



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Labor and Industry
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC 15-21-30
<b>Regulation title</b>	Calculation of maximum garnishment amounts for an ordinary debt.
<b>Action title</b>	This amendment raises the amount of weekly earnings that are protected from garnishment from \$206.00 to \$234.00. The amendment is based on an increase to the federal minimum wage rate which takes effect on July 24, 2008 and raises the minimum wage from \$5.85 per hour to \$6.55 per hour.
<b>Final agency action date</b>	August 7, 2008
<b>Document preparation date</b>	June 5, 2008

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This final exempt regulation is required by state law. In 2007, Congress passed HR2206, U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, which includes a provision that raises the federal minimum wage rate to \$6.55 per hour, as of July 24, 2008. Under the Code of Virginia, at § 40.1-28.10, "Every employer shall pay to each of his employees wages at a rate not less than the federal minimum wage and a training wage as prescribed by the U.S. Fair Labor Standards Act (29 U.S.C. § 201 et seq.)." The Code of Virginia further states, at § 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed the lesser of the following amounts:

- (1) Twenty-five percent of his disposable earnings for that week, or
- (2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by § 206 (a) (1) of Title 29 of the United States Code in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in this section.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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Pursuant to legislation enacted by Congress and the requirements of the Code of Virginia, at § 40.1-28.10 and § 34-29, the Virginia Department of Labor and Industry is submitting this final exempt regulatory action for publication in the July 7, 2008 issue of the Virginia Register, to become effective on August 7, 2008. This action will amend the Virginia Administrative Code, at 16 VAC 15-21-30, Calculation of maximum garnishment amounts for an ordinary debt.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action should have a minimal impact on the institution of the family and on family stability.