

SECOND REGULAR SESSION

HOUSE BILL NO. 1870

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS.

4824H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 513.430 and 513.475, RSMo, and to enact in lieu thereof four new sections relating to garnishments, with a delayed effective date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 513.430 and 513.475, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 513.430, 513.433, 513.475, and 525.235, to
3 read as follows:

513.430. 1. The following property shall be exempt from attachment and execution
2 to the extent of any person's interest therein:

3 (1) Household furnishings, household goods, wearing apparel, appliances, books,
4 animals, crops or musical instruments that are held primarily for personal, family or
5 household use of such person or a dependent of such person, not to exceed [~~three~~] **seventeen**
6 thousand dollars in value in the aggregate;

7 (2) A wedding ring not to exceed one thousand five hundred dollars in value and other
8 jewelry held primarily for the personal, family or household use of such person or a
9 dependent of such person, not to exceed [~~five~~] **one thousand seven** hundred dollars in value
10 in the aggregate;

11 (3) Any other property of any kind, not to exceed in value [~~six~~] **one thousand seven**
12 hundred dollars in the aggregate;

13 (4) Any implements or professional books or tools of the trade of such person or the
14 trade of a dependent of such person not to exceed [~~three~~] **six** thousand dollars in value in the
15 aggregate;

EXPLANATION — Matter enclosed in bold-faced brackets [~~thus~~] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) Any motor vehicles, not to exceed ~~three~~ **ten** thousand dollars in value in the
17 aggregate, **except that such limitation may be increased in the amount of any unused**
18 **exemption allowed under subdivision (1) of this subsection, not to exceed an additional**
19 **ten thousand dollars;**

20 (6) Any mobile home used as the principal residence but not attached to real property
21 in which the debtor has a fee interest, not to exceed ~~five~~ **twelve** thousand dollars in value;

22 (7) Any one or more unmaturred life insurance contracts owned by such person, other
23 than a credit life insurance contract, and up to fifteen thousand dollars of any matured life
24 insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the
25 spouse, child, or parent of the beneficiary;

26 (8) The amount of any accrued dividend or interest under, or loan value of, any one or
27 more unmaturred life insurance contracts owned by such person under which the insured is
28 such person or an individual of whom such person is a dependent; provided, however, that if
29 proceedings under Title 11 of the United States Code are commenced by or against such
30 person, the amount exempt in such proceedings shall not exceed in value one hundred fifty
31 thousand dollars in the aggregate less any amount of property of such person transferred by
32 the life insurance company or fraternal benefit society to itself in good faith if such transfer is
33 to pay a premium or to carry out a nonforfeiture insurance option and is required to be so
34 transferred automatically under a life insurance contract with such company or society that
35 was entered into before commencement of such proceedings. No amount of any accrued
36 dividend or interest under, or loan value of, any such life insurance contracts shall be exempt
37 from any claim for child support. Notwithstanding anything to the contrary, no such amount
38 shall be exempt in such proceedings under any such insurance contract which was purchased
39 by such person within one year prior to the commencement of such proceedings;

40 (9) Professionally prescribed health aids for such person or a dependent of such
41 person;

42 (10) Such person's right to receive:

43 (a) A Social Security benefit, unemployment compensation or a public assistance
44 benefit;

45 (b) A veteran's benefit;

46 (c) A disability, illness or unemployment benefit;

47 (d) Alimony, support or separate maintenance, not to exceed seven hundred fifty
48 dollars a month;

49 (e) a. Any payment under a stock bonus plan, pension plan, disability or death benefit
50 plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or
51 established pursuant to section 456.014, the person's right to a participant account in any
52 deferred compensation program offered by the state of Missouri or any of its political

53 subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age
54 or length of service, to the extent reasonably necessary for the support of such person and any
55 dependent of such person unless:

56 (i) Such plan or contract was established by or under the auspices of an insider that
57 employed such person at the time such person's rights under such plan or contract arose;

58 (ii) Such payment is on account of age or length of service; and

59 (iii) Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408,
60 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401(a),
61 403(a), 403(b), 408, 408A or 409).

62 b. Notwithstanding the exemption provided in subparagraph a. of this paragraph, any
63 such payment to any person shall be subject to attachment or execution pursuant to a qualified
64 domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986
65 (26 U.S.C. Section 414(p)), as amended, issued by a court in any proceeding for dissolution
66 of marriage or legal separation or a proceeding for disposition of property following
67 dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse
68 or lacked jurisdiction to dispose of marital property at the time of the original judgment of
69 dissolution;

70 (f) Any money or assets, payable to a participant or beneficiary from, or any interest
71 of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings
72 ~~[plan]~~ **account**, or similar plan, including an inherited account or plan, that is qualified under
73 Section **223**, 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986
74 (26 U.S.C. Section 401(a), 403(a), 403(b), 408, 408A, or 409), as amended, whether such
75 participant's or beneficiary's interest arises by inheritance, designation, appointment, or
76 otherwise, except as provided in this paragraph. Any plan or arrangement described in this
77 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic
78 relations order; however, the interest of any and all alternate payees under a qualified
79 domestic relations order shall be exempt from any and all claims of any creditor, other than
80 the state of Missouri through its department of social services. As used in this paragraph, the
81 terms "alternate payee" and "qualified domestic relations order" have the meaning given to
82 them in Section 414(p) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(p)), as
83 amended. If proceedings under Title 11 of the United States Code are commenced by or
84 against such person, no amount of funds shall be exempt in such proceedings under any such
85 plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and
86 for the period such person participated within three years prior to the commencement of such
87 proceedings. For the purposes of this section, when the fraudulently conveyed funds are
88 recovered and after, such funds shall be deducted and then treated as though the funds had
89 never been contributed to the plan, contract, or trust;

90 (11) The debtor's right to receive, or property that is traceable to, a payment on
91 account of the wrongful death of an individual of whom the debtor was a dependent, to the
92 extent reasonably necessary for the support of the debtor and any dependent of the debtor;

93 (12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five
94 hundred dollars in value in the aggregate;

95 (13) Any moneys accruing to and deposited in individual savings accounts or
96 individual deposit accounts under sections 166.400 to 166.456 or sections 166.500 to
97 166.529, subject to the following provisions:

98 (a) This subdivision shall apply to any proceeding that:

99 a. Is filed on or after January 1, 2022; or

100 b. Was filed before January 1, 2022, and is pending or on appeal after January 1,
101 2022;

102 (b) Except as provided by paragraph (c) of this subdivision, if the designated
103 beneficiary of an individual savings account or individual deposit account established under
104 sections 166.400 to 166.456 or sections 166.500 to 166.529 is a lineal descendant of the
105 account owner, all moneys in the account shall be exempt from any claims of creditors of the
106 account owner or designated beneficiary;

107 (c) The provisions of paragraph (b) of this subdivision shall not apply to:

108 a. Claims of any creditor of an account owner as to amounts contributed within a two-
109 year period preceding the date of the filing of a bankruptcy petition under 11 U.S.C. Section
110 101 et seq., as amended; or

111 b. Claims of any creditor of an account owner as to amounts contributed within a one-
112 year period preceding an execution on judgment for such claims against the account owner.

113 2. Nothing in this section shall be interpreted to exempt from attachment or execution
114 for a valid judicial or administrative order for the payment of child support or maintenance
115 any money or assets, payable to a participant or beneficiary from, or any interest of any
116 participant or beneficiary in, a retirement plan which is qualified pursuant to Sections 408 and
117 408A of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408 and 408A), as amended.

**513.433. 1. On April 1, 2029, and at each three-year interval ending on April
2 first thereafter, each dollar amount in effect under sections 513.430 and 513.475
3 immediately before such April first shall be adjusted:**

4 **(1) To reflect the change in the Consumer Price Index for All Urban Consumers,**
5 **published by the Department of Labor, for the most recent three-year period ending**
6 **immediately before the January first preceding such April first; and**

7 **(2) To round to the nearest twenty-five-dollar amount that represents such**
8 **change.**

9 **2. Not later than March 1, 2029, and at each three-year interval ending on**
10 **March first thereafter, the Missouri supreme court shall publish in the Missouri**
11 **supreme court rules the dollar amounts that will become effective on such April first**
12 **under sections 513.430 and 513.475.**

13 **3. Adjustments made in accordance with subsection 1 of this section shall not**
14 **apply with respect to cases commenced before the date of such adjustments.**

 513.475. 1. The homestead of every person, consisting of a dwelling house and
2 appurtenances, and the land used in connection therewith, not exceeding the **aggregate** value
3 of [~~fifteen~~] **forty** thousand dollars, which is or shall be used by such person as a homestead,
4 shall, together with the rents, issues and products thereof, be exempt from attachment and
5 execution. The exemption allowed under this section shall not be allowed for more than one
6 owner of any homestead if one owner claims the entire amount allowed under this subsection;
7 but, if more than one owner of any homestead claims an exemption under this section, the
8 exemption allowed to each of such owners shall not exceed, in the aggregate, the total
9 exemption allowed under this subsection as to any one homestead.

10 2. Either spouse separately shall be debarred from and incapable of selling,
11 mortgaging or alienating the homestead in any manner whatever, and every such sale,
12 mortgage or alienation is hereby declared null and void; provided, however, that nothing
13 herein contained shall be so construed as to prevent the husband and wife from jointly
14 conveying, mortgaging, alienating or in any other manner disposing of such homestead, or
15 any part thereof.

525.235. 1. For purposes of this section, "institution" means a federally insured
2 **bank, savings bank, savings and loan association, or credit union.**

3 **2. All orders of garnishment issued in this state for the purpose of attaching to**
4 **account funds on deposit held by an institution shall be issued under only this section**
5 **and shall be attached to only such funds held by the institution on the date of service on**
6 **the institution, provided the effective date of service shall be a banking day and**
7 **provided service is made prior to the institution's business cutoff time, otherwise the**
8 **service on the institution shall be effective on the next banking day. In addition, if an**
9 **account receives electronic deposits of exempt protected funds including, but not limited**
10 **to, funds described under subdivision (10) of subsection 1 of section 513.430, the**
11 **attachment date for such account shall be the date and banking day that the institution**
12 **makes its application for the federally required look-back analysis. The return date for**
13 **orders of garnishment under this section shall not be less than thirty days from the**
14 **effective date of service.**

15 **3. All orders of garnishment issued in this state for the purpose of attaching to**
16 **account funds held by an institution shall include the judgment debtor's address and the**

17 last four digits of the debtor's tax identification number, if known, and shall specify the
18 amount of funds to be withheld by the garnishee.

19 4. If an order of garnishment attaches to account funds held by an institution in
20 which the garnishee holds funds of the judgment debtor in two or more accounts, the
21 garnishee may withhold payment of the amount attached from any one or more of such
22 accounts and such accounts may have a different attachment date if necessary for the
23 federally required look-back analysis.

24 5. If an order of garnishment attaches to account funds held by an institution
25 and the garnishee holds funds of the judgment debtor in an account that the judgment
26 debtor owns in joint tenancy with one or more individuals who are not subject to
27 garnishment, the garnishee shall withhold the entire amount sought by the garnishment.
28 Neither the garnishor nor the garnishee shall be liable to the joint owners if the
29 ownership of the funds is later proven not to be the judgment debtor's. Any bona fide
30 error made by an institution relating to the account funds of a judgment debtor under
31 an order of garnishment shall be governed by the provisions of applicable federal law.

32 6. No party shall seek an order of garnishment attaching to account funds held
33 by an institution except on good-faith belief of the party seeking garnishment that the
34 party to be served with the garnishment order has, or will have, account assets of the
35 judgment debtor. Except as provided further, not more than one garnishment shall be
36 issued by a party seeking an order for garnishment under this section for the same
37 garnishee applicable to the same claim or claims and against the same judgment debtor
38 in any thirty-day period. A judge may order an exception to this subsection in any case
39 in which the party seeking the garnishment shall in person or by attorney:

40 (1) Certify that the garnishment is not for the purpose of harassment of the
41 debtor; and

42 (2) State facts demonstrating to the satisfaction of the judge that there is reason
43 to believe that the garnishee has property of the debtor that is not exempt from
44 execution.

45 7. No institution shall have a duty to investigate, respond to, or assert any
46 defenses of a judgment debtor.

47 8. An institution served an order of garnishment and interrogatories under this
48 section shall answer within twenty days. Funds shall be released to the judgment debtor
49 sixty days after an answer is submitted, or sooner under an order to pay, or paid into the
50 court if objections are filed by the judgment debtor and the institution is served with a
51 copy of the objections.

52 9. This section does not apply to wage garnishments or to garnishments of
53 property other than account funds held by an institution as defined for purposes of this

54 **section and a garnishment issued under this section does not require a garnishee to**
55 **search for, hold, or return wages or other property. A garnishment under this section**
56 **does not require a garnishee to report or hold or respond to interrogatories not related**
57 **to account funds.**

58 **10. This section does not limit the authority of a garnishor to obtain and issue an**
59 **order of garnishment and interrogatories for wages or for property, other than account**
60 **funds, held by a federally insured bank, savings bank, savings and loan association, or**
61 **credit union under the laws and rules of the Missouri supreme court.**

62 **11. The provisions of subsections 1 to 10 of this section shall be effective January**
63 **1, 2027.**

64 **12. The Missouri supreme court shall adopt rule amendments or issue a specific**
65 **rule and provide appropriate forms and interrogatories to implement this section prior**
66 **to January 1, 2027.**

Section B. The repeal and reenactment of sections 513.430, 513.433, and 513.475 of
2 this act shall become effective on January 1, 2027.

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