Can student loan lenders garnish wages?

Rebekah Coleman

Student lenders can garnish borrowers' wages, but there are set limits based on the lender type and the state in which a borrower lives.

According to the U.S. Department of Labor, wage garnishment is "any legal or equitable procedure through which some portion of a person's earnings is required to be withheld by an employer for the payment of a debt."

Federal student loans are backed by the government for extra financial security and typically offer lower rates due to the reduced risk. For federal lenders, there is a garnishment limit set at 15 percent of a borrower's disposable earnings (the amount left over after legally required deductions are removed). In order to protect consumers, the government has a limitation restricting any student loan lender, private or federal, from garnishing more than 25 percent of a borrower's disposable earnings.

Private student loans are taken out directly from private lenders and usually come with slightly higher interest rates than federal loans. For private lenders, the garnishment rate can vary drastically depending on the state that a borrower lives in. Some states garnish wages at the maximum rate of 25 percent, and some states have laws prohibiting wage garnishment entirely.

Harris Solomon, partner at Brinkley Morgan, said the state of Texas does not allow for wage garnishment.

He said the state wants to protect borrower's wages from creditors in order to reduce costs for the state. This way, creditors have to bear the burden, rather than the state itself, which would have to support a borrower's housing and food costs.

"Each state has its own scheme for what it thinks is good to protect its creditors or its citizens," Solomon said.

Besides the garnishment rate, federal and private lenders vary in their determination and methods used to get borrowers to repay their student loan debts.

The federal government is able to garnish wages more easily than private lenders because it can take directly from the borrowers. Private lenders, however, have to file a legal suit in order to garnish wages.

As a result, private lenders tend to work with borrowers more because they want to avoid bankruptcy and its complications, Solomon said.

Even though private lenders are more willing to work around a borrower's needs and requests, it is likely because they have more limitations.

"The U.S. government has a variety of limitations by statute, but I think ultimately private lenders are more strict, if they can be, than the federal government," Solomon said.

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Can student loan lenders garnish wages?

the book

Brinkley Morgan partner Harris Solomon was recently interviewed about student loans and wage garnishments for Loans.org, an educational website dedicated to covering financial news.

Harris is an experienced speaker on creditors' rights and has presented on the subject at several seminars. Florida Bar board-certified in business litigation, Harris concentrates his practice on representation of creditors in bankruptcy proceedings, commercial litigation, partnership and shareholder disputes, probate litigation, and government law. If you have any questions on creditors' rights, he can be reached at 954-522-2200 or harris.solomon[at]brinkleymorgan.com.

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This article originally appeared on Loans.org at http://loans.org/student/questions/can-lenders-garnish-wages.