

Chapter 16

WAGE GARNISHMENT PROTECTIONS OF THE CONSUMER CREDIT PROTECTION ACT

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Table of Contents

16a GENERAL

16a00	CCPA's wage garnishment protections generally.
16a01	WHD's enforcement authority; references to CCPA.
16a02	Coverage.
16a03	Exempt states.
16a04	Meaning of garnishment.
16a05	CCPA is self-executing.
16a06	Tips, gratuities, and service charges.
16a07	Federal employees.
16a08	Employees of states or their political subdivisions.
16a09	Earnings deposited in a bank account.
16a10	Sick and vacation pay.
16a11	Disability payments from employment-based disability plans.
16a12	Health savings account (HSA) contributions by employers.

16b GARNISHMENT LIMITS

16b00	Limits on garnishment by type of debt.
16b01	Earnings and disposable earnings.
16b02	Deductions.
16b03	Disposable earnings in partial workweeks.
16b04	Applying garnishment limits to disposable earnings.
16b05	Employer attorney fees and consumer debt garnishment limits.
16b06	Creditor attorney fees and consumer debt garnishment limits.
16b07	Attorney fees and family support garnishment limits.
16b08	Service charges permitted under state law.
16b09	Excess garnishment.
16b10	Draws against commission.
16b11	Limits apply separately to each employer.
16b12	No limits beyond family support garnishment limits.
16b13	Limits applied to family support and property settlement agreements.
16b14	Bankruptcy.

16c PROTECTION AGAINST TERMINATION OF EMPLOYMENT

16c00	Employees whose earnings are subject to garnishment.
16c01	Protection against termination applies to all garnishments.
16c02	Administrative garnishments (recovery of non-tax debts owed to the federal government).
16c03	One indebtedness.

- 16c04 Protection extends to suspensions, demotions, and transfers.
- 16c05 Protection does not apply to filing for bankruptcy.
- 16c06 Legal remedies.
- 16c07 Prohibition against using garnishment for a single debt as a factor in termination.

16a GENERAL

16a00 CCPA's wage garnishment protections generally.

Portions of the Consumer Credit Protection Act (CCPA) limit the amount of an individual's earnings that may be garnished and protects an employee from being terminated if pay is garnished for any single debt. WHD's basic interpretations of the CCPA are found in 29 CFR part 870.

References:

[15 U.S.C. 1671-1677](#)

[29 CFR 870](#)

16a01 WHD's enforcement authority; references to CCPA.

- (a) WHD has the authority to enforce only the CCPA's wage garnishment protections. It has no other authority with regard to garnishments themselves. Questions over issues other than the amount being garnished under the CCPA or terminations due to a garnishment should be referred to the court or agency initiating the withholding action.
- (b) For ease of use, "CCPA" as used in this chapter refers only to the wage garnishment portions of the CCPA.

References:

[15 U.S.C. 1673, 1674, 1676](#)

[29 CFR 870.1](#)

16a02 Coverage.

- (a) Coverage is general. There are no specific exemptions for government employees at the federal, state, or local levels or their political subdivisions.
- (b) The CCPA applies wherever federal and state courts have jurisdiction. "State" includes Puerto Rico, the District of Columbia, and U.S. territories and possessions.

Reference:

[15 U.S.C. 1671, et. seq.](#)

16a03 Exempt states.

The Secretary of Labor has authority to exempt garnishments issued under state law from the CCPA's limits on amounts that may be garnished. The list of exempt states, along with the terms and conditions of the exemptions, is in 29 CFR 870. Currently, the only state with such an exemption is Virginia.

References:

[15 U.S.C. 1675](#)
[29 CFR 870.50–57](#)

16a04 **Meaning of garnishment.**

(a) **Definition of “garnishment.”**

A *garnishment* under the CCPA is “any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.” Generally, this refers to a court proceeding.

References:

[15 U.S.C. 1672\(c\)](#)
[WHD Opinion Letter CCPA-13 \(June 15, 1970\)](#)
[WHD Opinion Letter CCPA-6 \(May 18, 1970\)](#)

(b) **Wage attachments.**

Wage attachments are garnishments. A wage attachment for state, local, municipal, or federal taxes is a legal procedure within the meaning of garnishment under the CCPA. This is the case even though there may be no actual court proceeding involved in the tax lien or levy. The CCPA’s protection against termination applies to such attachments for tax debts. However, the CCPA’s limits on amounts that may be garnished do not apply.

References:

[15 U.S.C. 1672–1674](#)
[WHD Opinion Letter CCPA-27 \(Sept. 14, 1970\)](#)

(c) **Administrative garnishments.**

Administrative garnishments are garnishments for purposes of the CCPA. For private sector employees, an administrative garnishment is an amount of money withheld from an employee’s earnings for the payment of a non-tax debt owed the federal government. For federal employees, these types of garnishments are called salary offsets. As used in this chapter, the term “administrative garnishment” includes salary offsets. Usually, these garnishments are instituted for the repayment of loans.

- (1) Administrative garnishments are authorized by and subject to the terms of the Debt Collection Improvement Act (DCIA), 31 U.S.C. 3720D. For federal employees the terms are set at 5 U.S.C. 5514. These laws generally limit the amount to be garnished to 15 percent of disposable earnings.
- (2) As of December 20, 2018, the Higher Education Act (HEA) authorizes federal agencies or collection agencies under contract with the federal government to garnish up to 15 percent of disposable earnings to repay defaulted student loans.
- (3) WHD has no enforcement authority over the amount of withholding in an administrative garnishment if the withholding does not violate the CCPA. Questions concerning the amount of withholdings should be referred to the agency initiating the withholding action.

- (4) When an individual agrees in writing to allow withholding of an amount greater than the DCIA or HEA limits, the deductions are wage assignments.

References:

[5 U.S.C. 5514](#)

[31 U.S.C. 3720D](#)

(d) Wage assignments.

A wage assignment is not a garnishment and is not subject to the CCPA. A wage assignment is a voluntary transfer of the right to receive wages. It is ordinarily a private transaction accomplished through a contract and without a court order. For example, an employee may agree that their employer may turn over some specified amount of their earnings to a creditor or creditors.

References:

[WHD Opinion Letter CCPA-66 \(Mar. 16, 1976\)](#)

16a05 CCPA is self-executing.

The CCPA protects public rights. Unlike state garnishment laws that are framed as exemptions designed solely to protect of individual rights, the CCPA prohibits courts from making, executing, or enforcing orders or processes that violate its terms. Thus, individuals cannot waive the CCPA's protections and do not have to raise the CCPA for its protections to apply.

References:

[15 U.S.C. 1673\(c\)](#)

[WHD Opinion Letter CCPA-36 \(Oct. 21, 1970\)](#)

16a06 Tips, gratuities, and service charges.

- (a) For employees who receive tips, the cash wages paid directly by the employer and the amount of any tip credit claimed by the employer under federal or state law are earnings for CCPA purposes. Tips received in excess of the tip credit amount or in excess of the wages paid directly by the employer (if no tip credit is claimed or allowed) are not earnings for CCPA purposes.
- (b) Payments to employees from service or gratuity charges an employer adds to a customer's bill are earnings under the CCPA when paid to the employee.

Scenario: A restaurant employer is under a court order to garnish wages from a server. The employer charges all customers an additional 15 percent for table services and pays those amounts to its servers. Those amounts are not tips from customers directly to servers. The employer must treat the payment as earnings under the CCPA.

References:

[15 U.S.C. 1672](#)

[WHD Opinion Letter CCPA-43 \(Dec. 9, 1970\)](#)

16a07 Federal employees.

Federal employees' wages may be garnished under the CCPA in the same manner and to the same extent as employees in the private sector.

Reference:

[15 U.S.C. 1672](#)

16a08 Employees of states or their political subdivisions.

State or local laws regulate whether the earnings of a city, county, or state employee are subject to garnishment. To the extent that state or local law permits garnishment, the CCPA applies. However, WHD has no authority to enforce state or local garnishment laws.

Reference:

[15 U.S.C. 1676](#)

16a09 Earnings deposited in a bank account.

The CCPA's limits on amounts that may be garnished do not apply to an employee's bank account composed of earnings already received by the employee. A bank served with a garnishment order directed at a depositor's account is not required to determine the depositor's protections under the CCPA before following the garnishment order.

Reference:

WHD Opinion Letter [CCPA2005-1 \(Jul 27, 2005\)](#)

16a10 Sick and vacation pay.

Sick and vacation pay are compensation for personal services and are earnings under the CCPA.

Reference:

[WHD Opinion Letter CCPA-62 \(Feb. 1, 1973\)](#)

16a11 Disability payments from employment-based disability plans.

Disability payments from an employment-based disability plan constitute compensation for personal services and are earnings under the CCPA.

Reference:

[Field Assistance Bulletin No. 2016-3](#)

16a12 Health savings account (HSA) contributions by employers.

Generally, as long as an employer does not determine its HSA contributions on the basis of the amount or value of individual employees' services and does not give employees an option of receiving cash in lieu of an employer's contribution, the employer's contributions to an HSA are not earnings. Therefore, an employer should not include its HSA contributions when calculating an employee's disposable earnings for purposes of applying the CCPA's garnishment limits.

References:

[26 U.S.C. 223](#)

16b GARNISHMENT LIMITS

16b00 Limits on garnishment by type of debt.

The CCPA limits the amount of an individual’s “disposable earnings” available for garnishment. The limits are different for consumer debts, family support payments (child support and alimony), debts owed for federal or state taxes, and personal bankruptcy. Consumer debts include all debts not covered by the other categories.

(a) Consumer debts.

Garnishments for consumer debts must not exceed the lower of:

- (1) 25 percent of disposable earnings, or
- (2) the amount by which disposable earnings exceed 30 times the federal minimum wage multiplied by the number of weeks (or part of a week) worked.

This chart shows the current maximum amount of an individual’s disposable earnings that may be subject to garnishment for consumer debt depending on how the individual is paid, based on the \$7.25 per hour federal minimum wage:

Based on the \$7.25 per hour federal minimum wage, if payment is:	And the disposable earnings are:	This amount may be garnished for a consumer debt:
Weekly	\$217.50 or less:	<i>None</i>
	More than \$217.50 but less than \$290	<i>Amount above \$217.50</i>
	\$290.00 or more	<i>Maximum 25%</i>
Biweekly	\$435.00 or less	<i>None</i>
	More than \$435.00 but less than \$580.00	<i>Amount above \$435</i>
	\$580.00 or more	<i>Maximum 25%</i>
Semimonthly	\$471.25 or less	<i>None</i>
	More than \$471.25 but less than \$628.33	<i>Amount above \$471.25</i>
	\$628.33 or more	<i>Maximum 25%</i>

Based on the \$7.25 per hour federal minimum wage, if payment is:	And the disposable earnings are:	This amount may be garnished for a consumer debt:
Monthly	\$942.50 or less	<i>None</i>
	More than \$942.50 but less than \$1,256.66	Amount <i>above</i> \$942.50
	\$1,256.66 or more	<i>Maximum 25%</i>

References:

[15 U.S.C. 1673\(a\)](#)

[29 CFR 870.10](#)

(b) Family support payments.

Garnishments for family support payments (child support and alimony) may not exceed 50 percent of disposable earnings, with two exceptions:

- (1) A family support garnishment may be as high as 60 percent of disposable earnings, if the individual is not supporting a child or spouse other than the subject of the garnishment.
- (2) An additional 5 percent of disposable earnings beyond the applicable 50 or 60 percent maximum may be garnished if payments are more than 12 weeks in arrears.

References:

[15 U.S.C. 1673\(b\)\(2\)](#)

[29 CFR 870.11](#)

(c) Federal or state tax debts or personal bankruptcy.

The CCPA does not limit the amount that may be garnished due to a debt for federal or state taxes or personal bankruptcy.

Reference:

[15 U.S.C. 1673\(b\)\(1\)\(B\)-\(C\)](#)

16b01 Earnings and disposable earnings.

- (a) *Earnings* are “compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.”
- (b) *Disposable earnings* are “that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.”

References:

[15 U.S.C. 1672\(a\)-\(b\)](#)

16b02 **Deductions.**

- (a) *Deductions required by law to be withheld* are deductions the employer is required by law to withhold from gross earnings. These deductions are not included in the total amount of disposable earnings subject to garnishment limits.
- (b) Deductions required by law include:
 - (1) Federal withholding taxes (FWT), the employee's share of Social Security (FICA), and federal employee retirement systems (*e.g.*, Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS)) withholding required by law. Under U.S. Office of Personnel Management (OPM) regulations, voluntary Thrift Savings Plan (TSP) deductions are treated the same as deductions required by law.
 - (2) Employee's share of state unemployment insurance taxes (UCI), state employee retirement systems withholding required by state law, and state and municipal income taxes.
- (c) Some employees do not claim all income tax exemptions to which they are entitled. When determining an employee's disposable earnings, WHD uses the amount of tax actually withheld, as shown on the payroll.
- (d) Deductions not required by law to be withheld are deductions the employer makes, in most cases, at the election of the employee. If a deduction is not required by law, it must be included in gross earnings when calculating the amount of disposable earnings. Examples of deductions that are not ordinarily required by law include:
 - (1) Medical and hospital insurance premiums (these deductions are considered required by law for federal employees under OPM regulations);
 - (2) Union dues and initiation fees;
 - (3) U.S. saving bonds;
 - (4) Salary advances;
 - (5) Contributions to religious, eleemosynary, or educational organizations and other charitable deductions;
 - (6) Board, lodging, or other facilities;
 - (7) Purchase of stock in the employer's corporation;
 - (8) Wage assignments not effected by a judgment;
 - (9) Retirement plan contributions (unless required by law, including voluntary TSP contributions under OPM regulations);
 - (10) Credit union loan payments;
 - (11) Uniform rentals;

- (12) Allowances for the employer's own attorney fees as permitted by state law; and
 - (13) Garnishment service fees charged by the employer as permitted by state law.
- (e) This chart illustrates how to exclude required deductions, determine the total amount of an individual's disposable earnings, and apply the CCPA's consumer debt garnishment limits.

Weekly earnings (total gross amount)					\$500.00
Less: deductions required by law	FWT	\$85.39			
	FICA	\$37.40			
	UCI	\$5.00	Total		<u>-\$127.79</u>
Disposable earnings					\$372.21
Disposable earnings are above \$290 and garnishment order is for a consumer debt. The disposable earnings may be garnished up to 25 percent.					\$372.21
Multiply: consumer debt garnishment limit					<u>× 25%</u>
Amount that may be garnished					\$93.05
Disposable earnings					\$372.21
Less: amount that may be garnished					\$93.05
Less: deductions <u>not</u> required by law	Union dues	\$10.00			
	401(k)	\$25.00			
	Charity	\$5.00	Total		<u>-\$40.00</u>
Take home pay (net)					\$239.16

References:

- [15 U.S.C. 1673\(a\)](#)
- [WHD Opinion Letter CCPA-74 \(Dec. 1, 1980\)](#)
- [WHD Opinion Letter CCPA-25 \(Aug. 25, 1970\)](#)

16b03 Disposable earnings in partial workweeks.

- (a) The garnishment limits apply in all workweeks, whether the employee has worked a full or partial workweek.
- (b) If a state wage garnishment law differs from the CCPA, the law resulting in the lower amount being garnished governs.
- (c) The consumer debt garnishment limits determine the floor for disposable earnings exempt from garnishment based on the length of the pay period. This pay period limit is not prorated or reduced in the case of earnings for partial pay periods or pay periods of less than a week. For example, withholding for a consumer debt garnishment is permitted only if the employee’s disposable earnings for the workweek exceed 30 times the federal minimum wage (currently \$217.50, based on the federal minimum wage of \$7.25) regardless whether the individual works a partial or full workweek.
- (d) This floor does *not* apply to garnishments for child support, alimony, federal or state tax debts, or personal bankruptcy.

References:

[15 U.S.C. 1673\(a\)-\(b\)](#)

[29 CFR 870.10](#)

16b04 Applying garnishment limits to disposable earnings.

(a) Amount available to garnish depends on pay period.

When a pay period is longer than a week (*e.g.*, biweekly, semi-monthly, monthly), the disposable earnings that may be garnished do not depend on the earnings or limits in a particular workweek. They are determined based on the length of the employer’s pay period, and in the case of a garnishment order that does not apply to future earnings, by the amount earned up to the point when the employer is legally bound to withhold by that garnishment order.

Reference:

[29 CFR 870.10](#)

(b) Examples: biweekly and semi-monthly pay periods.

For a consumer debt garnishment to take place in a 2-week (biweekly) pay period, disposable earnings must be greater than \$435 for the period. In a biweekly pay period, when disposable earnings are between \$435 and \$580, only the amount above \$435 is subject to garnishment.

(1) *Scenario 1: Employer pays biweekly (every two weeks).*

<u>1st workweek</u>	<u>2nd workweek</u>	<u>Total</u>
Worked 5 days: \$550.00	Worked 1 day: \$150.00	\$700.00
Less: legally required deductions		<u>\$100.00</u>

<u>1st workweek</u>	<u>2nd workweek</u>	<u>Total</u>
		\$600.00
Disposable earnings		

In this scenario, \$150 may be garnished for consumer debts. It does not matter that the employee's disposable earnings for the second workweek were less than \$217.50, because the employer pays on a biweekly basis. When the biweekly disposable earnings are \$580 or above as in the scenario, up to 25 percent of the disposable earnings may be garnished for consumer debts.

For an employer to garnish an employee's pay in a semimonthly pay period, disposable earnings must be greater than \$471.25 for the period.

(2) *Scenario 2: Employer pays semi-monthly (two times a month).*

The pay period runs from the 1st through the 15th and the 16th through the last day of the month. During a pay period running from the 1st through the 15th of the month, the employee earns \$800 during the first 7 days and \$200 during the last 8 days and has a total of \$850 in disposable earnings after \$150 in deductions required by law are taken out. The employee's disposable earnings in any particular workweek during the semi-monthly pay period are not material. When the semi-monthly disposable earnings are \$628.33 or above, as in the scenario, up to 25 percent of the disposable earnings may be garnished for consumer debts.

The garnishment limits apply to the pay period for the individual whose earnings are garnished. Where there is a hold-back period for wages previously earned, the limitations apply separately to the earnings for each pay period. Earnings for two or more pay periods are not lumped together.

(c) **“Earnings” generally.**

Under the CCPA, *earnings* means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments from a pension or retirement program. This generally includes compensation for personal services. If an employment contract includes furnished facilities, such as meals and lodging, the dollar value of the furnished facilities is part of the earnings included when applying the garnishment limits.

(d) **Lump-sum payments.**

The terms “earnings” and “disposable earnings” in the CCPA are generally confined to periodic payments of compensation. They do not cover every asset that is traceable in some way to such compensation. Certain lump-sum payments, such as tax refunds, are neither periodic payments nor subject to the CCPA's limitations. That lump-sum payments occur occasionally or only once, however, does not alone render them outside the scope of “earnings” under the CCPA. Indeed, bonuses are often infrequent or given only one time, but the CCPA includes them as earnings. Thus, the compensatory nature of the payment—that is, whether the payment is for services rendered by the employee—rather than the frequency of the payment determines whether the payment is “earnings.”

(1) *Lump-sum payments considered earnings.*

These lump-sum payments are considered earnings for the pay period in which they are received, and, as such, are subject to the CCPA's limits:

a. Commissions.

Generally, the employer pays commissions to an employee based on the employee's sales. For example, a salesperson receives a payment that is equal to 20 percent of the total amount of the salesperson's sales.

b. Discretionary bonuses.

The employer retains sole discretion regarding both the fact of payment and bonus payment amount. There is no prior contract, agreement, or promise causing the employee to expect such payments regularly. For example, an employer pays a year-end bonus based on business performance.

c. Nondiscretionary bonuses.

The employer uses a specific set of criteria to determine bonus payments. Employees expect to receive the bonus if they meet the criteria. An example of a nondiscretionary bonus is shift differential pay.

d. Productivity or performance bonuses.

Payments to employees for productive or exemplary performance, for example, completing work quickly or exceeding production quotas.

e. Profit sharing.

Payments to employees based on the employer's profits. For example, a chief executive officer receives, in addition to a salary, a payment equal to five percent of company profits.

f. Referral bonuses.

The employer pays a bonus to an employee who helps recruit new talent by recommending a candidate who is ultimately hired.

g. Sign-on bonuses.

The employer pays a bonus to a new employee as an incentive for accepting the job offer.

h. Moving or relocation incentive payments.

The employer makes a one-time payment to an employee for relocating to a new area, for example, as a result of the employee accepting a new management role.

i. Attendance awards.

The employer pays a monetary award to an employee who meets certain attendance criteria, such as for being punctual over a particular time period.

j. Safety awards.

The employer pays a monetary award recognizing an employee's safety performance. For example, a truck driver receives a cash award for several years of accident-free driving.

k. Cash service awards.

The employer pays a cash award recognizing an employee's length of service.

l. Retroactive merit increases.

Payment to an employee for a delayed pay increase. For example, the employee receives notice of a pay increase in January, but due to a delay, the employer increases the pay at a later time.

m. Payment for working during a holiday.

The employer pays an employee who works during a holiday his or her regular wages or a higher wage rate for foregoing the holiday lump-sum payment for the period.

n. Workers' compensation wage replacement payments.

The employee is paid his or her wages when missing work for a job-related injury.

o. Termination pay.

Payment of last wages, as well as any outstanding benefits, such as accrued vacation leave.

p. Severance pay.

Payment to an employee when the employer terminates the employment other than for cause. This may be in addition to termination pay. For example, the employee may receive a payment worth 12 weeks of wages for being employed a total of 12 years.

q. Back and front pay resulting from insurance settlements.

Payments of unpaid or future wages to employees resulting from work-related insurance settlements, such as for resolving an allegation of wrongful termination or a claim involving unpaid wages.

(2) *Lump-sum payments that are not earnings.*

These lump-sum payments are not earnings under the CCPA and are not subject to the garnishment limits on disposable earnings:

a. Workers' compensation medical benefits payments.

The employee is reimbursed for medical expenses incurred as a result of a job-related injury.

b. Compensatory or punitive damages resulting from insurance settlements.

Payments not for wages earned or future wages resulting from work-related insurance settlements, such as for resolving an allegation of wrongful termination or a claim involving unpaid wages.

c. Buybacks of company shares.

A buyback occurs when a company repurchases its shares to reduce the number of company shares in the open market or as a flexible way of returning money to shareholders relative to dividends. For employees with stock options, the employees receive the proceeds via paycheck, direct deposit, payroll card, etc.

References:

[15 U.S.C. 1672\(a\)-\(b\)](#)

[WHD Non-Administrator Opinion Letter CCPA2018-1NA](#) (April 12, 2018)

Kokoszka v. Belford, 417 U.S. 642 (1974)

16b05 Employer attorney fees and consumer debt garnishment limits.

An employer's withholding of its own attorney fees from an individual's earnings as allowed under state law is not a deduction required by law. The withholding is not deducted from gross earnings and should be included in the individual's total amount of disposable earnings subject to the garnishment limits. Further, such deductions and deductions for service charges described in FOH 16b08 below may not reduce the individual's earnings below the minimum wage or overtime pay required by the FLSA.

References:

[WHD Opinion Letter CCPA-33 \(Oct. 12, 1970\)](#)

16b06 Creditor attorney fees and consumer debt garnishment limits.

A creditor's attorney fees may be collected through a wage garnishment order when allowed by state law. They are part of the debt being collected, and the CCPA's limits apply to the garnishment.

Reference:

[WHD Opinion Letter CCPA-36 \(Oct. 21, 1970\)](#)

16b07 Attorney fees and family support garnishment limits.

- (a) An award of attorney fees in family support cases constitutes part of the support order. If a court orders garnishment of one spouse's earnings to collect the attorney fees incurred by the other spouse during a support case, the family support garnishment limits (that is, 50 to 65 percent of disposable earnings) apply.
- (b) In domestic relations cases, a garnishment order might be for family support payments and subject to the family support garnishment limits (that is, the 50 to 65 percent limit), or it might be for a property settlement and subject to the consumer debt garnishment limits (that is, the 25 percent limit).

16b08 Service charges permitted under state law.

State law may permit an employer to charge service fees for deductions. These charges are not deductions required by law when withheld from an employee's earnings and are included in an individual's disposable earnings subject to the garnishment limits.

16b09 Excess garnishment.

When an employer, in accordance with a garnishment order, withholds amounts from an employee's earnings in excess of the amounts allowed by the CCPA, the excess withholding amounts might result in violations of the FLSA's minimum wage and overtime pay requirements. Amounts withheld from an employee's pay in excess of the amounts allowed by the CCPA are not paid wages under the FLSA. This is true even if the excess withholdings that result in the violations are for the employee's benefit and are paid to a third person, and the employer derives no profit or benefit from the transaction.

References:

[29 CFR 531.39](#)

[WHD Opinion Letter CCPA-57 \(July 12, 1971\)](#)

16b10 Draws against commission.

Draws against commission are earnings and, therefore, subject to the garnishment limits in the same manner as other forms of compensation.

Scenario: An employer has received a consumer debt garnishment based on the debt of an employee. During an 8-week period, the employee has disposable earnings of \$200 per week in the form of a draw, or advance, against commission earnings. At the end of the 8-week period, the employee receives an additional \$6,000 in disposable earnings, settling the remainder of the commissions for the eight-week earning period.

- (1) During the eight-week period, the employer may not withhold any amount from the employee's pay. Only disposable earnings in excess of \$217.50 per week are subject to consumer debt garnishment, and the employee's earnings are only \$200 per week.
- (2) At the end of the 8-week period, the employer may garnish up to 25 percent of the \$6,000 commission-settlement payment. The disposable earnings from the additional payment exceed \$217.50. However, the weekly \$200 disposable earnings from the employee's weekly draw against commissions are not included or added to the total \$6,000 in disposable earnings subject to the garnishment limits.

Reference:

[WHD Opinion Letter CCPA-28 \(Sept. 23, 1970\)](#)

16b11 Limits apply separately to each employer.

- (a) When an individual works for more than one employer that has received a garnishment order in the same pay period, the CCPA garnishment limits are separately applied to each employer.
- (b) For the garnishments to be treated separately, each employment must be separate and distinct—that is, the employers must be completely disassociated and act independently of each other.

Scenario: An employee works for two different employers who each pay weekly. The employee receives \$300 in disposable earnings (\$150 from each employer) during a week.

- (1) The employee's wages are not subject to garnishment for a consumer debt even though the total disposable earnings for the week are \$300 because the employee's disposable earnings from each employer are less than the minimum weekly amount subject to garnishment (\$217.50).
- (2) Each employer that has received a family support garnishment order for the employee would separately garnish from its disposable earnings due the employee subject to the family support garnishment limits.

Reference:

[15 U.S.C. 1673\(a\)–\(b\)](#)

16b12 No garnishments beyond family support garnishment limits.

Family support garnishments are separate from consumer debts and subject to different limits on amounts that may be garnished. Once the applicable family support garnishment limit is reached, no other garnishment may be made under the CCPA, unless it is subject to some further exception (*e.g.*, garnishments owed due to personal bankruptcy or federal or state taxes).

Scenario: An employer, in accordance with a garnishment order for support payments, withholds \$90 per week from the wages of an employee who has disposable earnings of \$290 per week. The employer is then served a garnishment order for the collection of consumer debt.

- (1) The \$90 weekly garnishment for support payments is allowed because the amount is less than the family support garnishment limit of 50 to 65 percent of the individual's disposable earnings.
- (2) No consumer debt garnishment may be made because the amount already garnished (\$90 weekly) is more than the amount that may be withheld under the consumer debt garnishment limits—in this scenario, a maximum of \$72.50 per week (25 percent of \$290).

References:

[15 U.S.C. 1673](#)
[29 CFR 870.11](#)
[WHD Opinion Letter CCPA-10 \(June 10, 1970\)](#)

16b13 Limits applied to family support and property settlement agreements.

The family support garnishment limits apply only to orders for alimony, support, or maintenance. A court order for specific performance of an agreement that is substantially a property settlement agreement is not “for the support of any person,” and a garnishment resulting from such an order would be, instead, subject to the consumer debt garnishment limits.

References:

[15 U.S.C. 1673\(b\)\(1\)–\(2\)](#)
[29 CFR 870.11](#)

16b14 Bankruptcy.

- (a) The chapter of the Bankruptcy Act under which the bankruptcy is filed determines if the CCPA’s limitations apply to garnishment orders related to the bankruptcy. The CCPA does *not* limit garnishment orders of courts acting under Chapter 13 of the Bankruptcy Act, which contains post-bankruptcy consumer protections and remedies separate from the CCPA.
- (b) The CCPA is designed to furnish such protections pre-bankruptcy, in the hope of preventing personal bankruptcy. The CCPA limitations do apply to garnishment orders related to other chapters of the Bankruptcy Act.

References:

[15 U.S.C. 1673\(b\)\(1\)\(B\)](#)
[29 CFR 870.11](#)

Kokoszka v. Belford, 417 US 642 (1974)

16c PROTECTION AGAINST TERMINATION OF EMPLOYMENT

16c00 Employees whose earnings are subject to garnishment.

- (a) The CCPA prohibits discharging an employee because the employee’s earnings were subject to garnishment for any one indebtedness. Earnings are subject to garnishment when the employer is *legally bound* to withhold from the employee’s earnings to satisfy a garnishment order.
- (b) If a garnishment order for one debt results in a garnishment to the limits of the CCPA, the employer may not fire the employee related to the garnishment order until the employer is legally bound to withhold for the garnishment of a second debt. In such a case, there is no garnishment for a second debt until the second garnishment takes effect. Although the second garnishment order makes the employer aware of the second debt, the employee’s pay is being garnished for only one debt—until the employer is able to begin to fulfill the second garnishment order.

References:

[15 U.S.C. 1674](#)

[WHD Opinion Letter CCPA-23 \(Aug. 12, 1970\)](#)

[WHD Opinion Letter CCPA-26 \(Sept. 4, 1970\)](#)

[WHD Opinion Letter CCPA-5 \(Apr. 28, 1970\)](#)

16c01 Protection against termination applies to all garnishments.

The CCPA's protection against termination applies to all types of garnishments, even when the garnishment is not subject to any of the CCPA's garnishment limits. For example, if a tax debt results in the garnishment of earnings and there are no previous garnishments, discharging the employee for the garnishment would violate the CCPA—even though no garnishment limits apply to the recovery of state or federal taxes.

References:

[15 U.S.C. 1674\(a\)](#)

[WHD Opinion Letter CCPA-18 \(July 9, 1970\)](#)

[WHD Opinion Letter CCPA-5 \(Apr. 28, 1970\)](#)

16c02 Administrative garnishments (recovery of non-tax debts owed to the federal government).

- (a) Discharging an employee because of a single administrative garnishment violates the CCPA. However, a discharge based on an administrative garnishment in conjunction with another garnishment for a separate debt does not violate the CCPA.
- (b) The DCIA and HEA (see FOH 16a04(c)) prohibit employers from terminating, refusing to employ, or taking disciplinary action against an individual based on an administrative garnishment. However, WHD has no authority to enforce either of those laws; questions about them should be referred to the agency initiating the garnishment.

References:

[5 U.S.C. 5514](#)

[31 U.S.C. 3720D](#)

[WHD Opinion Letter CCPA-18 \(July 9, 1970\)](#)

[WHD Opinion Letter CCPA-5 \(Apr. 28, 1970\)](#)

16c03 One indebtedness.

(a) Meaning.

One indebtedness refers to a single debt, regardless of the number of levies made or the number of separate garnishment proceedings instituted in connection with that debt. In cases of garnishment after a judgment, WHD construes the judgment itself as the debt. Such a debt could represent one or more claims of a single creditor or the claims of several creditors who joined in the proceeding that resulted in the judgment. The protection against discharge is renewed with each new employment because the new employer has not previously been subject to a garnishment order with respect to that employee.

(b) One indebtedness distinguished from garnishment proceedings.

- (1) There is a distinction between a single debt and the garnishment proceeding brought to collect it. After a garnishment proceeding for one debt becomes effective, the

CCPA does not prohibit discharge if another garnishment arises from a second debt and that second garnishment takes effect. These multiple garnishments need not be from different creditors; they may be from the same creditor as long as they involve separate debts. Whether there is more than one debt depends on all of the facts in each particular case. Ordinarily, a separate debt may be identified as the full amount of the debt represented by a single judgment.

- (2) The distinction between a single debt and the garnishment proceedings brought to collect it is important in states that allow garnishment only of (1) wages earned before the garnishment order was served or (2) future wages but subject to a time limitation. In such states, the judgment creditor may secure a number of garnishment orders to collect the full amount of the single debt represented by a judgment. An employer may not discharge an employee due to such multiple garnishments.

(c) Terminations following garnishments for second debt.

An employee terminated after a garnishment for a second debt that occurred long after the first may have been discharged solely because of the garnishment for the second debt. Where more than a year has passed between garnishments for separate debts, WHD will scrutinize a discharge from employment following the latest garnishment. Whether a termination violates the CCPA depends on all the facts and circumstances.

References:

[15 U.S.C. 1674\(a\)](#)

[WHD Opinion Letter CCPA-9 \(June 5, 1970\)](#)

[WHD Opinion Letter CCPA-11 \(June 12, 1970\)](#)

[WHD Opinion Letter CCPA-26 \(Sept. 4, 1970\)](#)

[WHD Opinion Letter CCPA-33 \(Oct. 12, 1970\)](#)

[WHD Opinion Letter CCPA-63 \(March 30, 1973\)](#)

16c04 Protection extends to suspensions, demotions, and transfers.

- (a) The CCPA's protection against discharge includes protection against adverse actions that interrupt employment to the degree that a prudent employee would look for another job. A long suspension is equivalent to a termination of employment. For example, an employer might violate the CCPA if, following subsequent garnishments on the same indebtedness, it disciplines an employee through a series of gradually increased suspensions of several days' duration. Suspensions of as few as 5 days may constitute a violation.
- (b) A suspension for an indefinite period or for so long that the employee's return to duty is unlikely might be equivalent to a termination. A suspension is not a violation if the employee can obtain the funds necessary to satisfy the garnishment or can otherwise secure a release from the garnishment. However, a suspension may be a prohibited discharge if the employee is unable to secure a release or obtain funds to satisfy the garnishment and is no longer being paid wages to apply against the debt.
- (c) A demotion or transfer based on a single garnishment, whether wholly or in part, is a constructive discharge that violates the CCPA. A reasonable interpretation of the effect of transferring a person to a position paying less money is that of a termination.

References:

[15 U.S.C. 1674](#)
[WHD Opinion Letter CCPA-63 \(Mar. 30, 1973\)](#)
[WHD Opinion Letter CCPA-32 \(Oct. 8, 1970\)](#)

16c05 **Protection does not apply to filing for bankruptcy.**

The CCPA does not prohibit an employer from discharging an employee for filing for bankruptcy. Section 525 of the Bankruptcy Act contains similar protections, but WHD has no authority to enforce the Bankruptcy Act.

References:

[15 U.S.C. 1674](#)
[11 U.S.C. 525](#)

16c06 **Legal remedies.**

- (a) The remedy for an unlawful discharge is to eliminate the adverse effects of the unlawful discharge, which may include restoring the employee to the pre-discharge position and requiring restitution of lost wages and benefits.
- (b) If violations cannot be resolved through informal means, DOL may sue to restrain violators and remedy violations. Employers who willfully violate the CCPA's prohibition against termination may be criminally prosecuted and fined, imprisoned for up to one year, or both.
- (c) The CCPA does not set a deadline for filing a lawsuit alleging unlawful discharge.

References:

[15 U.S.C. 1674, 1676](#)

16c07 **Prohibition against using garnishment for a single debt as a factor in termination.**

The CCPA's protection against termination may be violated even if garnishment for a single debt is not the only factor in an employee's discharge. Only where garnishment for a single debt plays no real part in the termination is it beyond the CCPA's protections.

References:

[15 U.S.C. 1674](#)