

AUG 3 1970

CCPA

This is in further reply to your letter of July 9, 1970 concerning Title III of the Consumer Credit Protection Act. Your questions are answered below in the order in which they were presented.

The Law's restriction on garnishment is prescribed in section 303 in a two-part formula which is explained in the enclosed pamphlet. Section 303(a)(2) refers to the Federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 which is currently \$1.60 per hour. The minimum wage to which you refer for State hospital employees, currently \$1.45 per hour, is prescribed in section 6(b) of the Fair Labor Standards Act and, thus, is not pertinent to the application of section 303(a)(2) of Title III.

You indicate that State employees are exempt from Social Security payments if they are eligible to belong to the State Employees Retirement System and ask whether these retirement system payments may be deducted from gross earnings to determine "disposable earnings". Title III restricts garnishment of an employee's "disposable earnings" which as defined in section 302(b) "means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required by law to be withheld". If State employees' retirement system payments are amounts required by State law to be withheld, such payments would be deductions required by law within the meaning of section 302(b) and would be deducted from earnings to determine disposable earnings.

You point out that under the law of your State a valid written wage assignment is deductible from the amount subject to garnishment and the wages withheld under the wage assignment take priority over any garnishment in effect at the same time. Where an employer deducts a portion of wages pursuant to a wage assignment, such a deduction is not considered

2

an amount required by law to be withheld within the meaning of section 302(b) of Title III. Also, since the Federal law is silent with regard to priorities of claims, the procedural requirements of State law which establish priorities between wage assignments and garnishments are not considered affected by Title III.

Sincerely,

Robert D. Moran
Administrator

3 Enclosures

WH-55

(2)