



CCPA-44

December 11, 1970

This is in reply to your letter of September 15, 1970, requesting an exemption from the provisions of section 303(a) of Title III, Restriction on Garnishment, of the Consumer Credit Protection Act for garnishment issued under the laws of the State of Illinois.

A notice of the application was published in the Federal Register of October 6, 1970, and a period of 30 days was allowed for comments from interested persons. The comments received were considered together with the application.

We have reviewed the Wage Deduction Act of 1961, as amended, sections 71 through 87 of Chapter 62 of the Illinois Annotated Statutes. The salient features of the Illinois law are found in section 73 which exempts the greater of 85 percent of gross wages up to \$200 per week, or \$65 for a head of a family and \$50 for a person who is not the head of a family. The exemptions are based on gross earnings, the maximum exemption is \$200 per week, and payroll deductions are taken from the exempt earnings.

The garnishment restrictions of section 303(a) of Title III are based upon disposable earnings as defined in section 302(b), while the State formula is predicated upon the employee absorbing the legal deductions from his exempt wages. The Illinois statute provides an absolute maximum exemption of \$200 per week whereas the formula provided in section 303(a) simply limits the maximum garnishment for wages at this level to 25% of the employees disposable earnings for the workweek. Under the State law the minimum amount which may be subject to exemption for a person who is not the head of a family is \$50 per week and it is from this amount that the deduction is made of any sums required by law to be withheld. The required Social Security Tax on \$50 would immediately leave less than \$48 due to the employee and the applicable Federal and State taxes would further reduce the net amount to the employee. Thus, it is clear that State law provides less protection than Title III to employees at either low or high salary levels.

At salary levels in the mid-range, State law would generally appear to be more restrictive on garnishment and to this extent the State law would not appear preempted by Title III, as provided in section 307. Section 307 is read as preserving provisions of State laws on garnishment which may be more restrictive than the Federal law under particular facts and circumstances, even though the State laws as a whole may be less restrictive. However, any detailed comparison is difficult due to the many individual variations in Federal and State tax deductions. With such individual variations in required deductions, it is clear that in this middle salary range there would be some situations where State law would not provide the protection available under Title III.

As you know, the Federal law prohibits garnishment of any of the first \$ 48 per week of disposable earnings, and limits garnishment of the first \$64 per week of disposable earnings to the amount in excess of \$48. Under the Federal law, not more than 25% of the weekly disposable earnings above \$64 may be garnished. In the case of earnings for pay periods other

than a week, the Federal law provides for multiples equivalent to section 303(a)(2). We are not certain how pay periods longer than a week would be treated under State law.

In view of these differences between the Illinois law and the Federal law and in applying Subpart C of Title 29, Part 870, Code of Federal Regulations (35 F.R. 8226), I conclude that the Illinois law does not provide restrictions on garnishment which are substantially similar to those provided in section 303(a) of Title III of the Consumer Credit Protection Act.

The application for exemption is, therefore, denied. Part 870.53(b) provides that if an application is denied, a State representative may have an opportunity to request reconsideration.

Sincerely,

Robert D. Moran
Administrator