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TO: The Honorable Luke H. Clippinger, Chair
Judiciary Committee

FROM: W. Thomas Lawrie, Assistant Attorney General

RE: House Bill 772 – Courts – Judgments – Exemptions from Execution – SUPPORT

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 772, sponsored by Delegate Queen, which would strengthen the State’s existing property garnishment protections by implementing one of the recommendations of the Maryland Attorney General’s COVID-19 Access to Justice Task Force (“AG Task Force”). Specifically, HB 772 would amend § 11-504 of the Courts and Judicial Proceedings Article by automatically exempting up to \$2,600 of a consumer debtor’s bank account – which is approximately two times the average rent in Maryland. *See AG Task Force, Confronting the COVID-19 Access to Justice Crisis*, January 2021, at 32.

The AG Task Force made a number of important recommendations to address issues faced by consumers with debts arising as a result of the pandemic as well as the significant debt burden prior to the pandemic, including the one that forms the basis for House Bill 772. The AG Task Force found that, when a creditor obtains a judgment it will often obtain a garnishment against the debtor’s bank account, which results in the funds in the account being frozen, even if the funds are exempt from garnishment, such as Social Security, or less than the \$6,000 that the debtor may exempt from collection under Maryland law. The debtor is unable to pay rent and other bills while trying to unfreeze the improperly frozen funds. By automatically exempting up to \$2,600 of a consumer debtor’s bank account from execution of a judgment, HB 772 would help Marylanders in debt preserve some financial resources to meet their basic needs. And it is done in a way that is exceedingly fair to creditors, since it would not increase the cumulative value of the cash and property exempted from execution under Cts. & Jud. Proc. § 11-504(b)(6), which will remain at \$6,000.

HB 772 will help a substantial number of Maryland consumers. In Maryland, in addition to collection suits filed by original creditors, debt buyers who purchase charged off consumer debt for pennies on the dollar file tens of thousands, and possibly hundreds of thousands, of collection lawsuits annually in local district courts throughout the State. Well over 90% of these lawsuits result in judgment on affidavit against the consumers in which the debt buyer is not required to

prove that the debt is owed at a trial. In fact, prior to the pandemic, one of the largest debt buyers filed approximately 20,000 cases annually in Maryland alone, yet it has only a handful of in-house collection attorneys. These debt buyers know that they will have to litigate only a tiny percentage of the total number of cases that they file. And despite what the debt buyers will argue, Maryland consumers fail to defend the cases for any number of complex reasons: some cannot afford to take off work for the assigned trial date; others cannot afford to attend the proceedings or are physically unable to attend; and others simply do not understand the nature of the proceeding or are overwhelmed by the prospect of attending court. A common theme is that very few are lucky enough to be represented by an attorney in debt collection proceedings: the few who can afford an attorney stand a much greater chance of having their case dismissed by the debt buyer or of prevailing in court. But even those few who can afford an attorney are left with a bleak choice, since their own attorney's fees would normally exceed the amount of any judgment that might be entered against them. The end result is that tens of thousands of Marylanders face daunting post-judgment proceedings and enforcement measures that weigh heavily in favor of debt buyers and other creditors.

As the AG Task Force noted, current Maryland law imposes excessive burdens on people involved with debt proceedings. *Id.* Consumers face body attachment if they fail to appear in court in post judgment proceedings, many consumers are “left with inadequate resources to pay for basic needs after debt judgments,” and consumers “are often overwhelmed by having their wages garnished rather than being allowed to develop a reasonable income-based repayment plan.” *Id.* And while “the pandemic’s economic impact has put more people into legal jeopardy over debt, ... those legal aid organizations that work on consumer debt issues often lack the resources to meet the needs of distressed consumers.” *Id.*

HB 772 is an important consumer protection that will have a real and substantial benefit to many struggling Marylanders in debt, helping them to meet their essential, basic needs, while having little impact on debt buyers and other creditors. As such, the Division asks that the Judiciary Committee give House Bill 772 a favorable report.

cc: The Honorable Pamela Queen
Members, Judiciary Committee