



CCPA-15

July 6, 1970

This is in reply to your letter of April 17, 1970, concerning the relationship between Title III, Restriction on Garnishment, of the Consumer Credit Protection Act and the Ohio garnishment laws.

I first want to thank you for your kind words concerning my article on wage garnishment which appeared in the Personal Finance Law Quarterly report. I am pleased that you found it helpful.

You indicate in your letter that under the Ohio law an individual who is paid on a weekly basis may have 70 percent of a week's earnings garnished, based on an average of the four weeks preceding the date of the filing of the garnishment. You further indicate that Ohio law permits only one garnishment every 30 days.

You ask whether the Federal Wage Garnishment Law would be violated if, instead of withholding 70 percent of a week's pay at one time, the employer were instructed to withhold 17 ½ percent from the wages of the employee for the week in which the writ of garnishment was served upon the garnishee and from the employee's wages in the next succeeding three weeks. This would prorate the withholding of 70 percent of the employee's wages over a four-week period.

Your question involves the interpretation and application of Ohio law as to whether garnishments under the State law may have continuing effect over a four-week period and be applied to the earnings in that period. Interpretation of its law is the State's prerogative. However, there would be no violation of Title III if the State law were so interpreted. We wish to indicate, in this regard, that the Federal law places no restriction on either the timing or the number of garnishments with respect to a single indebtedness.

The Federal limitations on the amount that may be subjected to garnishment each week would, of course, be applicable where more favorable to the judgment-debtor. The general rules for applying the Act's restriction on garnishment formula are: (1) where the individual's weekly "disposable earnings" are \$64 or less, only the amount of such earnings which are in excess of \$48 may be garnished; (2) where the weekly "disposable earnings" are in excess of \$64, no more than 25 percent of such earnings may be garnished.

Your attention is directed to section 307(1) of Title III which provides that the Federal Wage Garnishment Law does not annul, alter, or affect, or exempt any person from complying with the laws of any State prohibiting garnishment or providing for more limited garnishments than are allowed under Title III. Section 307(1) continues in effect those provisions of State law which place a greater restriction on garnishments than do the like provisions of Federal law. To the extent, therefore, that Ohio law provides for more limited garnishment of earnings in a particular case, it is not considered preempted by the Federal law.

The language of the Garnishment Notice enclosed with your letter would not appear to meet the requirements of Title III in all circumstances. You may wish to conform your Notice to the foregoing discussion or, in the alternative, you may wish to attach a copy of the enclosed "Important Notice" form to each of your Garnishment Notice forms as it is issued. There are no restrictions on the reproduction of our "Important Notice" forms.

Sincerely,

Robert D. Moran  
Administrator