

JAN 20 2023

A BILL FOR AN ACT

RELATING TO ATTACHMENT AND EXECUTION.

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

1 SECTION 1. The legislature finds that the current
2 statutory exemptions from attachment or execution of real and
3 personal property need to be updated to create a safety net of
4 assets for Hawaii families who are struggling to earn a living
5 under heavy debt obligations. These families include workers
6 who live from paycheck to paycheck and have incurred debt due to
7 an unexpected event such as a job layoff, accident, or illness.

8 The legislature further finds that the National Consumer
9 Law Center, in its report titled "No Fresh Start in 2021: Will
10 States Let Debt Collectors Push Families Into Poverty As
11 Pandemic Protections Expire?", published in November 2021, has
12 rated Hawaii with a "D" in protecting households from poverty.

13 The existing law regarding asset protection for real
14 property found in section 651-92, Hawaii Revised Statutes, has
15 not been updated since 1978. According to the U.S. Census, the
16 median price for a house or condominium in Hawaii in 1978 was
17 \$233,800, compared to the current median price of over



1 \$1,000,000. Existing law only protects \$30,000 beyond mortgage
2 obligations.

3 Additionally, existing law regarding asset protection for
4 personal property found in section 651-121, Hawaii Revised
5 Statutes, has not been updated since 1999 and does not include
6 protections for amounts received for child or spousal support.
7 This Act takes into account the need to allow temporarily
8 unemployed workers and their families, who possess a minimal
9 amount of assets and do not want to be on government benefits
10 indefinitely, to retain some of their assets.

11 The purpose of this Act is to:

- 12 (1) Increase the amount of the exemption from attachment
13 or execution of real property and a motor vehicle; and
14 (2) Exempt one month of child support and spousal support
15 or \$5,000, whichever is less, from attachment and
16 execution.

17 SECTION 2. Section 651-92, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "~~(a) [Real property shall be exempt from attachment or~~
20 ~~execution as follows:~~



1 ~~(1)] An interest in [one parcel of] real property in the~~
2 ~~State [of Hawaii, of a fair market value not exceeding~~
3 ~~\$30,000, owned by the defendant who is either the head~~
4 ~~of a family or an individual sixty five years of age~~
5 ~~or older.~~

6 ~~(2) An interest in one parcel of real property in the~~
7 ~~State of Hawaii, of a fair market value not exceeding~~
8 ~~\$20,000, owned by the defendant who is a person.~~

9 ~~The fair market value of the interest exempted in paragraph (1)~~
10 ~~or (2) shall be determined by appraisal and shall be an interest~~
11 ~~which is over and above all liens and encumbrances on the real~~
12 ~~property recorded prior to the lien under which attachment or~~
13 ~~execution is to be made.], including properties under the~~
14 ~~jurisdiction of the department of Hawaiian home lands, of a fair~~
15 ~~market value not exceeding \$100,000 in equity, that is owned by~~
16 ~~the defendant, shall be exempt from attachment and execution.~~
17 Not more than one exemption shall be claimed on any one parcel
18 of real property even though more than one ~~[person]~~ individual
19 residing on ~~[such]~~ the real property may otherwise be entitled
20 to an exemption.



1 Any claim of exemption under this section made before
2 ~~[May 27, 1976,]~~ July 1, 2023, shall be deemed to be amended on
3 ~~[May 27, 1976,]~~ July 1, 2023, by ~~[increasing]~~ amending the
4 exemption to the amount permitted by this section on ~~[May 27,~~
5 ~~1976,]~~ July 1, 2023, to the extent that ~~[such increase]~~ the
6 amendment does not impair or defeat the right of any creditor
7 who has executed upon the real property ~~[prior to May 27, 1976.]~~
8 before July 1, 2023."

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

11 **"§651-121 Certain personal property and insurance thereon,**
12 **exempt.** The following described personal property of an
13 individual up to the value set forth shall be exempt from
14 attachment and execution as follows:

15 (1) All necessary household furnishings and appliances,
16 books and wearing apparel, ordinarily and reasonably
17 necessary to, and personally used by a debtor or the
18 debtor's family residing with the debtor; and, in
19 addition thereto, jewelry, watches, and items of
20 personal adornment up to an aggregate cash value not
21 exceeding ~~[\$1,000,]~~ the fair market value of those



- 1 items as adjusted by the most recent consumer price
2 index;
- 3 (2) One motor vehicle up to [a] the fair market value of
4 [~~\$2,575~~] \$15,000 over and above all liens and
5 encumbrances on the motor vehicle; provided that the
6 value of the motor vehicle shall be measured by
7 established wholesale used car prices customarily
8 found in guides used by Hawaii motor vehicle dealers;
9 or, if not listed in such guides, fair wholesale
10 market value, with necessary adjustment for condition;
- 11 (3) Any combination of the following: tools, implements,
12 instruments, uniforms, furnishings, books, equipment,
13 one commercial fishing boat and nets, one motor
14 vehicle, and other personal property ordinarily and
15 reasonably necessary to and personally owned and used
16 by the debtor in the exercise of the debtor's trade,
17 business, calling, or profession by which the debtor
18 earns the debtor's livelihood;
- 19 (4) One parcel of land, not exceeding two hundred fifty
20 square feet in size, niche or interment space owned,
21 used, or occupied by any person, or by any person



1 jointly with any other person or persons, in any
2 graveyard, cemetery, or other place for the sole
3 purpose of burying the dead, together with the railing
4 or fencing enclosing the same, and all gravestones,
5 tombstones, monuments, and other appropriate
6 improvements thereon erected;

7 (5) The proceeds of insurance on, and the proceeds of the
8 sale of, the property in this section mentioned, for
9 the period of six months from the date the proceeds
10 are received; [~~and~~]

11 (6) The wages, salaries, commissions, and all other
12 compensation for personal services due to the debtor
13 for services rendered during the thirty-one days
14 before the date of the proceeding[~~-~~]; and

15 (7) The equivalent of one month of child support as
16 defined in section 576D-1 or \$5,000, whichever is
17 less, and one month of spousal support as defined in
18 section 576D-1, or \$5,000, whichever is less, in the
19 possession of a debtor who is the recipient of the
20 support payment. The exemption shall apply to the
21 combined total amount of child support and spousal



S.B. NO. 462

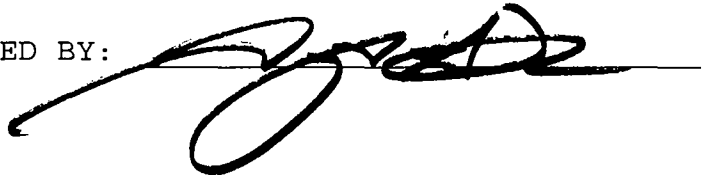
1 support even if that amount is comingled with funds
2 from other sources in a financial account."

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

5 SECTION 5. This Act shall take effect on July 1, 2023.

6

INTRODUCED BY:

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the person who introduced the bill.

S.B. NO. 462

Report Title:

Attachment and Execution of Property; Exemptions

Description:

Increases the amount of interest in real property that is exempt from attachment and execution. Amends the value of personal property that is exempt from attachment and execution, including increasing the exemption amount for a motor vehicle. Exempts from attachment and execution, an amount equivalent to one month of child support or \$5,000, whichever is less, and one month of spousal support or \$5,000, whichever is less.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

