

§ 870.50

deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve week period which ends with the beginning of such workweek.

(2) Compliance with the provisions of section 303(a) and (b) may offer problems when there is more than one garnishment. In that event the priority is determined by State law or other Federal laws as the CCPA contains no provisions controlling the priorities of garnishments. However, in no event may the amount of any individual's disposable earnings which may be garnished exceed the percentages specified in section 303. To illustrate:

(i) If 45% of an individual's disposable earnings were garnished for taxes, and this garnishment has priority, the Consumer Credit Protection Act permits garnishment for the support of any person of only the difference between 45% and the applicable percentage (50 to 65%) in the above quoted section 303(b).

(ii) If 70% of an individual's disposable earnings were garnished for taxes and/or a Title XIII Bankruptcy debt, and these garnishments have priority, the Consumer Credit Protection Act does not permit garnishment either for the support of any person or for other debts.

(iii) If 25% of an individual's disposable earnings were withheld pursuant to an ordinary garnishment which is subject to the restrictions of section 303(a), and the garnishment has priority in accordance with State law, the Consumer Credit Protection Act permits the additional garnishment for the support of any person of only the difference between 25% and the applicable percentage (50-65%) in the above quoted section 303(b).

(iv) If 25% or more of an individual's disposable earnings were withheld pursuant to a garnishment for support, and the support garnishment has priority in accordance with State law, the Consumer Credit Protection Act does not permit the withholding of any additional amounts pursuant to an ordinary garnishment which is subject to the restrictions of section 303(a).

[44 FR 30685, May 29, 1979]

29 CFR Ch. V (7-1-06 Edition)

Subpart C—Exemption for State-Regulated Garnishments

§ 870.50 General provision.

Section 305 of the CCPA authorizes that Secretary to "exempt from the provisions of section 303(a) garnishments issued under the laws of any State if he determines that the laws of that State provide restrictions on garnishment which are substantially similar to those provided in section 303(a)."

§ 870.51 Exemption policy.

(a) It is the policy of the Secretary of Labor to permit exemption from section 303(a) of the CCPA garnishments issued under the laws of a State if those laws considered together cover every case of garnishment covered by the Act, and if those laws provide the same or greater protection to individuals. Differences in text between the restrictions of State laws and those in section 303(a) of the Act are not material so long as the State laws provide the same or greater restrictions on the garnishment of individuals' earnings.

(b) In determining whether State-regulated garnishments should be exempted from section 303(a) of the CCPA, or whether such an exemption should be terminated, the laws of the State shall be examined with particular regard to the classes of persons and of transactions to which they may apply; the formulas provided for determining the maximum part of an individual's earnings which may be subject to garnishment; restrictions on the application of the formulas; and with regard to procedural burdens placed on the individual whose earnings are subject to garnishment.

(c) Particular attention is directed to the fact that subsection (a) of section 303, when considered with subsection (c) of that section, is read as not requiring the raising of the subsection (a) restrictions as affirmative defenses in garnishment proceedings.

§ 870.52 Application for exemption of State-regulated garnishments.

(a) An application for the exemption of garnishments issued under the laws of a State may be made in duplicate by a duly authorized representative of the State. The application shall be filed