

# SENATE BILL 397

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By: **Senators Norman and Salling**

Introduced and read first time: January 29, 2016

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions and Procedures – Garnishments – Spousal Property**

3 FOR the purpose of establishing a presumption that a garnishment against certain  
4 property held jointly by spouses in certain financial institutions is valid unless,  
5 within a certain time period, either spouse files a motion objecting to the  
6 garnishment and serves a copy of the motion on certain persons; making a technical  
7 correction; and generally relating to garnishments against property held jointly by  
8 spouses.

9 BY repealing and reenacting, with amendments,  
10 Article – Courts and Judicial Proceedings  
11 Section 11–603  
12 Annotated Code of Maryland  
13 (2013 Replacement Volume and 2015 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Courts and Judicial Proceedings**

17 11–603.

18 (a) (1) Except as provided in [paragraph 2] **PARAGRAPHS (2) AND (3)** of this  
19 subsection, a garnishment against property held jointly by [husband and wife] **SPOUSES**,  
20 in a bank, trust company, credit union, savings bank, or savings and loan association or  
21 any of their affiliates or subsidiaries is not valid unless both owners of the property are  
22 judgment debtors.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) Paragraph (1) of this subsection does not apply unless the property is  
2 held in an account that was established as a joint account prior to the date of entry of  
3 judgment giving rise to the garnishment.

4           **(3) A GARNISHMENT AGAINST PROPERTY DESCRIBED IN PARAGRAPH**  
5 **(1) OF THIS SUBSECTION IS PRESUMED TO BE VALID UNLESS, WITHIN 30 DAYS AFTER**  
6 **SERVICE OF THE WRIT OF GARNISHMENT ON THE GARNISHEE, EITHER SPOUSE:**

7           **(I) FILES A MOTION OBJECTING TO THE GARNISHMENT; AND**

8           **(II) SERVES A COPY OF THE MOTION ON THE JUDGMENT**  
9 **CREDITOR, THE GARNISHEE, AND ANY OTHER PERSON NAMED ON THE ACCOUNT.**

10          (b) (1) A garnishment against property held in a bank, trust company, credit  
11 union, savings bank, or savings and loan association, or any of their affiliates or  
12 subsidiaries, by one person in trust for that person and another person or persons, is not  
13 valid unless all of the persons are judgment debtors.

14          (2) A garnishment against property held in a bank, trust company, credit  
15 union, savings bank, or savings and loan association, or any of their affiliates or  
16 subsidiaries, by one or more persons in trust for another person or persons, is not valid  
17 unless all of the persons are judgment debtors.

18          (3) A garnishment against property held in a bank, trust company, credit  
19 union, savings bank, or savings and loan association, or any of their affiliates or  
20 subsidiaries, to be payable on the death of one or more persons to another person or persons,  
21 is not valid unless all of the persons are judgment debtors.

22          (c) (1) Notwithstanding subsections (a) and (b) of this section and regardless  
23 of the relationship between or among the persons, if property held in an account in the  
24 name of 2 or more persons at a bank, trust company, credit union, savings bank, or savings  
25 and loan association or any of their affiliates or subsidiaries is garnished, and fewer than  
26 all of the persons named on the account are the judgment debtors, the garnishee may  
27 answer the writ of garnishment by stating:

28                 (i) That the property is held in an account at the garnishee in the  
29 name of 2 or more persons, 1 or more of whom but fewer than all of whom, are judgment  
30 debtors; and

31                 (ii) The amount held in the account at the time the writ of  
32 garnishment was served on the garnishee.

33          (2) If the garnishee answers as described in paragraph (1) of this  
34 subsection, the garnishee shall hold the lesser of the amount of the judgment or the amount  
35 in the account subject to an entry of a court order releasing the property held by the  
36 garnishee or a final judgment in the garnishment proceeding.

1                   (3) If the garnishee answers and holds property as provided under  
2 paragraphs (1) and (2) of this subsection, the garnishee may not be held liable to the  
3 judgment creditor or to any person named on the account for wrongful dishonor or for any  
4 other claim relating to the garnishment.

5                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2016.