

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 950

(Senator Smith, *et al.*)

Judicial Proceedings

Debt Collection - Attachment and Execution - Exemptions

This bill (1) increases the amount of wages of a judgment debtor that are exempt from attachment and (2) alters the items exempt from execution on a judgment while increasing the value of the exemption of specified items.

The bill applies prospectively and may not be applied or interpreted to affect any case filed before October 1, 2017.

Fiscal Summary

State Effect: General fund and special fund revenues decrease, potentially significantly, as a result of the bill's changes to the categories and values of items exempt from attachment and executions on judgments, as discussed below. The bill can be implemented with existing resources.

Local Effect: Local government tax revenues likely decline due to the greater value and number of items exempt from attachment or judgment. Expenditures are not affected.

Small Business Effect: Potential meaningful. Small businesses that provide goods and services on credit and pursue post-judgment processing relating to debt collection may be impacted, as discussed below.

Analysis

Bill Summary: The bill establishes that the following is exempt from attachment: the greater of 75% of the disposable wages due; or 80 times the federal minimum hourly wages

under the Fair Labor Standards Act in effect at the time the wages are due. The bill repeals the provisions that only apply in Caroline, Kent, Queen Anne's, and Worcester counties.

The bill establishes the following as exempt from execution on a judgment:

- except for those kept for sale, lease, or barter, the wearing apparel, books, tools, instruments, or appliances necessary for the practice of any trade or profession in an amount up to \$50,000 *in value* for farm tools, equipment, crops, and animals and \$30,000 for wearing apparel, books, tools, instruments, or appliances;
- the debtor's interest in household furnishings, goods, wearing apparel, appliances, books, pets, and other items primarily used for personal, family, or household use, with specified limits on the debtor's interest in certain items, including jewelry;
- a burial plot for the debtor or member of the debtor's family;
- the debtor's interest in a motor vehicle of up to \$15,000 (or \$25,000 if the motor vehicle has been adapted for special use because of the debtor's or debtor's dependent's disability);
- up to \$10,000 in cash, a bank account, accrued interest, or accrued dividends;
- up to \$100,000 in educational expense accounts or savings accounts per beneficiary; and
- up to \$250,000 of the value of the debtor's owner-occupied residential real property (including a condominium unit or manufactured home converted to real property) or a cooperative housing corporation that owns property that the debtor occupies as a residence.

A debtor may not waive the exemption provisions, except for the provision relating to the debtor's real property if the debtor waives the exemption through clear language in a mortgage or deed of trust agreed to by each person who has an ownership interest in the debtor's owner-occupied residential real property.

Current Law: Under the Commercial Law Article, the following are exempt from attachment: (1) the greater of the product of \$145 multiplied by the number of weeks in which the wages due were earned, or 75% of the disposable wages due; or (2) in Caroline, Kent, Queen Anne's, and Worcester counties, for each workweek, the greater of 75% of the disposable wages due, or 30 times the federal minimum hourly wages under the Fair Labor Standards Act in effect at the time the wages are due. Under § 13-811 of the

Tax-General Article, the amount exempt from the attachment under the Commercial Law Article is also exempt from a wage lien for unpaid income taxes.

Under the Courts and Judicial Proceedings Article, 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. A judgment may be executed by a writ. A sheriff or constable may then seize the legal or equitable interest of the debtor in real or personal property. 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. In general, the following items are exempt from execution on a money judgment:

- wearing apparel, books, tools, instruments or appliances up to \$5,000 in value that are necessary for the practice of any trade or profession except for those items kept for sale, lease, or barter;
- money payable in the event of the sickness, accident, injury, or death of any person, including compensation, for loss of future earnings. The exemption includes money payable for judgments, arbitrations, compromises, insurance benefits, compensation, and relief. The exemption does not include disability income benefits if the judgment is for necessities after the occurrence of the disability;
- professionally prescribed health aids for the debtor or any of the debtor’s dependents;
- up to \$1,000 in value in household furnishings and goods, wearing apparel, appliances, books, pets, and other items held primarily for personal, family, or household use of the debtor or any dependent of the debtor;
- cash or property valued at \$6,000 if, within 30 days from the date of attachment or levy by the sheriff, the debtor elects to exempt cash or selected property items up to a cumulative value of \$6,000;
- money payable or paid in accordance with an agreement or court order for child support;
- money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under the Commercial Law Article;

- the debtor’s beneficial interest in any trust property that is immune from claims from the debtor’s creditors under the Estates and Trusts Article; and
- for claims by a separate creditor of a husband and wife, trust property that is immune from the claims of separate creditors under the Estates and Trusts Article.

State Fiscal Effect: General fund revenues decline, potentially significantly, due to the increased value of assets exempt from wage attachments and reduced tax revenues as a result. Likewise, the increased value of items exempt from executions in judgments may significantly reduce special as well as general fund tax revenues, depending on the affected tax source. The bill is not expected to have a significant fiscal or operational impact on the District Court.

Small Business Effect: Small businesses that extend goods and services on credit, and that pursue post-judgment proceedings relating to debt collection, may experience increased difficulty in collecting on debt as a result of the bill’s changes.

Additional Information

Prior Introductions: SB 678 of 2015 was withdrawn without a hearing.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mm/kdm

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