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Debtor Exemptions in Personal Property--Proposals for Modernization

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DEBTOR EXEMPTIONS IN PERSONAL PROPERTY—PROPOSALS FOR MODERNIZATION

Exemption statutes have been enacted in all fifty states. Two of the most common, wage and personal property exemptions, provide many debtors with some insulation from the harshness of creditor executions and bankruptcy proceedings.[1] It is the purpose of this note to make a brief analysis of these two exemptions in all the states, to analyze the Kentucky statute while demonstrating a need for its reform, and to recommend some possible solutions of the problems involved. Procedural aspects of the statutes as well as their judicial consrtuction are without the scope of the discussion. Rather, what follows considers only their actual wording and provisions.

THE STATUTES IN OTHER JURISDICTIONS

A classification has been made which encompasses two chief considerations. One is concerned with the requirements some debtors must satisfy to be able to claim the exemption, while the other considers what is exempted and the method employed to provide it.

Basically, there are at least three express requirements that have been adopted by various states. These may require that the debtor or his family be a resident in the state, that the debtor be the head of a family or a householder, or that the debtor show by an affidavit or otherwise that the exemption is necessary for the use of his family. This latter requirement is peculiar to wage statutes.

Fifteen personal property exemption statutes apply only to resident debtors.[2] Six other states require the debtor to be a head of a family[3] or a householder,[4] but make no specific provision for single persons. In addition, three states have both residency and family requirements without specifically extending protection to single persons.[5] In all other jurisdictions, including those with a residency requirement, single persons are afforded protection.

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1 11 U.S.C. § 24 (1958).

2 Ala. Code tit. 7, §§ 628-29 (1958); Ark. Const. art. 9, §§ 1-2; Del. Code Ann. tit. 10, § 4902 (1953); Fla. Const. art. 107 § 1 (1961); Idaho Code Ann. § 11-205 (1948); Ind. Ann. Stat. § 2-3501 (Burns 1946); Iowa Code Ann. § 627.6 (1950); Kan. Gen. Laws Ann. § 60-3505 (1949); N.J. Stat. Ann. § 2A-17-19 (1952); Okla. Stat. Ann. tit. 31, § 1 (Supp. 1957); S.C. Code § 34-41 (1952); Tenn. Code Ann. § 26-201 (1955); Va. Code Ann. § 34-4 (1953); W. Va. Code Ann. § 3897 (1961); Wyo. Stat. tit. 1, §§ 1-504 to 507 (1957).

3 Fla. Const. art. 10, § 1 (1961); Ga. Code Ann. § 51-101 (1937); Neb. Rev. Stat. § 25-1552 (1956); N.J. Stat. Ann. § 2A-17-19 (1952); N.M. Stat. Ann. § 245-1 (1953); Va. Code Ann. § 34-4 (1953).

4 Ind. Ann. Stat. § 2-350 (Burns 1946).

5 Fla. Const. art. 107 § 1 (1961); Ind. Ann. Stat. § 2-3501 (Burns 1946); Va. Code Ann. § 34-4 (1953).

Directing attention toward the wage statutes, we find that sixteen of these have a residency requirement, but only ten[6] require the debtor to be the resident. The other six require that there be a family resident in the state.[7] Five of these states with a residency requirement also specifically require the debtor to be the head of a family,[8] while four states have this latter requirement alone.[9] Twelve other states require the debtor to show by affidavit or otherwise that he is the head of a family and that the exemption he claims is necessary for the use of his family.[10] Thus, a total of twenty-one jurisdictions have no specific provision affording protection to single persons. Lastly, a total of eleven states have both residency and family requirements.[11]

In light of the above, it is obvious that the statutes are diverse. This fact becomes clearer when the second major consideration concerning the substance and structure of the statutes is examined. However, since there is such diverseness involved, only a skeletal presentation will be made.

The personal property statutes may be classified into three groups: (1) those which exempt an enumeration of specific items; (2) those which exempt any item of the debtor's choice up to a specific dollar value; and (3) those which exempt certain enumerated items plus what the debtor may choose up to a prescribed dollar value. The great majority of the states have statutes of the group (1) type, but similarity terminates at this point, as invariably they include different qualifications. The most common are monetary, numerical, and time

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[6] Ala. Code tit. 7, § 630 (1958); Ark. Stat. Ann. § 30-207 (1962); Del. Code Ann. tit. 10, § 4913 (1953); Fla. Stat. Ann. § 222.11 (1961); Idaho Code Ann. § 11-205 (1948); Kan. Gen. Laws Ann. § 60-3494 (1949); Mo. Stat. Ann. § 525.030 (1952); N.D. Century Code Ann. § 32-09-02 (1960); Tenn. Code Ann. § 26-207 (1955); Va. Code Ann. § 34-4 (1953).

[7] Ariz. Rev. Stat. Ann. § 33-1126 (1956); Okla. Stat. Ann. tit. 12, § 851 (1960); Nev. Rev. Stat. § 21.090 (h) (1957); N.M. Stat. Ann. § 26-2-27 (Supp. 1957); Utah Code Ann. § 78-23-1 (7) (1953); Wyo. Stat. tit. 1, § 1-422 (1957).

[8] Fla. Stat. Ann. § 222.11 (1961); Mo. Stat. Ann. § 525.030 (1952); N.D. Century Code Ann. § 32-09-02 (1960); N.M. Stat. Ann. § 26-2-27 (Supp. 1957); Va. Code Ann. § 34-4 (1953).

[9] Ill. Ann. Stat. ch. 62, § 14 (Smith-Hurd 1951); Ind. Ann. Stat. § 2-3501 (Burns 1946); Iowa Code Ann. § 627.10 (Supp. 1961); Neb. Rev. Stat. § 25-1558 (1956).

[10] Alaska Stat. § 9.35.080 (1962); Ariz. Rev. Stat. Ann. § 33-1126 (1956); Idaho Code Ann. § 11-205 (7) (1948); Kan. Gen. Laws Ann. § 60-3494 (1949); Mont. Rev. Code § 93-5816 (1947); Nev. Rev. Stat. § 21.090 (h) (1957); N.C. Gen. Stat. § 1-362 (1953); Ore. Rev. Stat. § 23.180 (1962); S.D. Code § 33.2404 (Supp. 1960); Utah Code Ann. § 78-23-1 (7) (1953); Wash. Rev. Code § 7.32.280 (1956); Wyo. Stat. tit. 1, § 1-422 (1957).

[11] Ariz. Rev. Stat. Ann. § 33-1126 (1956); Fla. Stat. Ann. 222.11 (1961); Idaho Code Ann. § 11-205 (7) (1948); Kan. Gen. Laws Ann. § 60-3494 (1949); Mo. Stat. Ann. § 525.030 (1952); Nev. Rev. Stat. § 21.090 (h) (1957); N.D. Century Code Ann. § 32-09-02 (1960); N.M. Stat. Ann. § 26-2-27 (Supp. 1957); Utah Code Ann. § 78-23-1 (7) (1953); Va. Code Ann. § 34-4 (1953); Wyo. Stat. tit. 1, § 1-422 (1957).

limitations upon the items enumerated. In addition some of the statutes in group (1) provide different exemptions for those with a family. Others provide alternatives from which the debtor may choose. Texas and Illinois have statutes illustrative of this, as the former has separate sections pertaining to those with a family and single persons[12] while the latter provides alternatives from which the debtor may choose.[13]

The states in group (2) have ceilings which fall within a minimum allowance of one hundred dollars in one state[14] to a maximum of 1600 dollars in another.[15] Here distinctions have been made between those with a family and single persons. For example, South Carolina allows heads of families a five hundred dollar exemption while single persons may only retain personal property not exceeding three hundred dollars in value.[16] The group (3) states reflect a more liberal policy than the group (2) states by exempting essential items in addition to the dollar value ceiling. A possible reason for such a statute could be the policy of insuring retention of certain essential items which the debtor would not see fit to withhold in exercising his privilege to choose. Under the group (3) statute the debtor chooses what he desires, but certain essential items are automatically exempt. Pennsylvania[17] exemplifies this, as it exempts personal property not exceeding three hundred dollars in value plus all wearing apparel, bibles, and school books.

It is evident that to name every different item exempted in all the states would be a herculean task. However, analysis reveals that there exist among the statutes at least two basic similarities of a substantive nature. One is the recurring presence of the same items. Among the most prevalent are wearing apparel, various furniture, bibles, church pews, burial lots, agricultural implements, domestic animals, and many others. The other similarity is that some of the items exempted reflect the geographical location of the state. For example, one would expect to and does find that Nevada exempts mining equipment[18] while Massachusetts exempts fishing boats.[19]

The wage statutes may also be classified into three groups: (1) those which exempt a certain amount or percentage of the debtor's wages; (2) those which exempt different amounts above and below a prescribed number of dollars; and (3) those which specifically

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[12] Tex. Stat. Ann. art. 3832 and 3835.
[13] Ill. Ann. Stat. ch. 52, § 13 (Smith-Hurd 1951).
[14] Md. Code Ann. art. 83, § 8 (1957).
[15] Ga. Code Ann. § 51-101 (1937).
[16] S.C. Code § 34-41 (1952).
[17] Pa. Stat. Ann. tit. 12, § 2161 (Purdon's 1951).
[18] Nev. Rev. Stat. § 21.090 (e) (1957).
[19] Mass. Ann. Laws ch. 235, § 34 (1956).

prohibit any creditor from proceeding against the debtor's wages for the satisfaction of his claim. As was true regarding the personal property statutes, there are several qualifications to this general scheme.

The group (1) statutes are almost uniformly qualified by a time limit. In many cases this consists of exempting the wages due for certain periods "next preceding the levy of execution." Their effect is to exempt as much of the wages due as the statute allows for a stipulated period of time prior to the levy of execution.[20] These periods range in length from thirty days in Arizona[21] to three months in Oklahoma.[22] The time limit found in other statutes may be based upon a week[23] or even a day's time.[24] Further, the group (1) statutes may include a qualification based upon marital status. Colorado for example, exempts seventy per cent of the wages of a person with a family while a single person enjoys only a thirty per cent execption.[25] Iowa has recently adopted a novel approach by exempting thirty-five dollars per week plus an additional three dollars per week for each dependent child.[26] Other states employ still another qualification by providing maximum and minimum limits of exemption. But even here there is variation, as there may be only a minimum[27] or a maximum[28] limit, or a provision which combines both.[29]

The statutes in groups (2) and (3) are few in number. Those in group (2) exempt diverse amounts or percentages above and below the stated dollar amount, and at least one includes a minimum and maximum qualification.[30] Those in group (3), which totally frustrate creditor efforts to satisfy their claim through wages, are the result of constitutional provisions in two states[31] and legislative enactment in the others.[32]

A comparison of the net amount exempted by the various statutes does not result in exemptions of the same amount over identical or nearly identical periods of time. Consequently, the provisions of the wage statutes offer an even sharper contrast of substantive difference.

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20 Johnson v. Williams, 235 Iowa 688, 17 N.W.2d 405 (1945).
21 Ariz. Rev. Stat. Ann. § 33-1126 (1956).
22 Okla. Stat. Ann. tit. 12, § 851 (1960).
23 Mass. Ann. Laws ch. 246, § 28 (Supp. 1962).
24 Ga. Code Ann. § 46-208 (Supp. 1961).
25 Colo. Rev. Stat. § 77-13-4 (Supp. 1960).
26 Iowa Code Ann. § 627.10 (Supp. 1961).
27 Utah Code Ann. § 78-23-1 (7) (1953).
28 Ore. Rev. Stat. § 23.180 (1962).
29 Va. Code Ann. § 34-29 (Supp. 1962).
30 Wis. Stat. Ann. tit. 25, § 272.18 (15) (1958).
31 Tex. Const. art. 16, § 28.
32 Fla. Stat. Ann. § 222.11 (1961); Pa. Stat. Ann. tit. 42, § 886 (Purdon's 1951).

Montana, for example, exempts all wages forty-five days next preceding the levy of execution,[33] while Washington exempts twenty dollars per week or eighty dollars per month.[34] The conclusion to be drawn is that, while it is conceivable that a person in Montana might earn only eighty dollars every thirty days, this would be the exception rather than the rule, and thus debtors enjoy a more substantial exemption every month in Montana than they do in Washington. The same conclusion is reached as to Wyoming, where fifty per cent of the wages for sixty days next preceding the levy of execution are exempt.[35] The Washington exemption for the Wyoming period would be one hundred sixty dollars and this would be less than the fity per cent exemption in Wyoming, in the great majority of instances, over the same period.

It should also be noted that, even when statutes employing the same methods are compared, the differences remain. Oregon[36] and Alaska,[37] for example, both exempt a dollar amount of the wages earned thirty days next preceding the levy of execution. However, the former exempts only one hundred seventy-five dollars of these while the latter exempts three hundred dollars.

THE KENTUCKY STATUTE

Our statute provides.

> The following property of a person with a family resident in this state is exempt from execution, attachment, distress or free-bill:
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> (1) Two work beasts, or one work beast and one yoke of oxen; two plows and gear; one wagon, cart, or dray and gear, two axes, three hoes, one spade, one shovel; two cows and calves; beds, bedding, and furniture sufficient for family use, one loom and spinning wheel and pair of cards; all of the spun yarn and manufactured cloth manufactured by the family necessary for family use, carpeting for all family rooms in use; one table; books not to exceed seventy-five dollars in value; two saddles and their appurtenances; two bridles, six chairs, or so many as does not exceed ten dollars in value; one cradle; poultry on hand, not to exceed one hundred dollars in value; ten head of sheep, not to exceed twenty-five dollars in value; all wearing apparel; sufficient provisions including breadstuff and animal products, to sustain the family for one year; provender suitable for livestock, if there is any livestock, not to exceed seventy-five dollars in value, or if such provender is not on hand, such other property as does not exceed the sum in value; washing apparatus, not to exceed seventy-five dollars in value; one sewing machine; all family portraits and pictures; one cooking stove and appurtenances; cooking utensils, not to exceed twenty-five dollars in value.
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> (2) Ninety per cent of the salary, wages of income earned by labor, of

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[33] Mont. Rev. Code § 93-5816 (1947).
[34] Wash. Rev. Code § 7.32.280 (1956).
[35] Wyo. Stat. tit. 1, § 1-422 (1957).
[36] Ore. Rev. Stat. § 23.180 (1962).
[37] Alaska Stat. § 9.35.080 (1962).

every person earning a salary, wages or income of seventy-five dollars or less per month. The lien created by service of garnishment, execution, or attachment shall only effect ten per cent of such salary, wages or income earned at the time of service of process.

(3) Sixty-seven dollars and fifty cents per month of the salary, wages, or income earned by labor, of any person earning a salary, wages or income in excess of seventy-five dollars per month.[38]

The Kentucky Court of Appeals has declared that the purpose of the statute is "to allow the housekeeper with a family to retain certain property free from molestation or appropriation by creditors to the end that he and his family would thereby be extended an opportunity of self support and not become a burden upon the public."[39] In view of its purpose it is to be liberally construed,[40] but the legislature did not intend to allow the debtor any luxury.[41] However, while these judicial pronouncements state a desired purpose, analysis of the present statute discloses several defects which make it ineffective to accomplish these ends.

Initially it should be noted that the statute has been essentially the same since 1893. There have been no substantial amendments since that time. Originally the wage exemption was fifty dollars.[42] The present provision was adopted in 1910.[43] The personal property provision has undergone two changes. There was a deletion of one provision[44] and a limitation placed upon another.[45] The inference to be drawn from this stagnant evolution is that the statute has lost its utility. This fact becomes clearer when specific defects are brought into focus.

Obviously the statute was adopted at a time when the state was still predominantly an agricultural community. Yet, even if the economic structure of the state were the same today, the statute would still not accomplish its purpose. This conclusion is based primarily upon the belief that the enumeration of exempt property fails to include several items necessary for practical farm operation while including others which are out of date. The farmer today is in need of exemptions which will insure his ability to raise ,prepare, and transport his tobacco and other crops to market in an efficient manner. He is no longer self-supporting to as great an extent as before. He sells much of what he produces in a community market and buys much of what he consumes

38 Ky. Rev. Stat. § 427.010 (1962).
39 Wallins Nat'l Bank v. Turner, 221 Ky. 562, 563, 299 S.W. 194, 195 (1927).
40 *Id.* at 564, 299 S.W. at 195.
41 Thomson v. Dennis' Ex'x, 282 Ky. 352, 355, 138 S.W.2d 490, 491 (1940).
42 Ky. Acts 1893, ch. 219, IV, § 5.
43 Ky. Acts 1910, ch. 120, § 1.
44 *Ibid.*
45 Ky. Acts 1930, ch. 10.

at ordinary mercantile stores. Therefore, should an exemption statute, keeping in mind its purpose, include modern farm equipment in common use today? If so, then the present statute is defective, as it fails to include even the most common of such equipemnt as the tractor and the farm truck.

Furthermore, some of the exemptions still essential for a farmer's use are burdened by limits which do not reflect present economic values. For example, if six chairs are necessary then the ten dollar limit on their value should be abolished; or if ten sheep and provender suitable for livestock are necessary, the twenty-five and seventy dollar limits on these items should be stricken.

Another defect is magnified by increasing urban population. While Kentucky may not have enjoyed the industrial expansion which has occurred in other states, there has been some development or industry with a corresponding increase in the number of urban dwellers. Due largely to credit financing, there is apt to be a substantial number of debtors residing in these areas. Thus, the question becomes whether the present statute affords these people the protection necessary to prevent them from becoming public burdens. Analysis quickly leads to the conclusion that it does not.

The present provision does exempt several items which are necessary to the urban debtor's daily life. Among these are wearing apparel, sufficient provision for one year, and a cooking stove. Furthermore, the provision exempting "beds, bedding, and furniture sufficient for family use" can be liberally construed to include other necessary furnishings. However, the statute is still defective because of its inclusion of out of date limitations upon certain items, and the exclusion of other necessary items.

The limitation of seventy-five dollars on any washing machine illustrates an outdated limitation. Granting that the debtor needs to be able to retain a washing machine, should debtors have it subjected to execution simply because they happen to possess one worth over seventy-five dollars? To illustrate how the statute excludes items which are necessary from its protection, consider the following situation. A commercial photographer with a family is in debt. His work consists of taking commercial advertising photographs at various locations throughout a metropolitan area. He owns his camera and depends upon his automobile for transportation, since he must photo graph at places inaccessible by public transportation. Should a judgment creditor be able to execute against this man's camera and automobile to satisfy his judgment? Certainly this is not a desirable situation, but the present statute would not protect him.

An even more serious defect exists in the wage provisions of the statute. That defect is the unrealistic amount exempted if the debtor should earn seventy-five dollars or more per month. Sixty-seven dollars and fifty cents is not sufficient to support any person for a month's time. The figure appears more ridiculous when it is considered that so many debtors have families dependent upon them.

For the purpose of discussion consider the following situation. A judgment creditor seeks to satisfy a substantial judgment by resorting to garnishment of a debtor's wages. The debtor has no savings and is dependent upon the wages to support himself, his wife, and his minor child. The judgment may be satisfied by garnishment of all the debtor's wages for the entire year and this is what the creditor seeks to do. Under the present statute the debtor would be entitled to a total exemption for the year of eight hundred dollars. With this amount, would he be able to provide even the basic necessities of food, housing, clothing, and medical care? That he would not, is easily demonstrated. For example, as long ago as 1950 the average wage earner with two dependents living in Louisville spent 1,144 dollars for food, 369 dollars for clothing, and 175 dollars for medical care.[46] With the inflation spiral which has taken place since 1950, our debtor should face an even more impossible situation today. Perhaps this example is an extreme case, but it is useful to show that the present wage exemption is unrealistic and inadequate when viewed in light of its declared purpose. Should it remain unchanged, there will continue to exist the present situation of a legislature which has indicated it favors an exemption, but is unwilling to enact a really effective statute.

A final defect requires little discussion to demonstrate. It is found in the first sentence of the statute, which provides that only "a person with a family resident in this state" is entitled to claim the exemption. It is difficult to rationalize any conceivable policy which might underlie such a provision. It only serves to limit the scope of the statute's protection and thereby obstructs its purpose. This is true because there are many single persons residing in the state who, in the absence of statutory protection, can become public burdens. Therefore, the statute should be changed to extend at least wage protection to them.

SOME RECOMMENDATIONS

Having considered what other states have done, how Kentucky compares, the major defects which exist, and the need for reform, possible solutions may now be presented.

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[46] Bureau of Labor Statistics, Bul. No. 1097, June 1953, Table 2, p. 22.

Exemption laws have been the subject of concern in a good number of law review commentaries, but many of these were a result of the depression era and recent comment of a comprehensive nature is quite sparse. Yet three such articles have appeared within the last decade.[47] The basic theme of these is the need to protect the debtor without prejudice towards the creditor, by means of a statute which will not become quickly obsolete. Further, it is agreed that the best avenue available in the personal property area is to allow the debtor to retain the property he desires to a maximum dollar value. The recommendation in the wage area advocates a minimum exemption coupled with a percentage of all in excess of that figure. However, there is disagreement on the question of a maximum limit.

Solutions of a recent nature in the states have accepted[48] and rejected[49] these views, but in general the states which have acted approached the problem by diverse methods. For example, both Connecticut[50] and South Carolina[51] have recently enacted new wage statutes. Comparing them it is found that the former puts the exemption at the discretion of the court, while the latter has abolished the right.

These observations bring the discussion to the final consideration of what might be done in Kentucky. Its determination ultimately must rest with the legislature, but a few suggestions will be made. The first of these is that, before any action whatever is taken in this state, a study of the various exemption laws of other states would be made. Even though the various exemption laws are deficient in common ideas, they do provide a wide range of possibilities which may be valuable. The legislature then would have a concise and accessible store of every avenue utilized thus far, and would be better able to proceed in a more informed and selective manner.

Secondly, there should be an initial consideration of which interest involved is to be preferred. It is almost impossible to draft a neutral statute. Consequently, the wisdom of pro-debtor and pro-creditor policies should be re-evaluated, the ramifications of each considered,

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[47] Abrahams and Feldman, *The Exemption of Wages from Garnishment: Some Comparisons and Comments*, 3 DePaul L. Rev. 153 (1954); Joslin, *Debtor's Exemption Laws: Time for Modernization*, 34 Ind. L.J. 355 (1959); Rombauer, *Debtor's Exemption Laws—Revision Ideas*, 36 Wash. L. Rev. 484 (1961).

[48] La. Rev. Stat. Ann. § 13.8881 (1) (1960). This provision exempts eighty per cent of the wages due and provides a one hundred dollar minimum.

[49] Mass. Ann. Laws ch. 246, § 28 (Supp. 1962). An amendment of the wage statute changed the amount of the exemption, but retained the providing of a dollar amount as the method of granting it, thus rejecting the view of those who favor a percentage method.

[50] Conn. Gen. Stat. § 52-361 (Supp. 1961).

[51] S.C. Code § 10-1731 (Supp. 1960).

the interests balanced, and a feasible course selected. Only after such a deliberation can a statute be drafted which provides just results towards all parties concerned.

Thirdly, a totally new statute is needed to replace the present one. The defects previously emphasized justify this conclusion. What is the best method? If the debtor is to be preferred, and it is hoped he would, specific exemption requirements should not be included. As noted earlier there seems to be no valid reason for them, and they merely serve to hamper the effectiveness of the statutes.

Passing to a determination of what type of personal property provision should be adopted, none of the three basic structures in use appears to be wholly satisfactory. The group (1) statutes include certain items in their enumeration which become quickly obsolete in our rapidly changing society. The group (2) statutes are more desirable, as they allow any item to be exempt, thus providing desired flexibility in this respect. However, the dollar value limit they specify can become inadequate within a few years, and unless the legislature is willing to amend this amount when necessary, this type statute also becomes relatively ineffective within a short time. Where the statute provides an enumeration of specific items plus a general dollar value exemption, the same problems arise. Nevertheless, it appears that these group (3) statutes are cloest to an adequate solution.

Our statute should be amended to provide for the exemption of broad categories or property accompanied by an exemption of additional property selected by the debtor to a maximum dollar value. Some examples of the broad categories proposed are provisions exempting a mechanized vehicle, or all appliances not of a recreational nature. While this type of statute would require official interpretation, it would preserve both flexibility and utility. The categories could be sufficiently broad to encompass new items as they develop and replace those now in use, and the added dollar value, even though it might become outdated, could be easily amended. Lastly, such a statute allows a liberal construction, which is desirable in view of an exemption's purpose.

A somewhat new approach is also recommended in drafting a different wage provision, as none of the basic structures in use is wholly desirable. The statutes in group (1) which exempt a dollar amount are not desirable, as they become rapidly obsolete in our inflationary economy. Those which exempt a percentage are much more desirable, as they easily adapt to economic change; but, unless they are coupled with a minimum amount, some debtors who earn a meager living receive insufficient protection. To illustrate, consider those who are not able to work full time and who earn one hundred fifty dollars per month. Assume the statute provides a flat fifty per cent exemption of all wages due at the time the creditor seeks to satisfy his claim. Under the statute the debtor would only be able to retain seventy-five dollars of his month's salary. Clearly such a result is insufficient to meet his needs. Yet, even if the statute should provide a minimum dollar exemption, it would become obsolete with the passage of time.

Furthermore, the statutes in group (1) which exempt, in effect, all the debtor's wages for a certain period of time, and those in group (3) which prohibit any levy against the debtor's wages, are also undesirable in that they are unfair towards creditors. This position is based upon a belief that the most functional means a creditor may use to obtain repayment of a debt should not be denied him in view of the indispensable role he plays in our present economic system of credit financing. Thus, while the debtor is to be preferred, both interests should be balanced, and the scales not tipped so far as to be unjust. Lastly, the statutes in group (2) offer no solution to the fact that the dollar amount above and below which so much is exempt is quickly out of date.

The solution that is recommended combines a commonly used device with a novel suggestion. It is to provide a percentage exemption of the desired amount in addition to a minimum exemption of a dollar amount which is dependent upon a current economic indicator to determine. For example, such a statute could provide that the minimum amount exempted should increase or decrease a certain amount based upon the changes in the cost of living index. The additional percentage allowed would then be added to this figure to determine the net exemption. Linking the minimum exemption to a current economic indicator would avoid the need for amendment of this figure to meet changing values. The additional percentage allowed, if sufficient now, would remain so as a percentage only; that is, different totals and not a different proportionate amount. The net effect of such a statute would be to provide flexibility without obsolescence, and while practical problems might be met in linking the minimum to the indicator, there would be an effective result.

CONCLUSION

Exemption laws have undergone radical change in various states. The need is clear in Kentucky for at least a re-evaluation of these two particular exemptions as they now exist. The recommendations made are by no means comprehensive, but they do point up some possible areas of inquiry. However, if the legislature is willing to recognize the need, to consider what has been done in other states, and to take some positive step toward reform, this is all that can be asked.

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