

2012 Kansas Statutes

60-2310. Wage garnishment; definitions; restrictions, exceptions; sickness preventing work; assignment of account; prohibition on courts. (a) *Definitions.* As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them:

(1) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise;

(2) "disposable earnings" means that part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld;

(3) "wage garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt; and

(4) "federal minimum hourly wage" means that wage prescribed by subsection (a)(1) of section 6 of the federal fair labor standards act of 1938, and any amendments thereto.

(b) *Restriction on wage garnishment.* Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual's aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual's aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff's claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court shall allow the creditor to file amendments or corrections of names or addresses of any party to the order of garnishment at any time. In answering such order the garnishee-employer shall withhold from all earnings of the judgment-debtor for any pay period or periods ending during such 30-day period an amount or amounts as are allowed and required by law. Nothing in this act shall be construed as charging the plaintiff in any garnishment action with the knowledge of the amount of any defendant's earnings prior to the commencement of such garnishment action.

(c) *Sickness preventing work.* If any debtor is prevented from working at the debtor's regular trade, profession or calling for any period greater than two weeks because of illness of the debtor or any member of the family of the debtor, and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two months after recovery from such illness.

(d) *Assignment of account.* If any person, firm or corporation sells or assigns an account to any person or collecting agency, that person, firm or corporation or their assignees shall not have or be entitled to the benefits of wage garnishment. The provision of this subsection shall not apply to the following:

(1) Assignments of support rights to the secretary of social and rehabilitation services pursuant to K.S.A. 39-709 and 39-756, and amendments thereto, and support enforcement actions conducted by court trustees pursuant to K.S.A. 23-492, *et seq.*, and amendments thereto;

(2) support rights which have been assigned to any other state pursuant to title IV-D of the federal social security act (42 U.S.C. § 651 *et seq.*);

(3) assignments of accounts receivable or taxes receivable to the director of accounts and reports made under K.S.A. 75-3728b and amendments thereto; or

(4) collections pursuant to contracts entered into in accordance with K.S.A. 75-719 and amendments thereto involving the collection of restitution or debts to district courts.

(e) *Exceptions to restrictions on wage garnishment.* The restrictions on the amount of disposable earnings subject to wage garnishment as provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g);

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act; and

(3) any debt due for any state or federal tax.

(f) *Prohibition on courts.* No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

History: L. 1963, ch. 303, 60-2310; L. 1967, ch. 324, § 2; L. 1968, ch. 404, § 1; L. 1970, ch. 238, § 1; L. 1972, ch. 222, § 4; L. 1976, ch. 210, § 7; L. 1977, ch. 206, § 1; L. 1978, ch. 227, § 5; L. 1979, ch. 183, § 5; L. 1982, ch. 250, § 1; L. 1983, ch. 289, § 1; L. 1985, ch. 115, § 51; L. 1988, ch. 212, § 3; L. 1988, ch. 213, § 3; L. 1994, ch. 273, § 5; L. 1996, ch. 195, § 3; L. 1997, ch. 182, § 103; July 3.