

taxes owing from the employee, for contribution to funds, plans or systems providing for death, retirement, disability, unemployment, or other benefits, for the payment for goods or services furnished by the employer to the employee or his family at the request of the employee, or for charitable, educational, patriotic or similar purposes. (Stats.1937, c. 90, p. 202, § 300, as amended Stats.1941, c. 529, p. 1851, § 5; Stats.1943, c. 1048, p. 2988, § 1.)

AMENDED IN ASSEMBLY JUNE 8, 1967

CALIFORNIA LEGISLATURE—1967 REGULAR SESSION—ASSEMBLY BILL No. 457

Introduced by Assemblymen Brathwaite, Bill Greene, Burton, Ralph, Elliott, MacDonald, McMillan, Moretti, Roberti, Shoemaker, Bagley, and McGee, February 8, 1967—Referred to Committee on Finance and Insurance

An act to amend Sections 538, 540, 542, and 690.11 of the Code of Civil Procedure, relating to attachment of earnings

The people of the State of California do enact as follows:

SECTION 1. Section 538 of the Code of Civil Procedure is amended to read:

538. The clerk of the court, or the justice, where there is no clerk, must issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff showing:

LEGISLATIVE COUNSEL'S DIGEST

AB 457, as amended, Brathwaite (Fin. & Ins.). Attachment of earnings.
Amends Secs. 538, 540, 542, and 690.11, C.C.P.

Exempts from attachment all of defendant's earnings for personal services, whereas at present only one-half of earnings for personal services rendered within 30 days preceding levy of attachment is automatically exempt, and other half is exempt if necessary for use of debtor's family, residing in this state, subject to prescribed exceptions.

Provides that one-half "~~net earnings~~" or the first \$100 \$70 per week of personal service earnings, whichever is greater, ~~that is~~ received for services rendered during 30 days preceding execution, is exempt from such execution without filing claim of exemption, rather than exempting just one-half of "~~earnings~~" earnings for such services rendered within 30 days preceding execution.

~~Defines "net earnings."~~

Modifies exemption from execution of all of earnings for personal services rendered within such 30 days, when necessary for use of debtor's family, by deleting requirement that family reside in this state ~~and by deleting exception for debts incurred by debtor or family for necessities.~~

Vote—Majority; Appropriation—No; State Expense—No.

1. The facts specified in Section 537 which entitle him to the writ;
2. The amount of the indebtedness claimed, over and above all legal setoffs or counterclaims, or the amount claimed as damages; and
3. That the attachment is not sought, and the action is not prosecuted, to hinder, delay, or defraud any creditor of the defendant.

Provided, however, that no attachment may be issued under this chapter in any action in which the sum claimed, exclusive of interest and attorney's fees, is less than one hundred twenty-five dollars (\$125).

SEC. 2. Section 540 of the Code of Civil Procedure is amended to read:

540. The writ must be directed to the sheriff, or a constable, or marshal of any county in which property of such defendant may be, and must require him to attach and safely keep all the property of such defendant within his county not exempt from execution, specifically excluding the earnings of such defendant, or so much of the property of such defendant as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties, which must first be approved by a judge of the court issuing the writ, or if said writ of attachment is issued to another county then by a judge of a court, having jurisdiction in cases involving the amount specified in the writ, in the county where the levy shall have been, or is about to be, made, or deposit a sum of money with the sheriff, constable, or marshal in an amount sufficient to satisfy such demand against such defendant,