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# A BILL FOR AN ACT

RELATING TO GARNISHMENT.

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

1           SECTION 1. Section 652-1, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Before judgment. When any goods or effects of a  
4 debtor are in the possession of an attorney, agent, factor, or  
5 trustee (in this chapter jointly and severally included in the  
6 term "garnishee"), or when any debt is due from any person (also  
7 included under the term "garnishee") to a debtor, or when any  
8 person has in the person's possession for safekeeping any moneys  
9 of the debtor, any creditor may bring the creditor's action  
10 against the debtor and in the creditor's petition for process,  
11 or by amendments of the complaint at any time before judgment,  
12 after meeting the requirements of section 652-1.5, may request  
13 the court to insert in the process a direction that service of a  
14 true and attested copy thereof be made upon the garnishee[+], [+]  
15 in any of the manners described under section 652-2.5[+], [+]  
16 to summon the garnishee to appear personally upon the day or  
17 term appointed in the process for hearing the action or at any



1 other time appointed by the court and then and there on oath to  
2 answer all of the following inquiries, herein inclusively  
3 referred to as the "disclosure":

4 (1) Whether at the time the copy was served on the  
5 garnishee, the garnishee had any of the goods or  
6 effects of the defendant in the garnishee's hands and,  
7 if so, the nature, amount and value thereof;

8 (2) Whether at the time of service, the garnishee was  
9 indebted to the defendant and, if so, the nature and  
10 amount of the debt; or

11 (3) Whether at the time of service on the garnishee, the  
12 garnishee had any moneys of the defendant in the  
13 garnishee's possession for safekeeping and, if so, the  
14 amount thereof.

15 The summons and direction shall be signed and issued as is  
16 usual in other civil process after proceedings under section  
17 652-1.5. The summons shall specify an amount or value of money,  
18 debt or goods or effects to be garnished which shall not exceed  
19 one hundred twenty per cent of the amount of the plaintiff's  
20 claim, including cost and interest. The summons shall be served  
21 upon the garnishee in any of the manners described under section



1 652-2.5. From the time of service, the garnishee shall secure  
2 in the garnishee's hands to pay such judgment as the plaintiff  
3 shall recover in the action, such of the following property or  
4 choses then in the garnishee's possession or owing to the  
5 defendant as shall equal the amount or value specified in the  
6 summons, except what the court has expressly found to be exempt  
7 from execution pursuant to section 652-1.5(d) or (f):

8 (1) The goods and effects of the defendant then in the  
9 hands of the garnishee;

10 (2) Any debt then owing from the garnishee to the  
11 defendant;

12 (3) Moneys of the defendant then in the possession of the  
13 garnishee for safekeeping; and

14 (4) A portion of the defendant's wages, salary, stipend,  
15 commissions, annuity, or net income under a trust (in  
16 this chapter included under the term "wages"),  
17 remaining after the deduction of any amounts required  
18 by law to be withheld by withholding the amount to be  
19 determined as follows: five per cent of the first  
20 \$100 per month, ten per cent of the next \$100 per  
21 month, and twenty per cent of all sums in excess of



1           \$200 per month, or an equivalent portion of the above  
2           amount per week, whether then or thereafter to become  
3           owing[-]; provided that any source of income described  
4           in this paragraph shall be exempt from execution if a  
5           plaintiff's claim is an attempt to recover consumer  
6           debt.

7           The property or choses described in (1), (2), (3), and (4) of  
8           this paragraph are included under the term "garnishee fund" (in  
9           this chapter). The cumulative total value of the fund, in  
10          advance of final judgment, shall be no more than the amount  
11          specified in the summons.

12          Except as provided in section 652-1.5, the summons and  
13          direction shall be sufficient notice to the defendant to enable  
14          the plaintiff to bring the plaintiff's action to trial, unless  
15          the defendant is an inhabitant of the State or has some time  
16          resided therein, in which case a like copy shall be served  
17          personally upon the defendant or left at the defendant's last  
18          and usual place of abode.

19          The court shall order the garnishee fund released at the  
20          hearing provided in section 652-1.5 or thereafter upon the  
21          filing by the debtor with the court of a bond or bonds issued by



1 a surety or sureties licensed to do business as such in the  
2 State, in an amount sufficient to pay the claim of the creditor  
3 together with costs and interest, and conditioned upon judgment  
4 rendered in favor of the creditor and to the extent the claim or  
5 any portion thereof, together with costs and interests, if any,  
6 is awarded.

7 As used in this subsection, "consumer debt" means any  
8 obligation or alleged obligation of a consumer to pay money  
9 arising out of a transaction in which the money, property,  
10 insurance, or services that are the subject of the transaction  
11 are intended primarily for personal, family, or household  
12 purposes. "Consumer debt" includes unpaid rent in arrears.  
13 "Consumer debt" does not include unpaid taxes, spousal or child  
14 support, whether or not in arrears, or student loans in  
15 default."

16 SECTION 2. Section 653-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§653-2 Attachment of salary, etc.** [~~The~~] (a) Except as  
19 provided in subsection (b), the salary, stipend, or wages of the  
20 beneficiary may be attached for, and applied in the payment of



1 the beneficiary's debts, in the manner prescribed in this  
2 chapter.

3 (b) The salary, stipend, or wages of a beneficiary shall  
4 not be attached for, and applied in the payment of the  
5 beneficiary's consumer debt.

6 (c) As used in this section, "consumer debt" means any  
7 obligation or alleged obligation of a consumer to pay money  
8 arising out of a transaction in which the money, property,  
9 insurance, or services that are the subject of the transaction  
10 are intended primarily for personal, family, or household  
11 purposes. "Consumer debt" includes unpaid rent in arrears.  
12 "Consumer debt" does not include unpaid taxes, spousal or child  
13 support, whether or not in arrears, or student loans in  
14 default."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



# H.B. NO. 400

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:   
JAN 22 2021



# H.B. NO. 400

**Report Title:**

Wage Garnishment; Consumer Debt

**Description:**

Prohibits the use of wage garnishment in the recovery of consumer debt. Defines "consumer debt".

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