

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 772
Judiciary

(Delegate Queen)

Courts - Judgments - Exemptions from Execution

This bill exempts from execution on a money judgment, without election by the judgment debtor, up to \$2,600 in a deposit account or other account of a judgment debtor held in specified financial institutions. The cumulative value of cash and property exempted under the bill's exemption and the existing election-based exemption may not exceed \$6,000 (the current statutory limit). The bill applies prospectively only to any writ of garnishment or writ of execution issued on or after the bill's October 1, 2021 effective date.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State revenues, as discussed below. The bill can be implemented with existing budgeted resources.

Local Effect: Potential decrease in local revenues, as discussed below. The bill can be implemented with existing budgeted resources.

Small Business Effect: Potential meaningful, as discussed below.

Analysis

Current Law: A "money judgment" is a judgment that a specified amount of money is immediately payable to the judgment creditor. A money judgment constitutes a lien on the debtor's interest in real or personal property located where the judgment was rendered and may be executed by a writ.

In general, statute specifically exempts specified items from execution on a money judgment, including up to \$6,000 of cash or property of any kind, if the debtor elects to

exempt such cash or property within 30 days from the date of attachment or the levy by the sheriff. Additional exemptions for a debtor's interests in real and personal property are available in bankruptcy proceedings.

A creditor who wishes to garnish a debtor's bank account must obtain a writ of garnishment from the court and enforce the writ according to specified procedures. If the judgment debtor wants to object or raise exemptions to the garnishment, the debtor must do so within 30 days of the bank being served with the writ of garnishment.

A writ of execution is a court-issued document that allows a creditor to use the judgment debtor's property to satisfy the money judgment. A writ of execution on a money judgment does not become a lien on the personal property of the debtor until an actual levy is made. The lien then extends only to the property included in the levy. Upon the issuance of a writ of execution, a sheriff or constable may seize (levy) the debtor's property and sell the debtor's legal or equitable interest in the real or personal property. The sheriff or constable must execute the writ, conduct the sale, and distribute the proceeds pursuant to court-approved rules.

State Revenues: The Central Collections Unit (CCU) advises that while it does have the authority to garnish the bank account of a debtor, it has rarely done so. Assuming that CCU's approach reflects the overall debt collection practices of the State, the bill is not expected to materially affect State revenues.

Local Revenues: Howard and Prince George's counties advise that the bill may affect local revenues to the extent that the bill's exemption reduces the amount of money available to satisfy a money judgment entered in favor of a local government. Information is not readily available on (1) the extent to which local governments pursue collection of debts through garnishment of bank accounts; (2) the value of debts owed to local governments in which this method of collection was pursued; and (3) the extent to which a judgment debtor's failure to make a timely election to exempt up to \$6,000 in cash and property allowed for the collection of money from a bank account to satisfy a money judgment entered in favor of a local government.

Small Business Effect: For the reasons stated above, the bill may have a meaningful effect on the ability of small businesses to collect on money judgments.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Howard, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Department of Budget and Management – Central Collections Unit; Department of Legislative Services

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