in section 3 of this Act shall apply to
13 taxable years beginning after December 31, 2013.

14

INTRODUCED BY: 

JAN 2 2 2014



H.B. NO. 2445

Report Title:

Exemptions; Liens; Attachments

Description:

Broadens the scope of real property and personal property that is exempt from attachment and execution.

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