

AMENDED IN SENATE AUGUST 19, 2024

AMENDED IN SENATE JULY 2, 2024

AMENDED IN ASSEMBLY MAY 2, 2024

AMENDED IN ASSEMBLY APRIL 25, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2837

Introduced by Assembly Member Bauer-Kahan

February 15, 2024

An act to amend Sections 684.130, 685.070, 703.510, 703.570, 703.580, 703.610, 704.115, 704.220, 706.021, 706.022, 706.103, and 706.105 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL’S DIGEST

AB 2837, as amended, Bauer-Kahan. Civil actions: enforcement of money judgments.

Existing law defines what types of property are subject to and exempt from the enforcement of money judgments, as specified, including certain retirement plans. Existing law also requires judgment creditors seeking to enforce money judgments to provide notice to judgment debtors, as specified. Existing law provides rules for claiming exemptions from the enforcement of money judgments and provides requirements for the adjudication of such exemptions. Existing law defines “personal debt” for the purposes of renewing the period of enforceability of a judgment to mean money due or owing or alleged to be due or owing from a natural person arising out of a transaction in

which the money, property, insurance, or services which are the subject of the transaction are primarily for the debtor's personal, family, or household purposes.

This bill would expand the types of retirement plans exempt from money judgments, as specified, and exempt such property to the extent necessary to provide specified support for, and satisfy tax obligations of, the judgment debtor. The bill would revise the enforcement provisions described above by requiring a judgment creditor to take additional steps to verify a judgment debtor's address and provide notice of enforcement to a judgment debtor, by requiring a court to order the return of exempt property that has been levied upon, and limiting the time period during which an earnings withholding order may be enforced and the frequency with which such an order may be sought. The bill would require a financial institution to protect from levy cumulatively exempt funds belonging to the debtor and held in multiple accounts. The bill would generally apply these revised enforcement provisions to cases in which the judgment creditor seeks to enforce judgment based on recovery of personal debt described above.

This bill would incorporate additional changes to Section 703.580 of the Code of Civil Procedure proposed by AB 3283 to be operative only if this bill and AB 3283 are enacted and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 684.130 of the Code of Civil Procedure
2 is amended to read:
3 684.130. (a) If the levying officer is required by any provision
4 of this title to serve any writ, order, notice, or other paper on any
5 person, the judgment creditor shall include in the instructions to
6 the levying officer the correct name and address of the person. The
7 judgment creditor shall use reasonable diligence to ascertain the
8 correct name and address of the person.
9 (b) (1) Where the judgment upon which the writ is issued is
10 for personal debt, as defined in subdivision (d) of Section 683.110,
11 this subdivision shall apply.
12 (2) The judgment creditor shall also provide the levying officer
13 with a declaration stating that the judgment creditor has verified
14 *using reasonable diligence* within the past 12 months that the

1 judgment debtor's address is ~~correct, using reasonable diligence~~
2 *correct to the best of the declarant's knowledge*, and describing
3 the verification dates and the methods used, which may ~~include~~
4 *include, but are not limited to*, the following methods:

5 (A) Receipt of correspondence from the judgment debtor, dated
6 no more than 12 months before the execution of the declaration,
7 that includes a return address or other comparable verification of
8 the judgment debtor's address.

9 (B) Transmittal of a letter by ~~certified mail~~ *certified mail, or other method*
10 *of transmission through the United States Postal Service providing*
11 *a return receipt*, to the judgment debtor's address, with a return
12 receipt dated no more than 12 months before the execution of the
13 declaration that is signed by the judgment debtor.

14 (C) Verification of the judgment debtor's current address by a
15 commercial address verification service, including skip-tracing,
16 or, if reasonably available, a public record database, followed by
17 dispatch of a letter, by first-class mail to the verified address, that
18 was not returned to sender.

19 (3) The levying officer shall not accept or serve any writ, order,
20 notice, or other paper on any person if the judgment creditor fails
21 to provide a declaration as described in paragraph (2).

22 (4) Upon notice by the judgment debtor that the requirements
23 of this section have not been met, the court shall stay the notice
24 of levy or earnings withholding order until the requirements of
25 this section have been satisfied.

26 (5) The judgment creditor's cost of verification of the judgment
27 debtor's address is not recoverable.

28 (6) The judgment creditor shall file with the court the signed
29 declaration within five business days after delivering the
30 declaration to the levying officer.

31 (c) Unless the levying officer has actual knowledge that the
32 name or address included in the instructions is incorrect, the
33 levying officer shall rely on the instructions in serving the writ,
34 order, notice, or other paper on the person.

35 SEC. 2. Section 685.070 of the Code of Civil Procedure is
36 amended to read:

37 685.070. (a) The judgment creditor may claim under this
38 section the following costs of enforcing a judgment, which shall
39 not include costs exempted under this title:

1 (1) Statutory fees for preparing and issuing, and recording and
2 indexing, an abstract of judgment or a certified copy of a judgment.

3 (2) Statutory fees for filing a notice of judgment lien on personal
4 property.

5 (3) Statutory fees for issuing a writ for the enforcement of the
6 judgment to the extent that the fees are not satisfied pursuant to
7 Section 685.050.

8 (4) Statutory costs of the levying officer for performing the
9 duties under a writ to the extent that the costs are not satisfied
10 pursuant to Section 685.050 and the statutory fee of the levying
11 officer for performing the duties under the Wage Garnishment
12 Law to the extent that the fee has not been satisfied pursuant to
13 the wage garnishment.

14 (5) Costs incurred in connection with any proceeding under
15 Chapter 6 (commencing with Section 708.010) of Division 2 that
16 have been approved as to amount, reasonableness, and necessity
17 by the judge or referee conducting the proceeding.

18 (6) Attorney's fees, if allowed by Section 685.040.

19 (b) Before the judgment is fully satisfied but not later than two
20 years after the costs have been incurred, the judgment creditor
21 claiming costs under this section shall file a memorandum of costs
22 with the court clerk and serve a copy on the judgment debtor.
23 Service shall be made personally or by mail. The memorandum
24 of costs shall be executed under oath by a person who has
25 knowledge of the facts and shall state that to the person's best
26 knowledge and belief the costs are correct, are reasonable and
27 necessary, and have not been satisfied.

28 (c) Within 10 days after the memorandum of costs is served on
29 the judgment debtor, the judgment debtor may apply to the court
30 on noticed motion to have the costs taxed by the court. The notice
31 of motion shall be served on the judgment creditor. Service shall
32 be made personally or by mail. The court shall make an order
33 allowing or disallowing the costs to the extent justified under the
34 circumstances of the case.

35 (d) If no motion to tax costs is made within the time provided
36 in subdivision (c), the costs claimed in the memorandum are
37 allowed.

38 (e) If a memorandum of costs for the costs specified in
39 subdivision (a) is filed at the same time as an application for a writ
40 of execution, these statutory costs not already allowed by the court

1 in an amount not to exceed one hundred dollars (\$100) in the
2 aggregate may be included in the amount specified in the writ of
3 execution, subject to subsequent disallowance as ordered by the
4 court pursuant to a motion to tax if filed by the debtor. The
5 memorandum of costs shall contain the following statement: “The
6 fees sought under this memorandum may be disallowed by a court
7 upon a motion to tax filed by the debtor notwithstanding the fees
8 having been included in the writ of execution.” The inclusion of
9 the above costs in the writ of execution or the pendency of the
10 motion to tax on these costs shall not be cause for the clerk of the
11 court to delay issuing the writ of execution or for the levying officer
12 to delay enforcing the writ of execution.

13 (f) Section 1013, extending the time within which a right may
14 be exercised or an act may be done, applies to this section.

15 SEC. 3. Section 703.510 of the Code of Civil Procedure is
16 amended to read:

17 703.510. (a) Except as otherwise provided by statute, property
18 that has been levied upon may be claimed to be exempt as provided
19 in this article.

20 (b) If property in a deposit account that is exempt without
21 making a claim, as described in subdivision (b) of Section 704.080
22 or subdivision (a) of Section 704.220, is levied upon, the property
23 shall be released by the financial institution holding the judgment
24 debtor’s deposit account within five business days of *the financial*
25 *institution* receiving written notice from the judgment debtor setting
26 forth the facts supporting ~~its~~ *the* exemption without the necessity
27 of making a claim under this title. The judgment debtor’s written
28 notice to the financial institution shall be served via first-class mail
29 on the judgment creditor or judgment creditor’s attorney of record
30 within five business days of notice being ~~given~~ *sent by the*
31 *judgment debtor* to the financial institution. The written notice
32 shall be addressed to the financial institution identified pursuant
33 to ~~subdivisions~~ *subdivision* (c) or (d) of Section 684.110.

34 (c) If property that is exempt without making a claim is levied
35 upon, other than the property in a deposit account described in
36 subdivision (b), the property may be released pursuant to the
37 exemption procedure provided in this article.

38 SEC. 4. Section 703.570 of the Code of Civil Procedure is
39 amended to read:

1 703.570. (a) The hearing on the motion shall be held not later
2 than 30 days from the date the notice of motion was filed with the
3 court unless continued by the court for good cause. Where the
4 judgment upon which the writ is issued is for personal debt, as
5 defined in subdivision (d) of Section 683.110, if the hearing is
6 delayed by the court and cannot be set within 30 days of notice of
7 the motion, a party may seek by ex parte application, and the court
8 shall issue, an order staying any levy or garnishment with respect
9 to the property subject to the claim of exemption until the hearing
10 occurs.

11 (b) Not less than 10 days prior to the hearing, the judgment
12 creditor shall serve a notice of the hearing and a copy of the notice
13 of opposition to the claim of exemption on the claimant and on
14 the judgment debtor, if other than the claimant. Service shall be
15 made personally or by mail.

16 SEC. 5. Section 703.580 of the Code of Civil Procedure is
17 amended to read:

18 703.580. (a) The claim of exemption and notice of opposition
19 to the claim of exemption constitute the pleadings, subject to the
20 power of the court to permit amendments in the interest of justice.

21 (b) At a hearing under this section, the exemption claimant has
22 the burden of proof.

23 (c) The claim of exemption is deemed controverted by the notice
24 of opposition to the claim of exemption and both shall be received
25 in evidence. If no other evidence is offered, the court, if satisfied
26 that sufficient facts are shown by the claim of exemption (including
27 the financial statement if one is required) and the notice of
28 opposition, may make its determination thereon. If a claim of
29 exemption asserts that money in a judgment debtor's deposit
30 account is or was necessary for the support of the judgment debtor
31 and the spouse and dependents of the judgment debtor as provided
32 in Section 704.225, the court shall review the judgment debtor's
33 financial statement and make findings thereon. If not satisfied, the
34 court may order the hearing continued for the production of other
35 evidence, oral or documentary.

36 (d) At the conclusion of the hearing, the court shall determine
37 by order whether or not the property is exempt in whole or in part.

38 (1) Subject to Section 703.600, the order is determinative of the
39 right of the judgment creditor to apply the property to the
40 satisfaction of the judgment.

1 (2) ~~If property is exempt without the need for a claim under this~~
2 ~~title, the court shall order the return of the exempt property from~~
3 ~~the levying officer or judgment creditor to the judgment debtor~~
4 ~~within five business days of the entry of the order.~~ Where the
5 judgment upon which the writ is issued is for personal debt, as
6 defined in subdivision (d) of Section 683.110, the court shall order
7 the return of any property that was exempt without the need for a
8 claim and that was levied upon within the 12 months preceding
9 the date of the order on the claim of exemption. This paragraph
10 does not limit a judge's authority to order, for good cause, the
11 return of any exempt property taken more than 12 months
12 preceding the date of the order on the claim of exemption.

13 (3) ~~If property is exempt as a result of a claim of exemption,~~
14 ~~the court shall order the return of the exempt property from the~~
15 ~~levying officer or judgment creditor to the judgment debtor within~~
16 ~~five business days of the entry of the order.~~ Where the judgment
17 upon which the writ is issued is for personal debt, as defined in
18 subdivision (d) of Section 683.110, the court shall order the return
19 of any property that the debtor has demonstrated would have been
20 exempt by claim of exemption and that was levied upon within
21 the six months preceding the date of the order on the claim of
22 exemption. This paragraph does not limit a judge's authority to
23 order, for good cause, the return of any exempt property taken
24 more than six months preceding the date of the order on the claim
25 of exemption.

26 (4) *If property is exempt without the need for a claim under this*
27 *title or as a result of a claim of exemption, the court shall order*
28 *the return of the exempt property from the levying officer, judgment*
29 *creditor, or other person who is in possession of the property, to*
30 *the judgment debtor. A levying officer shall return the exempt*
31 *property within 20 business days of receipt of notice of the order.*
32 *A judgment creditor shall return the exempt property within 10*
33 *business days of entry of the order.*

34 (e) The court clerk shall promptly transmit a certified copy of
35 the order to the levying officer. Subject to Section 703.610, the
36 levying officer shall, in compliance with the order, release the
37 property or apply the property to the satisfaction of the money
38 judgment.

(f) Unless otherwise ordered by the court, if an exemption is not determined within the time provided by Section 703.570, the property claimed to be exempt shall be released.

SEC. 5.5. *Section 703.580 of the Code of Civil Procedure is amended to read:*

703.580. (a) The claim of exemption and notice of opposition to the claim of exemption ~~do not constitute the pleadings, subject to the power of the court to permit amendments in the interest of justice; an appearance pursuant to Section 1014. The power of the court over the exemption claimant is limited to determining the claim of exemption.~~

(b) At a hearing under this section, the exemption claimant has the burden of proof.

(c) The claim of exemption is deemed controverted by the notice of opposition to the claim of exemption and both shall be received in evidence. If no other evidence is offered, the court, if satisfied that sufficient facts are shown by the claim of exemption (including the financial statement if one is required) and the notice of opposition, may make its determination thereon. *If a claim of exemption asserts that money in a judgment debtor's deposit account is or was necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor as provided in Section 704.225, the court shall review the judgment debtor's financial statement and make findings thereon. If not satisfied, the court shall may order the hearing continued for the production of other evidence, oral or documentary.*

(d) At the conclusion of the hearing, the court shall determine by order whether or not the property is exempt in whole or in part. ~~Subject to Section 703.600, the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment. No findings are required in a proceeding under this section.~~

(1) Subject to Section 703.600, the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment.

(2) Where the judgment upon which the writ is issued is for personal debt, as defined in subdivision (d) of Section 683.110, the court shall order the return of any property that was exempt without the need for a claim and that was levied upon within the 12 months preceding the date of the order on the claim of

1 *exemption. This paragraph does not limit a judge's authority to*
2 *order, for good cause, the return of any exempt property taken*
3 *more than 12 months preceding the date of the order on the claim*
4 *of exemption.*

5 *(3) Where the judgment upon which the writ is issued is for*
6 *personal debt, as defined in subdivision (d) of Section 683.110,*
7 *the court shall order the return of any property that the debtor has*
8 *demonstrated would have been exempt by claim of exemption and*
9 *that was levied upon within the six months preceding the date of*
10 *the order on the claim of exemption. This paragraph does not limit*
11 *a judge's authority to order, for good cause, the return of any*
12 *exempt property taken more than six months preceding the date*
13 *of the order on the claim of exemption.*

14 *(4) If property is exempt without the need for a claim under this*
15 *title or as a result of a claim of exemption, the court shall order*
16 *the return of the exempt property from the levying officer, judgment*
17 *creditor, or other person who is in possession of the property, to*
18 *the judgment debtor. A levying officer shall return the exempt*
19 *property within 20 business days of receipt of notice of the order.*
20 *A judgment creditor shall return the exempt property within 10*
21 *business days of entry of the order.*

22 *(e) The court clerk shall promptly transmit a certified copy of*
23 *the order to the levying officer. Subject to Section 703.610, the*
24 *levying officer shall, in compliance with the order, release the*
25 *property or apply the property to the satisfaction of the money*
26 *judgment.*

27 *(f) Unless otherwise ordered by the court, if an exemption is*
28 *not determined within the time provided by Section 703.570, the*
29 *property claimed to be exempt shall be released.*

30 *SEC. 6. Section 703.610 of the Code of Civil Procedure is*
31 *amended to read:*

32 *703.610. (a) Except as otherwise provided by statute or ordered*
33 *by the court, the levying officer shall not release, sell, or otherwise*
34 *dispose of the property for which an exemption is claimed until*
35 *an appeal is waived, the time to file an appeal has expired, or the*
36 *exemption is finally determined.*

37 *(b) At any time while the exemption proceedings are pending,*
38 *upon motion of the judgment creditor or a claimant, or upon its*
39 *own motion, the court may make any orders for disposition of the*
40 *property that may be proper under the circumstances of the case,*

1 except that such order may not require the release to the judgment
2 creditor of property that would be exempt without a claim of
3 exemption. The order may be modified or vacated by the court at
4 any time during the pendency of the exemption proceedings upon
5 any terms that are just, except that such order may not require the
6 release to the judgment creditor of property that would be exempt
7 without a claim of exemption.

8 (c) If an appeal of the determination of a claim of exemption is
9 taken, notice of the appeal shall be given to the levying officer and
10 the levying officer shall hold, release, or dispose of the property
11 in accordance with the provisions governing enforcement and stay
12 of enforcement of money judgments pending appeal. Where the
13 judgment upon which the writ is issued is for personal debt, as
14 defined in subdivision (d) of Section 683.110, if an earnings
15 withholding order has been served upon the judgment debtor's
16 employer, notice of the appeal shall also be given to the judgment
17 debtor's employer who shall, upon receipt of the notice,
18 immediately suspend any further garnishment of the judgment
19 debtor's wages for the pendency of the appeal and until ordered
20 by the court to resume garnishment.

21 SEC. 7. Section 704.115 of the Code of Civil Procedure is
22 amended to read:

23 704.115. (a) As used in this section, "retirement plan" means:

24 (1) Private retirement plans, including, but not limited to, union
25 retirement plans.

26 (2) Profit-sharing plans designed and used for retirement
27 purposes.

28 (3) Self-employed retirement plans and individual retirement
29 annuities or accounts provided for in the Internal Revenue Code
30 of 1986, as amended, including individual retirement accounts
31 qualified under Section 408 or 408A of that code, to the extent the
32 amounts held in the plans, annuities, or accounts do not exceed
33 the maximum amounts exempt from federal income taxation under
34 that code.

35 (4) Retirement funds to the extent that those funds are in a fund
36 or account that is exempt from taxation under Sections 403, 414,
37 or 457 of the Internal Revenue Code of 1986, as amended, to the
38 extent the amounts held in the plans, annuities, or accounts do not
39 exceed the maximum amounts exempt from federal income taxation
40 under that code and are not otherwise exempt under federal law.

1 (b) All amounts held, controlled, or in process of distribution
2 by a retirement plan, for the payment of benefits as an annuity,
3 pension, retirement allowance, disability payment, or death benefit
4 from a retirement plan are exempt.

5 (c) Notwithstanding subdivision (b), where an amount described
6 in subdivision (b) becomes payable to a person and is sought to
7 be applied to the satisfaction of a judgment for child, family, or
8 spousal support against that person:

9 (1) Except as provided in paragraph (2), the amount is exempt
10 only to the extent that the court determines under subdivision (c)
11 of Section 703.070.

12 (2) If the amount sought to be applied to the satisfaction of the
13 judgment is payable periodically, the amount payable is subject
14 to an earnings assignment order for support as defined in Section
15 706.011 or any other applicable enforcement procedure, but the
16 amount to be withheld pursuant to the assignment order or other
17 procedure shall not exceed the amount permitted to be withheld
18 on an earnings withholding order for support under Section
19 706.052.

20 (d) After payment, the amounts described in subdivision (b)
21 and all contributions and interest thereon returned to any member
22 of a retirement plan are exempt.

23 (e) (1) Notwithstanding subdivisions (b) and (d), except as
24 provided in subdivision (f), the amounts described in paragraphs
25 (3) and (4) of subdivision (a) are exempt only to the extent
26 necessary to provide for the support of the judgment debtor when
27 the judgment debtor retires and for the support of the spouse and
28 dependents of the judgment debtor, taking into account all
29 resources that are likely to be available for the support of the
30 judgment debtor when the judgment debtor retires.

31 (2) For personal debt, as defined in subdivision (d) of Section
32 683.110, the amount necessary to provide for the support of the
33 judgment debtor cannot be, unless otherwise provided by federal
34 law, less than the amount listed in subsection (n) of Section 522
35 of Title 11 of the United States Code, as adjusted in accordance
36 with subsection (b) of Section 104 of Title 11 of the United States
37 Code. The exempt amount may be aggregated across all retirement
38 plans in the judgment debtor's name. The exempt amount may be
39 reduced to the extent that such value is attributable to any portion
40 of any property the debtor disposed of with the intent to hinder,

1 delay, or defraud a creditor, and that the debtor could not have
2 exempted at the time the debtor so disposed of the property.

3 (3) In determining the amount to be exempt under this
4 subdivision, the court shall allow the judgment debtor such
5 additional amount as is necessary to pay any federal and state
6 income taxes owed as a result of the application of funds in a
7 retirement plan to the satisfaction of the money judgment.

8 (f) Where the amounts described in paragraphs (3) and (4) of
9 subdivision (a) are payable periodically, the amount of the periodic
10 payment that may be applied to the satisfaction of a money
11 judgment is the amount that may be withheld from a like amount
12 of earnings under Chapter 5 (commencing with Section 706.010)
13 (Wage Garnishment Law). To the extent a lump-sum distribution
14 from an individual retirement account is treated differently from
15 a periodic distribution under this subdivision, any lump-sum
16 distribution from an account qualified under Section 408A of the
17 Internal Revenue Code shall be treated the same as a lump-sum
18 distribution from an account qualified under Section 408 of the
19 Internal Revenue Code for purposes of determining whether any
20 of that payment may be applied to the satisfaction of a money
21 judgment.

22 SEC. 8. Section 704.220 of the Code of Civil Procedure is
23 amended to read:

24 704.220. (a) Money in the judgment debtor's deposit account
25 in an amount equal to or less than the minimum basic standard of
26 adequate care for a family of four for Region 1, established by
27 Section 11452 of the Welfare and Institutions Code and as annually
28 adjusted by the State Department of Social Services pursuant to
29 Section 11453 of the Welfare and Institutions Code, is exempt
30 without making a claim.

31 (b) (1) Subdivision (a) does not preclude or reduce a judgment
32 debtor's right to any other exemption provided by state or federal
33 law.

34 (2) If the financial institution holding the judgment debtor's
35 deposit account has actual knowledge that the judgment debtor is
36 entitled to one or more exemptions that the financial institution is
37 required to apply pursuant to federal law or state law other than
38 that set forth in subdivision (a), the following shall apply:

39 (A) If the sum of the amount of money in the deposit account
40 that would be exempt from levy under the additional exemptions

1 is less than or equal to the amount set forth in subdivision (a), the
2 additional exemptions described in this paragraph shall be
3 considered encompassed within the exemption set forth in
4 subdivision (a) and subdivision (a) shall apply.

5 (B) If the sum of the amount of money in the deposit account
6 that would be exempt from levy under the additional exemptions
7 is greater than the amount set forth in subdivision (a), subdivision
8 (a) shall not apply and instead money in the deposit account equal
9 to or less than the sum of the additional exemptions is exempt
10 without making a claim.

11 (c) Subdivision (a) does not apply to money levied upon to
12 satisfy any of the following:

13 (1) A levy to satisfy a judgment for wages owed, child support,
14 or spousal support. For purposes of this paragraph, “wages owed”
15 includes damages and penalties.

16 (2) A provision of the Public Resources Code, Revenue and
17 Taxation Code, or Unemployment Insurance Code.

18 (3) A warrant or notice of levy issued by the state, or any
19 department or agency thereof, for the collection of a liability.

20 (d) A levy against a judgment debtor’s deposit account shall
21 include a written description of the requirements of this section.

22 (e) (1) The exemption applies per debtor, not per account.

23 (2) If a judgment debtor holds an interest in multiple accounts
24 at a single financial institution, the judgment creditor or judgment
25 debtor may file an ex parte application in the superior court in
26 which the judgment was entered for a hearing to establish how
27 and to which account the exemption should be applied. Subject to
28 a service of an order issued in that hearing, if any, the financial
29 institution may determine how and to which account the exemption
30 should be applied. This paragraph does not create a cause of action
31 against a judgment creditor who executes a levy or against a
32 financial institution that complies with a levy pursuant to the
33 court’s determination.

34 (3) If a judgment debtor holds an interest in multiple accounts
35 at two or more financial institutions, the judgment creditor shall,
36 and the judgment debtor may, file an ex parte application in the
37 superior court in which the judgment was entered for a hearing to
38 establish how and to which account the exemption should be
39 applied. Subject to a service of an order issued in that hearing, if
40 any, the financial institutions shall comply with the levy subject

1 to the exemption. This paragraph does not create a cause of action
2 against a judgment creditor who executes a levy or against a
3 financial institution which complies with a levy pursuant to the
4 court's determination.

5 (4) Notwithstanding paragraph (2), if a judgment debtor holds
6 multiple accounts at a single financial institution, and those
7 accounts cumulatively contain an amount less than or equal to the
8 amount specified in subdivision (a), the financial institution shall
9 protect the full amount in those accounts.

10 (5) Notwithstanding paragraph (2), if a judgment debtor holds
11 multiple accounts at a single financial institution, and each of those
12 accounts contains an amount less than the amount specified in
13 subdivision (a) but the accounts cumulatively contain an amount
14 greater than the amount specified in subdivision (a), the financial
15 institution shall protect an aggregate amount equal to the amount
16 specified in subdivision (a).

17 (f) Subdivision (e) of Section 700.140 applies to a financial
18 institution acting under this section.

19 (g) The Judicial Council shall amend or adopt all forms
20 necessary to implement this section. The forms shall clearly
21 delineate the amount of funds exempt from levy by a financial
22 institution, including funds exempted by this section.

23 (h) This section shall become operative on September 1, 2020.

24 SEC. 9. Section 706.021 of the Code of Civil Procedure is
25 amended to read:

26 706.021. Notwithstanding any other provision of this title, a
27 levy of execution upon the earnings of an employee shall be made
28 by service of an earnings withholding order upon the employer
29 and judgment debtor in accordance with this chapter.

30 SEC. 10. Section 706.022 of the Code of Civil Procedure is
31 amended to read:

32 706.022. (a) A judgment creditor shall not enforce an earnings
33 withholding order beyond the period of enforceability as defined
34 in Section 683.020 or, if renewed, as provided for in subdivision
35 (c) of Section 683.120. As used in this section, "withholding
36 period" means the period which commences on the 30th day after
37 service of an earnings withholding order upon the judgment debtor.
38 If a claim of exemption is filed with the levying officer, and the
39 employer is given actual notice before the close of business on the
40 29th day after the service of the earnings withholding order on the

1 judgment debtor, the withholding period commences on the 45th
2 day after service of the earnings withholding order on the judgment
3 debtor. The withholding period shall continue until the earliest of
4 the following dates:

5 (1) The date the employer has withheld the full amount required
6 to satisfy the order.

7 (2) The date of termination specified in a court order served on
8 the employer.

9 (3) The date of termination specified in a notice of termination
10 served on the employer by the levying officer.

11 (4) The date of termination of a dormant or suspended earnings
12 withholding order as determined pursuant to Section 706.032.

13 (b) Except as otherwise provided by statute, an employer shall
14 withhold the amounts required by an earnings withholding order
15 from all earnings of the employee payable for any pay period of
16 the employee which ends during the withholding period.

17 (c) An employer is not liable for any amounts withheld and paid
18 over to the levying officer pursuant to an earnings withholding
19 order prior to service upon the employer pursuant to paragraph (2)
20 or (3) of subdivision (a).

21 SEC. 11. Section 706.103 of the Code of Civil Procedure is
22 amended to read:

23 706.103. (a) The levying officer shall serve upon the
24 designated employer all of the following:

25 (1) The original and one copy of the earnings withholding order.

26 (2) The form for the employer's return.

27 (3) The notice to the employee of the earnings withholding
28 order.

29 (4) A copy of the form that the judgment debtor may use to
30 make a claim of exemption.

31 (5) A copy of the form the judgment debtor may use to provide
32 a financial statement.

33 ~~(b) The levying officer shall serve upon the judgment debtor,~~
34 ~~via first-class mail, at the same time or before serving the~~
35 ~~designated employer, all of the following:~~

36 ~~(1) The original and one copy of the earnings withholding order.~~

37 ~~(2) The form for the employer's return.~~

38 ~~(3) The notice to the employee of the earnings withholding~~
39 ~~order.~~

1 ~~(4) A copy of the form that the judgment debtor may use to~~
2 ~~make a claim of exemption.~~

3 ~~(5) A copy of the form the judgment debtor may use to provide~~
4 ~~a financial statement.~~

5 ~~(e)~~

6 (b) At the time the levying officer makes service pursuant to
7 subdivision (a), the levying officer shall provide the employer with
8 a copy of the employer's instructions referred to in Section
9 706.127. The Judicial Council may adopt rules prescribing the
10 circumstances when compliance with this subdivision is not
11 required.

12 ~~(d)~~

13 (c) No earnings withholding order shall be served upon the
14 employer after the time specified in subdivision (b) of Section
15 699.530.

16 SEC. 12. Section 706.105 of the Code of Civil Procedure is
17 amended to read:

18 706.105. (a) A judgment debtor may claim an exemption under
19 Section 706.051 under either of the following circumstances:

20 (1) No prior hearing has been held with respect to the earnings
21 withholding order.

22 (2) There has been a material change in circumstances since the
23 time of the last prior hearing on the earnings withholding order.

24 (b) A claim of exemption shall be made by filing with the
25 levying officer an original and one copy of (1) the judgment
26 debtor's claim of exemption and (2) the judgment debtor's financial
27 statement.

28 (c) Upon filing of the claim of exemption, the levying officer
29 shall promptly send to the judgment creditor, at the address stated
30 in the application for the earnings withholding order, by first-class
31 mail, postage prepaid, all of the following:

32 (1) A copy of the claim of exemption.

33 (2) A copy of the financial statement.

34 (3) A notice of claim of exemption. The notice shall state that
35 the claim of exemption has been filed and that the earnings
36 withholding order will be terminated, or modified to reflect the
37 amount of earnings claimed to be exempt in the claim of
38 exemption, unless a notice of opposition to the claim of exemption
39 is filed with the levying officer by the judgment creditor within

1 10 days after the date of the mailing of the notice of claim of
2 exemption.

3 (d) A judgment creditor who desires to contest a claim of
4 exemption shall, within 10 days after the date of the mailing of
5 the notice of claim of exemption, file with the levying officer a
6 notice of opposition to the claim of exemption.

7 (e) If a notice of opposition to the claim of exemption is filed
8 with the levying officer within the 10-day period, the judgment
9 creditor is entitled to a hearing on the claim of exemption. If the
10 judgment creditor desires a hearing on the claim of exemption, the
11 judgment creditor shall file a notice of motion for an order
12 determining the claim of exemption with the court within 10 days
13 after the date the levying officer mailed the notice of claim of
14 exemption. If the notice of motion is so filed, the hearing on the
15 motion shall be held not later than 30 days from the date the notice
16 of motion was filed unless continued by the court for good cause.
17 Where the judgment upon which the writ is issued is for personal
18 debt, as defined in subdivision (d) of Section 683.110, if the hearing
19 is delayed by the court and cannot be set within 30 days of notice
20 of the motion, a party may seek by ex parte application, and the
21 court shall issue, an order staying any levy or garnishment with
22 respect to the property subject to the claim of exemption until the
23 hearing occurs. At the time prescribed by subdivision (b) of Section
24 1005, the judgment creditor shall give written notice of the hearing
25 to the levying officer and shall serve a notice of the hearing and a
26 copy of the notice of opposition to the claim of exemption on the
27 judgment debtor and, if the claim of exemption so requested, on
28 the attorney for the judgment debtor. Service is deemed made when
29 the notice of the hearing and a copy of the notice of opposition to
30 the claim of exemption are deposited in the mail, postage prepaid,
31 addressed to the judgment debtor at the address stated in the claim
32 of exemption and, if service on the attorney for the judgment debtor
33 was requested in the claim of exemption, to the attorney at the
34 address stated in the claim of exemption. The judgment creditor
35 shall file proof of the service with the court. After receiving the
36 notice of the hearing and before the date set for the hearing, the
37 levying officer shall file the claim of exemption and the notice of
38 opposition to the claim of exemption with the court.

39 (f) If the levying officer does not receive a notice of opposition
40 to the claim of exemption within the 10-day period after the date

1 of mailing of the notice of claim of exemption and a notice of the
2 hearing not later than 10 days after the filing of the notice of
3 opposition to the claim of exemption, the levying officer shall
4 serve on the employer one of the following:

5 (1) A notice that the earnings withholding order has been
6 terminated if all of the judgment debtor's earnings were claimed
7 to be exempt.

8 (2) A modified earnings withholding order that reflects the
9 amount of earnings claimed to be exempt in the claim of exemption
10 if only a portion of the judgment debtor's earnings was claimed
11 to be exempt.

12 (g) If, after hearing, the court orders that the earnings
13 withholding order be modified or terminated, the clerk shall
14 promptly transmit a certified copy of the order to the levying officer
15 who shall promptly serve on the employer of the judgment debtor
16 (1) a copy of the modified earnings withholding order or (2) a
17 notice that the earnings withholding order has been terminated.

18 (1) Where the judgment debtor's wages are exempt without
19 making a claim, the court shall terminate or modify the earnings
20 withholding order, and shall order the return by a date certain of
21 all of the judgment debtor's exempt wages. Where the judgment
22 upon which the writ is issued is for personal debt, as defined in
23 subdivision (d) of Section 683.110, the court shall order the return
24 by a date certain of any wages that were exempt without the need
25 for a claim and that were garnished for up to 12 months preceding
26 the date of the order on the claim of exemption. This paragraph
27 does not limit a judge's authority to order, for good cause, the
28 return of any exempt property taken more than 12 months
29 preceding the date of the order on the claim of exemption.

30 (2) Where the judgment debtor's wages are exempt as the result
31 of a claim of exemption, the court shall terminate or modify the
32 earnings withholding order, and shall order the return by a date
33 certain of all of the judgment debtor's exempt wages. Where the
34 judgment upon which the writ is issued is for personal debt, as
35 defined in subdivision (d) of Section 683.110, the court shall order
36 the return by a date certain any wages that the debtor has
37 demonstrated would have been exempt by claim of exemption and
38 that were garnished for up to six months preceding the date of the
39 order on the claim of exemption. This paragraph does not limit a
40 judge's authority to order, for good cause, the return of any exempt

1 property taken more than six months preceding the date of the
2 order on the claim of exemption.

3 (3) If the court determines that any amount withheld pursuant
4 to the earnings withholding order should be paid to the judgment
5 debtor, the court shall order the ~~levying officer or judgment creditor~~
6 *officer, judgment creditor, or other person, who is in possession*
7 *of the property*, to return the exempt property to the judgment
8 ~~debtor within five days of the order being entered.~~ *debtor. A levying*
9 *officer shall return the exempt property within 20 business days*
10 *of receipt of notice of the order. A judgment creditor shall return*
11 *the exempt property within 10 business days of entry of the order.*

12 (h) If the earnings withholding order is terminated by the court,
13 unless the court otherwise orders or unless there is a material
14 change of circumstances since the time of the last prior hearing
15 on the earnings withholding order, the judgment creditor may not
16 apply for another earnings withholding order directed to the same
17 employer with respect to the same judgment debtor for a period
18 of 100 days following the date of service of the earnings
19 withholding order or 60 days after the date of the termination of
20 the order, whichever is later. Where the judgment upon which the
21 writ is issued is for personal debt, as defined in subdivision (d) of
22 Section 683.110, the judgment creditor may not apply for another
23 earnings withholding order directed to the same employer with
24 respect to the same judgment debtor for a period of 100 days
25 following the date of service of the earnings withholding order or
26 60 days after the date of the termination of the order, whichever
27 is later.

28 (i) If an employer has withheld and paid over amounts pursuant
29 to an earnings withholding order after the date of termination of
30 the order but prior to the receipt of notice of its termination, the
31 judgment debtor may recover those amounts only from the levying
32 officer if the levying officer still holds those amounts or, if those
33 amounts have been paid over to the judgment creditor, from the
34 judgment creditor. If the employer has withheld amounts pursuant
35 to an earnings withholding order after termination of the order but
36 has not paid over those amounts to the levying officer, the employer
37 shall pay those amounts to the judgment debtor within five business
38 days of the end of the next pay period.

39 (j) An appeal lies from any court order under this section
40 denying a claim of exemption or modifying or terminating an

1 earnings withholding order. An appeal by the judgment creditor
2 from an order modifying or terminating the earnings withholding
3 order does not stay the order from which the appeal is taken.
4 Notwithstanding the appeal, until the order modifying or
5 terminating the earnings withholding order is set aside or modified,
6 the order allowing the claim of exemption in whole or in part shall
7 be given the same effect as if the appeal had not been taken.

8 (k) This section does not apply to a withholding order for
9 support or a withholding order for taxes.

10 *SEC. 13. Section 5.5 of this bill incorporates amendments to*
11 *Section 703.580 of the Code of Civil Procedure proposed by both*
12 *this bill and Assembly Bill 3283. That section of this bill shall only*
13 *become operative if (1) both bills are enacted and become effective*
14 *on or before January 1, 2025, (2) each bill amends Section 703.580*
15 *of the Code of Civil Procedure, and (3) this bill is enacted after*
16 *Assembly Bill 3283, in which case Section 5 of this bill shall not*
17 *become operative.*