

HOUSE BILL 365

I3, D3

0lr2063
CF SB 425

By: **Delegates Dumais and Charkoudian**

Introduced and read first time: January 22, 2020

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2020

CHAPTER _____

1 AN ACT concerning

2 **Debt Collection – Exemptions From Attachment and Execution**

3 FOR the purpose of altering the amount of wages of a judgment debtor that are exempt
4 from attachment; ~~exempting a property insurance payment that an individual~~
5 ~~receives for certain purposes from execution on a judgment; making a conforming~~
6 ~~change; providing for the application of this Act; defining “property insurance”;~~
7 providing for the application of this Act; and generally relating to exemptions from
8 debt collection.

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 15–601.1
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2019 Supplement)

14 ~~BY repealing and reenacting, with amendments,~~
15 ~~Article – Courts and Judicial Proceedings~~
16 ~~Section 11–504~~
17 ~~Annotated Code of Maryland~~
18 ~~(2013 Replacement Volume and 2019 Supplement)~~

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

21 **Article – Commercial Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 15-601.1.

2 (a) In this section, "disposable wages" means the part of wages that remain after
3 deduction of any amount required to be withheld by law.

4 (b) The following are exempt from attachment:

5 (1) ~~[Except as provided in item (2) of this subsection, the]~~ **THE** greater of:

6 [(i) The product of \$145 multiplied by the number of weeks in which
7 the wages due were earned; or

8 (ii) 75 percent of the disposable wages due;

9 (2) In Caroline, Kent, Queen Anne's, and Worcester counties, for each
10 workweek, the greater of:]

11 (i) 75 percent of the disposable wages due; or

12 (ii) ~~{30} 50~~ times the ~~{federal} STATE~~ minimum hourly ~~{wages~~
13 under the Fair Labor Standards Act] **WAGE** in effect at the time the wages are due,
14 **MULTIPLIED BY THE NUMBER OF WEEKS DURING WHICH THE WAGES DUE WERE**
15 **EARNED**; and

16 ~~[(3)] (2)~~ Any medical insurance payment deducted from an employee's
17 wages by the employer.

18 (c) The amount subject to attachment shall be calculated per pay period.

19 ~~Article Courts and Judicial Proceedings~~

20 ~~11-504.~~

21 (a) ~~In this section THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

22 ~~(1) "PROPERTY INSURANCE" HAS THE MEANING STATED IN § 1-101~~
23 ~~OF THE INSURANCE ARTICLE.~~

24 ~~(2) "value" means fair market value as of the date upon which the execution~~
25 ~~or other judicial process becomes effective against the property of the debtor, or the date of~~
26 ~~filing the petition under the federal Bankruptcy Code.~~

27 (b) ~~The following items are exempt from execution on a judgment:~~

1 ~~(1) Wearing apparel, books, tools, instruments, or appliances, in an amount~~
2 ~~not to exceed \$5,000 in value necessary for the practice of any trade or profession except~~
3 ~~those kept for sale, lease, or barter.~~

4 ~~(2) Except as provided in subsection (i) of this section, money payable in~~
5 ~~the event of sickness, accident, injury, or death of any person, including compensation for~~
6 ~~loss of future earnings. This exemption includes but is not limited to money payable on~~
7 ~~account of judgments, arbitrations, compromises, insurance, benefits, compensation, and~~
8 ~~relief. Disability income benefits are not exempt if the judgment is for necessities contracted~~
9 ~~for after the disability is incurred.~~

10 ~~(3) Professionally prescribed health aids for the debtor or any dependent of~~
11 ~~the debtor.~~

12 ~~(4) The debtor's interest, not to exceed \$1,000 in value, in household~~
13 ~~furnishings, household goods, wearing apparel, appliances, books, animals kept as pets,~~
14 ~~and other items that are held primarily for the personal, family, or household use of the~~
15 ~~debtor or any dependent of the debtor.~~

16 ~~(5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if~~
17 ~~within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects~~
18 ~~to exempt cash or selected items of property in an amount not to exceed a cumulative value~~
19 ~~of \$6,000.~~

20 ~~(6) Money payable or paid in accordance with an agreement or court order~~
21 ~~for child support.~~

22 ~~(7) Money payable or paid in accordance with an agreement or court order~~
23 ~~for alimony to the same extent that wages are exempt from attachment under §~~
24 ~~[15-601.1(b)(1)(ii) or (2)(i)] 15-601.1(B)(1)(I) of the Commercial Law Article.~~

25 ~~(8) The debtor's beneficial interest in any trust property that is immune~~
26 ~~from the claims of the debtor's creditors under § 14.5-511 of the Estates and Trusts Article.~~

27 ~~(9) With respect to claims by a separate creditor of a husband or wife, trust~~
28 ~~property that is immune from the claims of the separate creditors of the husband or wife~~
29 ~~under § 14.5-511 of the Estates and Trusts Article.~~

30 ~~(10) A PROPERTY INSURANCE PAYMENT THAT AN INDIVIDUAL~~
31 ~~RECEIVES FOR RESTORATION, REMEDIATION WORK, OR REPLACEMENT.~~

32 ~~(e) (1) In order to determine whether the property listed in subsection (b)(4)~~
33 ~~and (5) of this section is subject to execution, the sheriff shall appraise the property at the~~
34 ~~time of levy. The sheriff shall return the appraisal with the writ.~~

35 ~~(2) An appraisal made by the sheriff under this subsection is subject to~~
36 ~~review by the court on motion of the debtor.~~

1 ~~(3) Procedures will be as prescribed by rules issued by the Court of Appeals.~~

2 ~~(d) The debtor may not waive, by cognovit note or otherwise, the provisions of~~
3 ~~subsections (b) and (h) of this section.~~

4 ~~(e) The exemptions in this section do not apply to wage attachments.~~

5 ~~(f) (1) (i) In addition to the exemptions provided in subsection (b) of this~~
6 ~~section, and in other statutes of this State, in any proceeding under Title 11 of the United~~
7 ~~States Code, entitled "Bankruptcy", any individual debtor domiciled in this State may~~
8 ~~exempt the debtor's aggregate interest in:~~

9 ~~1. Personal property, up to \$5,000; and~~

10 ~~2. Subject to subparagraph (ii) of this paragraph:~~

11 ~~A. Owner-occupied residential real property, including a~~
12 ~~condominium unit or a manufactured home that has been converted to real property in~~
13 ~~accordance with § 8B-201 of the Real Property Article; or~~

14 ~~B. A cooperative housing corporation that owns property that~~
15 ~~the debtor occupies as a residence.~~

16 ~~(ii) The exemption allowed under subparagraph (i)2 of this~~
17 ~~paragraph may not exceed the amount under 11 U.S.C. § 522(d)(1), adjusted in accordance~~
18 ~~with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of this subsection.~~

19 ~~(2) An individual may not claim the exemption under paragraph (1)(i)2 of~~
20 ~~this subsection on a particular property if:~~

21 ~~(i) The individual has claimed successfully the exemption on the~~
22 ~~property within 8 years prior to the filing of the bankruptcy proceeding in which the~~
23 ~~exemption under this subsection is claimed; or~~

24 ~~(ii) The individual's spouse, child, child's spouse, parent, sibling,~~
25 ~~grandparent, or grandchild has claimed successfully the exemption on the property within~~
26 ~~8 years prior to the filing of the bankruptcy proceeding in which the exemption under this~~
27 ~~subsection is claimed.~~

28 ~~(3) The exemption under paragraph (1)(i)2 of this subsection may not be~~
29 ~~claimed by both a husband and wife in the same bankruptcy proceeding.~~

30 ~~(g) In any bankruptcy proceeding, a debtor is not entitled to the federal~~
31 ~~exemptions provided by § 522(d) of the federal Bankruptcy Code.~~

1 ~~(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this~~
2 ~~section and any other provisions of law, any money or other assets payable to a participant~~
3 ~~or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan~~
4 ~~qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(c) of the United~~
5 ~~States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January~~
6 ~~1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt~~
7 ~~from any and all claims of the creditors of the beneficiary or participant, other than claims~~
8 ~~by the Maryland Department of Health.~~

9 ~~(2) Paragraph (1) of this subsection does not apply to:~~

10 ~~(i) An alternate payee under a qualified domestic relations order, as~~
11 ~~defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;~~

12 ~~(ii) A retirement plan, qualified under § 401(a) of the United States~~
13 ~~Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement~~
14 ~~account qualified under § 408 of the United States Internal Revenue Code of 1986, as~~
15 ~~amended; or~~

16 ~~(iii) The assets of a bankruptcy case filed before January 1, 1988.~~

17 ~~(3) The interest of an alternate payee in a plan described under paragraph~~
18 ~~(1) of this subsection shall be exempt from any and all claims of any creditor of the alternate~~
19 ~~payee, except claims by the Maryland Department of Health.~~

20 ~~(4) If a contribution to a retirement plan described under paragraph (1) of~~
21 ~~this subsection exceeds the amount deductible or, in the case of contribution under § 408A~~
22 ~~of the Internal Revenue Code, the maximum contribution allowed under the applicable~~
23 ~~provisions of the United States Internal Revenue Code of 1986, as amended, the portion of~~
24 ~~that contribution that exceeds the amount deductible or, in the case of contribution under~~
25 ~~§ 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued~~
26 ~~earnings on such a portion, are not exempt under paragraph (1) of this subsection.~~

27 ~~(i) (1) In this subsection, “net recovery” means the sum of money to be~~
28 ~~distributed to the debtor after deduction of attorney’s fees, expenses, medical bills, and~~
29 ~~satisfaction of any liens or subrogation claims arising out of the claims for personal injury,~~
30 ~~including those arising under:~~

31 ~~(i) The Medicare Secondary Payer Act, 42 U.S.C. § 1395y;~~

32 ~~(ii) A program of the Maryland Department of Health for which a~~
33 ~~right of subrogation exists under §§ 15-120 and 15-121.1 of the Health General Article;~~

34 ~~(iii) An employee benefit plan subject to the federal Employee~~
35 ~~Retirement Income Security Act of 1974; or~~

36 ~~(iv) A health insurance contract.~~

1 ~~(2) Twenty five percent of the net recovery by the debtor on a claim for~~
2 ~~personal injury is subject to execution on a judgment for a child support arrearage.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply only prospectively and may not be applied or interpreted to have any effect on or
5 application to any writ of garnishment or writ of execution issued before the effective date
6 of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.