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## Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

<b>Agency name</b>	Virginia Department of Labor and Industry
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC-15-21
<b>Regulation title</b>	Maximum Garnishment Amounts
<b>Date</b>	October 9, 2018

This information is required pursuant to Executive Order 17 (2014).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.*

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.”

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

The Department of Labor and Industry did not consider any alternatives because the requirements established by this regulation are mandated by § 39-29 of the *Code of Virginia*.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response

No public comments were received on this regulation during the public comment period which began on July 23, 2018, and ended on August 17, 2018. The Department of Labor and Industry did not establish an informal advisory group for the purpose of assisting in the periodic review.

### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The Maximum Garnishment Amounts regulation protects the safety, health, and welfare of the public by preventing garnishment that would reduce a person’s income to less than minimum wage. This regulation is required by state law. There are no viable alternatives. This regulation is not overly complex and is clearly written. There is no negative impact on the regulated community and the regulation does not overlap, duplicate, or conflict with federal or state law or regulation. As a result of this periodic review, the agency determines that the regulation has no negative economic impact on small business.

## Result

*Please state that the reason why the agency is recommending that the regulation should stay in effect without change.*

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The Department of Labor and Industry recommend retaining the regulation without change.

## Small business impact

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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There is a continued need for this regulation as the requirements are mandated by state law. The regulation, as written, continues to protect the safety, health, and welfare of the public by preventing garnishment that would reduce a person's income to less than minimum wage, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. There have been little or no changes in technology, economic conditions, and other factors which would affect the regulation.