

CCPA-7

May 20, 1970

This is in reply to your letter of April 9, 1970, concerning the North Dakota garnishment exemption statute as found in section 32-09-02 of the North Dakota Century Code, as amended.

The Department of Labor has not as yet promulgated any regulations or interpretations relating to the application of Title III, Restriction on Garnishment, of the Consumer Credit Protection Act. Any definitive responses as to how a particular State law conforms to the provisions of this act must await the issuance of regulations. Your name has been placed on our mailing list to receive a copy of the regulations as soon as they are published.

In this context, we note that section 32-09-02 exempts from garnishment \$35 per week of the wages or salary of any person who is not a head of a family but is a resident of North Dakota. It also exempts from garnishment \$50 per week plus \$5 per week for each dependent, but not more than \$25, of the wages of any person who is head of a family and a resident of North Dakota. The surplus of a person's wages above the amount exempted from garnishment shall be held by the employer to abide the event of the garnishment suit.

It is our opinion that the provisions of the North Dakota law would not be considered to be substantially similar to the restriction on garnishment provisions of section 303(a) of the Federal wage garnishment law for the purposes of section 305 thereof. Generally speaking, Title III provides that where weekly disposable earnings are \$64 or less, only the amount of such earnings which are in excess of \$48 may be garnished. Where the weekly disposable earnings are in excess of \$64, no more than 25% of such earnings may be garnished.

However, section 307 of the Federal law provides that Title III does not annul, alter, or affect, or exempt any person from complying with the laws of any State prohibiting garnishments or providing for more limited garnishments than are allowed under Title III. Section 307 operates independently of section 305, in that it continues in effect those provisions of State law which place a greater restriction on garnishment than do the provisions of the Federal law.

We also note that section 32-09-02 of the North Dakota law does not contain any restriction on discharge from employment by reason of garnishment as does section 304 of Title III. While this omission would have no specific effect on the issuance of a ruling under section 305, this provision is a significant feature of the Federal wage garnishment law.

Sincerely,

Robert D. Moran
Administrator