U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210

CCPA-59

August 3, 1972

This is in reply to your letter of June 7, 1972, concerning the application of Title III of the Consumer Credit Protection Act to the garnishment of earnings in a bank account.

You ask for the citations to which reference is made in opinion letter No. WH-146 (Oct. 26, 1971) for the cases adjudicated under other State and Federal statutes which have held that the exempt earnings of a debtor do not lose their exempt character by being deposited in a bank account. In this regard see Rutter v. Shumway. 26 Pac. 321 (Colo.); Staton v. Vernon & Oskaloosa National Bank, 229 N.W. 763 (Iowa); Colonial Discount Co. v. Wilhelm, 40 N.Y.S. 2d 298 (N.Y.); Sherwin Williams Co. v. Morris, 156 S.W. 2d 350 (Tenn.) Williams v. U.S. Fidelity & Guarantee Co., 107 F. 2d 210 (D.C.), Surplus v. Remmele, 87 N.Y.S. 2d 651 (N.Y.); Holmes v. Marshall, 79 Pac. 534 (Calf.); Payne v. Jordan, 110 S.E. 4 (Ga.); Emmert v. Schmidt, 68 Pac. 1072 (Kans.); Succession of Erwin, 126 So. 223 (La.); Surace v. Danna, 161 N.E. 315 (N.Y.): Gaddy v. First National Bank of Beaumont, 283 S.W. 472 (Tex.).

You also present several general questions on the application of the restrictions provided in Title III to the garnishment of earnings on deposit in a bank. In our opinion the earnings of a debtor in a bank account would retain their status as earnings subject to the restrictions on garnishment provided in the Act so long as they are capable of identification as such. This would not depend on any specific period of time as you suggest, but rather upon the facts in each case as to whether the sum on deposit or some part thereof is capable of identification as earnings.· The Act's restrictions apply to earnings or compensation paid or payable for personal services. It would be contrary to the express mandate of the Act to assume that when a debtor deposits his earnings for safekeeping in a bank, his earnings are transformed into a bank credit to which the Act's restrictions do not apply. (See the cases cited above).

The bank acting as garnishee would need to identify the source of deposits subjected to garnishment, as you suggest. This would include, of course, receiving information directly from the depositor. As a practical matter, we believe that in most cases of garnishment the debtor's earnings would be the only source of funds in the bank account.

The answer to your last question is found in the penultimate paragraph of opinion letter No. WH-146. If the earnings are subjected to garnishment to the maximum extent provided in section 303(a) of the Act, such earnings are not subject to further attachment either before or after they are placed in the employee's account. For an employee paid on a weekly basis, the amount of disposable earnings subject to garnishment is not merely the excess over $48 per week. The garnishment restrictions provided in section 303(a) of the Act are explained starting at page 3 of the enclosed pamphlet.

Sincerely,

Horace E. Menasco
Deputy Assistant Secretary