

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 347

H.P. 243

House of Representatives, January 14, 1999

An Act to Amend the Installment Payment Order Capability of the Disclosure Court.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GAGNE of Buckfield.
Cosponsored by Senator BENNETT of Oxford and
Representatives: BULL of Freeport, COLWELL of Gardiner, JACOBS of Turner,
MITCHELL of Vassalboro, SHIELDS of Auburn.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 14 MRSA §3127, sub-§4** is enacted to read:

6 4. Consideration of exempt sources. For the purposes of
8 this subsection, "exempt source" means a source that is exempt
10 from attachment and execution under chapter 507, subchapter II,
12 article 7. Notwithstanding the restriction on consideration of
14 exempt sources under subsection 1, the court may order the
16 judgment debtor to make specified installment payments to the
18 judgment creditor if:

20 A. Upon a disclosure hearing, it is shown that the judgment
22 debtor is an individual who is receiving or will receive:

24 (1) Insufficient money or earnings to permit the court
26 to order installment payments under subsection 1; and

28 (2) Money or earnings from an exempt source that, but
30 for the fact that the money or earnings are exempt,
32 would, either alone or in combination with any money or
34 earnings considered under subsection 1, permit the
36 court to order installment payments under subsection 1;
38 and

40 B. The maximum amount of earnings for any week subject to
42 an installment order under this subsection is the same as
44 that calculated under subsection 1.

46 In making an order under this subsection, the court may not order
48 the garnishment, withholding or attachment of money or earnings
50 from an exempt source.

52 **Sec. 2. 14 MRSA §7486**, as enacted by PL 1989, c. 88, §2, is
repealed.

SUMMARY

Under current law, a judgment debtor receiving money from sources exempt from attachment and execution may not be ordered to pay any of that money to judgment creditors even when that money amounts to a large sum. This bill permits a court to order installment payments where the money received is exempt from attachment and execution and is, either alone or in combination with nonexempt money, large enough in sum to fit within the calculation that under current law permits an installment order. The bill does not permit a court to order the garnishment, withholding or attachment of any exempt money. The bill also repeals a provision of current law that permitted a court in a small claims action to order a judgment debtor to pay up to \$15 per month if the debtor was shown not to be indigent.