H-3709.1

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**HOUSE BILL 2720**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Orwall, Tarleton, Valdez, Frame, Ortiz-Self, Stanford, and Pollet

AN ACT Relating to student opportunity, assistance, and relief for student loans; amending RCW 67.08.100, 4.56.110, 6.01.060, 6.15.010, 6.27.100, 6.27.105, 6.27.140, and 6.27.150; creating new sections; and repealing RCW 2.48.165, 18.04.420, 18.08.470, 18.11.270, 18.16.230, 18.20.200, 18.27.360, 18.39.465, 18.43.160, 18.46.055, 18.76.100, 18.85.341, 18.96.190, 18.104.115, 18.106.290, 18.130.125, 18.140.200, 18.145.125, 18.160.085, 18.165.280, 18.170.163, 18.180.050, 18.185.055, and 28A.410.105.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that an educated workforce is essential for the state's economic development. By 2020 seventy percent of available jobs in Washington will require at least a postsecondary credential. According to the 2015 A Skilled and Educated Workforce report, bachelor degree production in high-demand fields, such as science, technology, engineering, mathematics, and health, does not meet the demand of Washington's employers. The state has also set educational attainment goals to recognize the need and benefits of an educated workforce. College degree holders have higher incomes, better financial health, and are more likely to be homeowners than those who do not have college degrees. In fact, young adults aged twenty-two to thirty-five with a college degree are fifty percent more likely to own a home than those without a degree.

However, the legislature finds that the cost of higher education has risen dramatically in recent years. Between 2003 and 2013, the price index of tuition rose eighty percent, three times the increase in the consumer price index and nearly double the increase in the medical price index over the same period. The legislature also finds that students are financing their education with more student loan debt. According to the institute for college access and success' project on student debt, in 2014 fifty-eight percent of recent graduates in Washington had debt, and the average federal student loan debt load for a student graduating from a four-year public or private institution of higher education was twenty-four thousand eight hundred dollars. This is an increase of forty-two percent since 2004, when the average debt load was seventeen thousand four hundred dollars. These averages do not take into account additional private loans that many students take out to supplement their federal loans.

Student loan debt can greatly impact the economic benefits of earning a college degree. Surveys indicate that people burdened by student loan debt are less likely to buy a home; get married and start a family; start a small business; pursue lower paying professions such as teaching, nonprofit work, or social work; or even continue their education. The legislature finds that these decisions create a chain reaction of economic and social impact to the state.

The legislature recognizes that student loan debt is very different from other forms of debt, such as auto loans and home mortgages, for a variety of reasons. With most debt, borrowers know beforehand how much their monthly payment will be. However, student loans are more complicated because a student may borrow different amounts term to term and make decisions on an incremental basis as their financial aid packages, work, and living situations change. In addition, student loans may have origination fees, accumulated and capitalized interest, grace and forbearance periods, and income-based repayment options that all change the monthly payment amount. The legislature recognizes that another major difference with student loan debt is the unknown factor: Students take out the debt without having a clear idea of their future income and other financial obligations. Lastly, if a student has trouble repaying a student loan, the loans are not secured with physical property that can be sold, and in the event of bankruptcy, are nearly impossible to discharge.

According to the United States department of education, Washington students are defaulting on their federal student loans at roughly the same rate as the national average. For the cohort that entered into repayment on their federal student loans in 2013, ten percent, or seven thousand seven hundred forty-six students, fell into default during the fiscal year ending September 30, 2016, just under the national average of eleven percent.

The consequences of default can haunt student loan borrowers for years unless they are able to rehabilitate their loans. These consequences may include suspension of the borrower's professional license; excessive contact from collection agencies; garnishment of wages and bank accounts; as well as seizing of the borrower's tax refund and other federal payments, such as social security retirement and disability benefits. Defaulting on a student loan damages a borrower's credit, making it difficult to qualify for a mortgage or auto loan, rent an apartment, and even find employment, closing people off from the resources they need for financial stability.

The legislature acknowledges that the state currently allows regulators of twenty-six professions to suspend the professional licenses or certificates of student loan borrowers who have defaulted on their loans. In 2015 the department of licensing reported one hundred ten license suspensions for student loan default within the eleven professions it regulates, most of which were in the field of cosmetology. Twenty-one states have similar laws, but recently some states have repealed their laws or introduced legislation to do so, recognizing that license suspension hinders a borrower's ability to repay. It is the legislature's intent to repeal the statutes regarding professional license or certificate suspension and intends for those who had their license or certificate suspended to be eligible to have their license or certificate reinstated.

The legislature also finds that Washington state has high postjudgment interest rates and generous wage and bank account garnishment rates that negatively impact private student loan borrowers who default. Studies indicate that wage and bank account garnishment contributes to financial and employment instability, unemployment, bankruptcy, homelessness, and chronic stress. Washington's high interest and garnishment rates also increase the courts' caseload by making it more attractive for lenders of private student loans to sue a borrower in court and obtain a judgment than to negotiate an agreement or settlement with the borrower.

Washington state's postjudgment interest rate was set at twelve percent in 1980 when the prime interest rate was fifteen percent. The current prime interest rate stands at three and one-half percent. In addition, the state's current postjudgment rate on torts is around three percent.

Regarding wage garnishment, many states, such as Texas, Pennsylvania, and South Carolina do not allow for wage garnishment for consumer debt. For federal student loans, the department of education can garnish up to fifteen percent of a borrower's disposable income, but not more than thirty times the minimum wage. In Washington, a borrower can have twenty-five percent of his or her disposable earnings garnished, or thirty-five times the federal minimum wage. As for bank account exemptions, Massachusetts protects two thousand five hundred dollars from garnishment compared to Washington's current exemption of five hundred dollars. To put this figure into perspective, the average rent in the Seattle metropolitan area is two thousand eighty-seven dollars.

Therefore, it is the legislature's intent to help student loan borrowers in default avoid loss of professional license or certification, which hinders repayment. It is also the legislature's intent to help student loan borrowers in default to maintain financial stability and to avoid the hardships of bank account and wage garnishment by making the postjudgment interest rate for private student loan debt more comparable to the market rate and by increasing the exemptions for bank account and wage garnishments.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 2.48.165 (Disbarment or license suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 1;

(2)RCW 18.04.420 (License or certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 2;

(3)RCW 18.08.470 (Certificate or registration suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 3;

(4)RCW 18.11.270 (License, certificate, or registration suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 4;

(5)RCW 18.16.230 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 5;

(6)RCW 18.20.200 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 6;

(7)RCW 18.27.360 (Certificate of registration suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 7;

(8)RCW 18.39.465 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 9;

(9)RCW 18.43.160 (Certificate of registration or license suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 10;

(10)RCW 18.46.055 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 12;

(11)RCW 18.76.100 (Certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 13;

(12)RCW 18.85.341 (License suspension—Nonpayment or default on educational loan or scholarship) and 2008 c 23 s 30 & 1996 c 293 s 14;

(13)RCW 18.96.190 (Certificate of licensure suspension—Nonpayment or default on educational loan or scholarship) and 2009 c 370 s 16 & 1996 c 293 s 15;

(14)RCW 18.104.115 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 16;

(15)RCW 18.106.290 (Certificate or permit suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 17;

(16)RCW 18.130.125 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 18;

(17)RCW 18.140.200 (Certificate, license, or registration suspension—Nonpayment or default on educational loan or scholarship) and 2005 c 339 s 16 & 1996 c 293 s 19;

(18)RCW 18.145.125 (Certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 20;

(19)RCW 18.160.085 (Certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 21;

(20)RCW 18.165.280 (License or certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 22;

(21)RCW 18.170.163 (License or certificate suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 23;

(22)RCW 18.180.050 (Registration suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 25;

(23)RCW 18.185.055 (License suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 26; and

(24)RCW 28A.410.105 (Certificate or permit suspension—Nonpayment or default on educational loan or scholarship) and 1996 c 293 s 27.

**Sec.**  RCW 67.08.100 and 2017 c 46 s 3 are each amended to read as follows:

(1) The department upon receipt of a properly completed application and payment of a nonrefundable fee, may grant an annual license to an applicant for the following: (a) Promoter; (b) manager; (c) boxer; (d) second; (e) wrestling participant; (f) inspector; (g) judge; (h) timekeeper; (i) announcer; (j) event physician; (k) event chiropractor; (l) referee; (m) matchmaker; (n) kickboxer; (o) martial arts participant; (p) training facility; (q) amateur sanctioning organization; and (r) theatrical wrestling school.

(2) The application for the following types of licenses includes a physical performed by a physician, as defined in RCW 67.08.002, which was performed by the physician with a time period preceding the application as specified by rule: (a) Boxer; (b) wrestling participant; (c) kickboxer; (d) martial arts participant; and (e) referee.

(3) An applicant for the following types of licenses for the sports of boxing, kickboxing, and martial arts must provide annual proof of certification as having adequate experience, skill, and training from an organization approved by the department, including, but not limited to, the association of boxing commissions, the international boxing federation, the international boxing organization, the Washington state association of professional ring officials, the world boxing association, the world boxing council, or the world boxing organization for boxing officials, and the united full contact federation for kickboxing and martial arts officials: (a) Judge; (b) referee; (c) inspector; (d) timekeeper; or (e) other officials deemed necessary by the department.

(4) No person may participate or serve in any of the above capacities unless licensed as provided in this chapter.

(5) The referees, judges, timekeepers, event physicians, chiropractors, and inspectors for any boxing, kickboxing, or martial arts event must be designated by the department from among licensed officials.

(6) The referee for any wrestling event must be provided by the promoter and must be licensed as a wrestling participant.

(7) The department must immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate is automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(8) ((~~The director must suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license may not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement is automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.~~

~~(9)~~)) A person may not be issued a license if the person has an unpaid fine outstanding to the department.

((~~(10)~~)) (9) A person may not be issued a license unless they are at least eighteen years of age.

((~~(11)~~)) (10)(a) This section does not apply to:

(i) Contestants or participants in events at which only amateurs are engaged in contests;

(ii) Wrestling participants engaged in training or a wrestling show at a theatrical wrestling school; and

(iii) Fraternal organizations and/or veterans' organizations chartered by congress or the defense department, excluding any recognized amateur sanctioning body recognized by the department.

(b) Upon request of the department, a promoter, contestant, or participant must provide sufficient information to reasonably determine whether this chapter applies.

**Sec.**  RCW 4.56.110 and 2010 c 149 s 1 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3)(a) Judgments founded on the tortious conduct of a "public agency" as defined in RCW 42.30.020 shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(b) Except as provided in (a) of this subsection, judgments founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(4) Except as provided under subsection (1) of this section, judgments for unpaid private student loan debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry.

(5) Except as provided under subsections (1), (2), ((~~and~~)) (3), and (4) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.

**Sec.**  RCW 6.01.060 and 1988 c 231 s 1 are each amended to read as follows:

((~~The term "certified mail," as used in this title,~~)) The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(1) "Certified mail" includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

(2) "Private student loan" means any loan not guaranteed by the federal or state government that is used solely for personal use to finance postsecondary education and costs of attendance at an educational institution. A private student loan includes a loan made solely to refinance a private student loan. A private student loan does not include an extension of credit made under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

**Sec.**  RCW 6.15.010 and 2012 c 117 s 2 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed three thousand five hundred dollars in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed three thousand five hundred dollars in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(i) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed six thousand five hundred dollars in value for the individual or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(ii) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed three thousand dollars in value, of which not more than one thousand five hundred dollars in value may consist of cash, and of which not more than:

(A) Until January 1, 2018:

(I) For debts owed to state agencies, two hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under ((~~(c)~~)) (d)(ii)(A) of this subsection may not exceed two hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(II) For all private student loan debt, two thousand five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(A)(II) may not exceed two thousand five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(III) For all other debts, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under ((~~(c)~~)) (d)(ii)(B)(I) of this subsection may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) After January 1, 2018:

(I) For all debts except private student loan debt, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)((~~(c)~~)) (d)(ii)(B)(I) may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(II) For all private student loan debt, two thousand five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(B)(II) may not exceed two thousand five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(iii) For an individual, a motor vehicle used for personal transportation, not to exceed three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars in aggregate value;

(iv) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(v) All professionally prescribed health aids for the debtor or a dependent of the debtor; and

(vi) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. The exemption under this subsection (1)((~~(c)~~)) (d)(vi) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

((~~(d)~~)) (e) To each qualified individual, one of the following exemptions:

(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;

(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;

(iii) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed ten thousand dollars in value.

((~~(e)~~)) (f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

**Sec.**  RCW 6.27.100 and 2012 c 159 s 3 are each amended to read as follows:

(1) A writ issued for a continuing lien on earnings shall be substantially in the form provided in RCW 6.27.105. All other writs of garnishment shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt"; and

(c) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

|  |
| --- |
| "IN THE  . . . . . COURTOF THE STATE OF WASHINGTON IN AND FORTHE COUNTY OF  . . . . . . |
|  , |  |
| Plaintiff, | No.  . . . . |
| vs. |  |  |
|  , | WRIT OF |
| Defendant, | GARNISHMENT |
|  , |  |
| Garnishee |  |
| THE STATE OF WASHINGTON TO:    |
|  | Garnishee |
| AND TO:    |
| Defendant |
| The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is $ . . . . . ., consisting of: |
|  | Balance on Judgment or Amount of Claim | $ . . . . |
|  | Interest under Judgment from . . . . to  . . . . | $ . . . . |
|  | Per Day Rate of Estimated Interest | $ . . . . per day |
|  | Taxable Costs and Attorneys' Fees | $ . . . . |
|  | Estimated Garnishment Costs: |
|  | Filing and Ex Parte Fees | $ . . . . |
|  | Service and Affidavit Fees | $ . . . . |
|  | Postage and Costs of Certified Mail | $ . . . . |
|  | Answer Fee or Fees  | $ . . . . |
|  | Garnishment Attorney Fee | $ . . . . |
|  | Other | $ . . . . |

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . . . ., ((~~20~~)). . . . (year)

[Seal]

|  |  |
| --- | --- |
|   |   |
| Attorney for Plaintiff (or Plaintiff, if no attorney) |  | Clerk of the Court |  |
|   |   |
| Address | By |
|   |   |
| Name of Defendant | Address" |
|   |  |
| Address of Defendant |  |

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscripted attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

|  |
| --- |
| Dated this  . . . . . . . .day of . . . . . . . . . ., ((~~20~~)) . . . . (year) |
|  |
|   |  |
| Attorney for Plaintiff |  |
|   |   |
| Address | Address of the Clerk of the Court" |
|   |  |
| Name of Defendant |  |
|   |  |
| Address of Defendant |  |

**Sec.**  RCW 6.27.105 and 2012 c 159 s 4 are each amended to read as follows:

(1) A writ that is issued for a continuing lien on earnings shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support((~~;~~))";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt"; and

(c) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

|  |
| --- |
| "IN THE  . . . . . COURTOF THE STATE OF WASHINGTON IN AND FORTHE COUNTY OF  . . . . . . |
|  , |  |
| Plaintiff, | No.  . . . . |
| vs. |  |  |
|  , | WRIT OF |
| Defendant | GARNISHMENT FOR |
|  | CONTINUING LIEN ON |
|  , | EARNINGS |
| Garnishee |  |
| THE STATE OF WASHINGTON TO:  |
|  | Garnishee |
| AND TO:  |
| Defendant |
| The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is $ . . . . . ., consisting of: |
|  | Balance on Judgment or Amount of Claim | $ . . . . |
|  | Interest under Judgment from  . . . . to  . . . . | $ . . . . |
|  | Per Day Rate of Estimated Interest | $ . . . . per day |
|  | Taxable Costs and Attorneys' Fees | $ . . . . |
|  | Estimated Garnishment Costs: |
|  | Filing and Ex Parte Fees | $ . . . . |
|  | Service and Affidavit Fees | $ . . . . |
|  | Postage and Costs of Certified Mail | $ . . . . |
|  | Answer Fee or Fees | $ . . . . |
|  | Garnishment Attorney Fee | $ . . . . |
|  | Other | $ . . . . |

THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT.

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, tips, or other compensation for personal services or any periodic payments pursuant to a nongovernmental pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, if this writ carries a statement in the heading ((~~that~~)) of either: "This garnishment is based on a judgment or order for child support," the basic exempt amount is fifty percent of disposable earnings; or "This garnishment is based on a judgment or order for private student loan debt," the basic exempt amount is the greater of eighty-five percent of disposable earnings or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable.

YOU MAY DEDUCT A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE SECOND ANSWER.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . . . ., ((~~20~~)). . . . (year)

[Seal]

|  |  |
| --- | --- |
|   |   |
| Attorney for Plaintiff (or Plaintiff, if no attorney) |  | Clerk of the Court |  |
|   |   |
| Address | By |
|   |   |
| Name of Defendant | Address" |
|   |  |
| Address of Defendant |  |

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscripted attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

|  |
| --- |
| Dated this  . . . . . . . .day of . . . . . . . . . ., ((~~20~~)) . . . . (year) |
|  |
|   |  |
| Attorney for Plaintiff |  |
|   |   |
| Address | Address of the Clerk of the Court" |
|   |  |
| Name of Defendant |  |
|   |  |
| Address of Defendant |  |

**Sec.**  RCW 6.27.140 and 2012 c 159 s 8 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

NOTICE OF GARNISHMENT

AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be a percent of your disposable earnings, which is fifty percent of that part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld. If the garnishment is for private student loan debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty-five percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or any federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including up to $2,500.00 in a bank account if you owe on private student loan debts or up to $500.00 in a bank account for all other debts) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2)(a) If the writ is to garnish funds or property held by a financial institution, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

|  |
| --- |
| [Caption to be filled in by judgment creditoror plaintiff before mailing.] |
|   |  |
| Name of Court |  |
|   | No . . . . . . |
| Plaintiff, |  |
| vs. |  |
|   | EXEMPTION CLAIM |
| Defendant, |  |
|   |  |
| Garnishee Defendant |  |
| INSTRUCTIONS: |
| 1. | Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet. |
| 2. | Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT. |
| I/We claim the following money or property as exempt: |
| IF BANK ACCOUNT IS GARNISHED: |
| [  ] The account contains payments from: |
| [  ] | Temporary assistance for needy families, SSI, or other public assistance. I receive $ . . . . . monthly. |
| [  ] | Social Security. I receive $ . . . . . monthly. |
| [  ] | Veterans' Benefits. I receive $ . . . . . monthly. |
| [  ] |  Federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan. I receive $ . . . . . monthly. |
| [  ] | Unemployment Compensation. I receive $ . . . . . monthly. |
| [  ] | Child support. I receive $ . . . . . monthly. |
| [  ] | Other. Explain  |
|  |   |
| [  ] | $2,500 exemption for private student loan debts. |
| [  ] | $500 exemption for all other debts. |
| IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING: |
| [  ] | No money other than from above payments are in the account. |
| [  ] | Moneys in addition to the above payments have been deposited in the account. Explain  |
|  |   |
|  |   |
| OTHER PROPERTY: |
| [  ] | Describe property  |
|  |   |
|  | (If you claim other personal property as exempt, you must attach a list of all other personal property that you own.) |
|   |   |
|  | Print: Your name | If married or in a state registered domestic partnership, |
|  | name of husband/wife/state registered domestic partner |
|   |   |
|  | Your signature | Signature of husband, |
|  | wife, or state registered domestic partner |
|   |   |
|   |   |
|  | Address | Address |
|  | (if different from yours) |
|   |   |
|  | Telephone number | Telephone number |
|  | (if different from yours) |

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(b) If the writ is directed to an employer to garnish earnings, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, subject to (c) of this subsection, printed or typed in no smaller than size twelve point font type:

|  |
| --- |
| [Caption to be filled in by judgment creditoror plaintiff before mailing.] |
|   |  |
| Name of Court |  |
|   | No . . . . . . |
| Plaintiff, |  |
| vs. |  |
|   | EXEMPTION CLAIM |
| Defendant, |  |
|   |  |
| Garnishee Defendant |  |
| INSTRUCTIONS: |
| 1. | Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet. |
| 2. | Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT. |
| I/We claim the following money or property as exempt: |
| IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED: |
| [  ] | Name and address of employer who is paying thebenefits:  |
|  |   |
| IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT: |
| [  ] | I claim maximum exemption. |
| IF EARNINGS ARE GARNISHED FOR PRIVATE STUDENT LOAN DEBT: |
| [  ] | I claim maximum exemption. |
|   |   |
|  | Print: Your name | If married or in a state registered domestic partnership, |
|  | name of husband/wife/state registered domestic partner |
|   |   |
|  | Your signature | Signature of husband, |
|  | wife, or state registered domestic partner |
|   |   |
|   |   |
|  | Address | Address |
|  | (if different from yours) |
|   |   |
|  | Telephone number | Telephone number |
|  | (if different from yours) |

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(c) If the writ under (b) of this subsection is not a writ for the collection of child support, the exemption language pertaining to child support may be omitted.

(d) If the writ under (b) of this subsection is not a writ for the collection of private student loan debt, the exemption language pertaining to private student loan debt may be omitted.

**Sec.**  RCW 6.27.150 and 2012 c 159 s 9 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, if the garnishee is an employer owing the defendant earnings, then for each week of such earnings, an amount shall be exempt from garnishment which is the greatest of the following:

(a) Thirty-five times the federal minimum hourly wage in effect at the time the earnings are payable; or

(b) Seventy-five percent of the disposable earnings of the defendant.

(2) In the case of a garnishment based on a judgment or other order for child support or court order for spousal maintenance, other than a mandatory wage assignment order pursuant to chapter 26.18 RCW, or a mandatory assignment of retirement benefits pursuant to chapter 41.50 RCW, the exemption shall be fifty percent of the disposable earnings of the defendant.

(3) In the case of a garnishment based on a judgment or other order for the collection of private student loan debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:

(a) Fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or

(b) Eighty-five percent of the disposable earnings of the defendant.

(4) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether earnings are due the defendant for one week, a portion thereof, or for a longer period.

((~~(4)~~)) (5) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant.

((~~(5)~~)) (6) No money due or earned as earnings as defined in RCW 6.27.010 shall be exempt from garnishment under the provisions of RCW 6.15.010, as now or hereafter amended.

NEW SECTION. **Sec.**  This act may be known and cited as the student opportunity, assistance, and relief act.

**--- END ---**