

**Senator Peter C. Knudson** proposes the following substitute bill:

**EDUCATION LOAN AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Lee B. Perry

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Consumer Credit Code to address education loans.

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions;
- ▶ addresses limitation on garnishments; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**70C-7-103**, as enacted by Laws of Utah 1985, Chapter 159

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **70C-7-103** is amended to read:

**70C-7-103. Definitions -- Limitation on garnishment.**



26 (1) As used in this part:

27 (a) "Disposable earnings" means that part of the earnings of an individual remaining  
28 after the deduction from those earnings of amounts required by law to be withheld.

29 (b) "Education loan" means a loan subject to this title, or notwithstanding Subsection ~~§~~  
29a 70C-1-202 ~~←~~§

30 (2)(h)(ii)(B)(II) ~~§~~ , ~~←~~§ made by a depository institution that:

31 (i) is closed end;

32 (ii) is a qualified education loan as defined in 26 U.S.C. Sec. 221(d);

33 (iii) expressly states in the original loan documents that it is a qualified education loan  
34 or the proceeds will be used solely for qualified higher education expenses as defined in 26  
35 U.S.C. Sec 221(d); and

36 (iv) in a bankruptcy filing, the loan or any indebtedness relating to the loan is subject to  
37 the provisions of 11 U.S.C. Sec. 523(a)(8).

38 ~~[(b)]~~ (c) "Garnishment" means [any] a legal or equitable procedure through which the  
39 earnings of an individual are required to be withheld for payment of a debt.

40 (2) The maximum part of the aggregate disposable earnings of an individual for any  
41 pay period ~~[which]~~ that is subjected to garnishment to enforce payment of a judgment arising  
42 from a consumer credit agreement may not exceed the lesser of:

43 (a) 25% of ~~[his]~~ the individual's disposable earnings for that pay period; ~~[or]~~

44 (b) the amount by which ~~[his]~~ the individual's disposable earnings for that pay period  
45 exceed 30 hours per week multiplied by the federal minimum hourly wage prescribed by  
46 Section 6 (a) (1) of the Fair Labor Standards Act of 1938, 29 U.S.C. ~~[, -Section]~~ Sec. 206(a)(1),  
47 in effect at the time the earnings are payable[-]; or

48 (c) 15% of the individual's disposable earnings for that pay period if the judgment  
49 relates to an education loan.

50 (3) ~~[No]~~ A court may not make, execute, or enforce an order or process in violation of  
51 this section.

52 Section 2. **Effective date.**

53 If approved by two-thirds of all the members elected to each house, this bill takes effect  
54 upon approval by the governor, or the day following the constitutional time limit of Utah  
55 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
56 the date of veto override.