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The DC Council voted last month to approve updates to the District's law on wage garnishment. Supporters say it will help protect the city's lowest earners, but some in the industry warn that the changes could make it harder for some people to borrow money when they need to do so. (Photo by Chris Kain)

DISTRICT GOVERNMENT NEWS

Council votes for wage garnishment bill to protect DC's lowest earners

By Kalina Newman

Published on Jan 18, 2019

Lower-income DC residents struggling with debt are set to receive more protections for their wages under a new law the DC Council passed last month.

The Wage Garnishment Fairness Amendment Act of 2018 updates DC's existing law on wage garnishment – the practice by which creditors can intercept a person's income to collect debts – to protect those little more than the city's minimum wage. In practice, this will allow full exemptions from wage garnishment for those making less than \$27,560 a year in disposable income.

Introduced by at-large Council member Elissa Silverman and five colleagues, the legislation also sets partial limits on wage collection for employees in other income tiers, up to \$208,000 annually, and requires advance notification to debtors of a judge's order to garnish their wages.

The DC Council unanimously passed the bill on Dec. 18, after voting 8-5 against an amendment from Chairman Phil Mendelson that would have weakened the provisions. The legislation now moves on to Mayor Muriel Bowser for her signature and then to Congress for a legally required review period. For the law to take effect, the council would have to offset an estimated \$140,000 annual revenue loss incurred because the District government would be unable to garnish wages for unpaid taxes by people who qualify under the bill.

“Currently, the amount of wages protected from garnishment ... is not reflective of the higher cost of living in the District nor the council's own commitment to ensure all residents receive a living wage,” Ward 6 member Charles Allen said during debate at last month's meeting.

The existing wage garnishment law in DC uses a formula based on 40 times the federal minimum wage – now \$7.25 – to calculate how much of a person's weekly income is exempt from garnishment. With this formula, an employee making \$11,500 annually could have up to 25 percent of their weekly wages garnished by the DC Superior Court to cover their debts, without advance notice.

The National Consumer Law Center recently gave the District an “F” grade for its exemption law, noting that more than 30 states have protections higher than the federal minimum standard.



At-large DC Council member Elissa Silverman introduced the original bill to protect minimum-wage workers from garnishment of their earnings. (Photo courtesy of Elissa Silverman)

The Wage Garnishment Fairness Amendment Act increases the window of protection by more than \$19,000 a year, according to figures from the DC Fiscal Policy Institute. The bill lays out full exemptions for employees who make up to 40 times the District's hourly minimum wage – currently \$13.25 per hour. That figure will rise to \$14 on July 1, 2019, and to \$15 on July 1, 2020, with annual adjustments thereafter based on changes to the cost of living.

At the December meeting, Allen – who chairs the Committee on the Judiciary and Public Safety, which considered the bill – said legislators had discussed exempting “all weekly wages up to 60 times the District's minimum wage, but debt collectors suggested exempting 30 times the District's minimum wage, so we compromised.”



As chair of the Committee on the Judiciary and Public Safety, Ward 6 DC Council member Charles Allen worked out a compromise version of the bill that protects those earning up to 40 times the District's minimum wage from creditors garnishing any of their earnings. The current law sets a standard based on the much-lower federal minimum wage. (Photo courtesy of Charles Allen)

In practical terms, the compromise allows full exemption of wages earned for a 40-hour work week at minimum wage, which currently amounts to \$530.

During debate on the legislation, a majority of the council members sided against Mendelson's proposed amendment to lower the bill's exemptions to 35 times the District's minimum wage instead of 40. According to The Washington City Paper, lobbyist Rod Woodson shopped the amendment around to council members on behalf of two debt collection companies, Portfolio Recovery Associates and Encore Capital Group.

Council members Jack Evans, Kenyan McDuffie, Anita Bonds and Brandon Todd voted with Mendelson.

Silverman warned the amendment would “help debt collectors and ... hurt poor residents.”

In an interview with The DC Line, Silverman said “the [original] logic of the committee was very sound ... and I felt the beneficiary of the amendment was clearly the debt collectors, specifically Encore.” The companies, she said, stood to “make a little more money from our very hard-working, working-class District residents.”

At a public hearing last June, many of the bill's supporters framed wage garnishment as a civil rights issue.

April Kuehnhoff and Andrew Pizor, staff attorneys at the National Consumer Law Center, testified on behalf of their low-income clients. “A garnishment order can cause havoc in the personal finances of a family that is already struggling to pay even basic expenses,” Pizor and Kuehnhoff said in their written testimony. “Increasing wage exemption will allow those who need protection to make use of it so they can pay for living expenses, such as rent, food, childcare, transportation, or other necessities of daily living that may take priority over prior debts.”

Not everyone at the June 7 hearing supported the thrust of the legislation. Testifying against the bill was Jacques Cooper, an attorney representing the creditor debt collection law firm Scot & Associates.

Cooper argued that the bill would serve as an easy “bailout” option for debtors who do not need the assistance, and would also negatively impact DC consumers and businesses in the long term.

“Wage garnishment only affects consumers that completely disregard their debts and court notices,” Cooper said in a written summary of his testimony. “Many debtors refuse to communicate with creditors until a wage garnishment is already in place. ... The reality is that without the ability to garnish wages, a judgment would essentially become worthless and debtors would have no incentive or urgency to ever resolve their debts.”

That would end up discouraging lending by legitimate creditors, leading some to turn to payday lenders or loan sharks, he said.

“If creditors don’t think they’re going to get repaid on their loans, they’re not going to lend,” Cooper said in the summary. “It’s critical for struggling families and small business owners to have access to credit.”

At the June hearing, the DC Fiscal Policy Institute, the Legal Aid Society of the District of Columbia, and Tzedek DC – a legal services nonprofit that works with low-income residents – all testified separately in support of the bill in addition to issuing a more detailed joint statement to the DC Council with other advocacy groups.

After the bill’s passage last month, Tzedek DC applauded the progress in a statement with the Jewish Community Relations Council.

“[This bill] represents an important step forward towards a justice system that treats low-income community members dealing with debt-related challenges fairly,” Tzedek president Ariel Levinson-Waldman said in the release.



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