National Consumer Law Center
Fighting Together for Economic Justice

Testimony in Support of Md. H.B. 42 / S.B. 106

January 17, 2023

This written testimony is submitted on behalf of the National Consumer Law Center in support of Md. H.B. 42 / S.B. 106, which would amend Md. Code, Comm. Law § 11-504 to create a self-executing $500 bank account protection that will shield that minimal amount from seizure by creditors. Enacting this legislation is an important step toward strengthening Maryland's weak protections for families struggling with debt. The self-executing component is key, as $500 will be protected from seizure or being frozen without having to navigate the courts to claim an exemption as is now the case in Maryland.

Why State Exemption Laws Are Important

State exemption laws are a fundamental protection for families. Without these laws, once a creditor obtained a ruling from a court that a consumer owed it a sum of money, the creditor could seize the debtor's entire paycheck, bank account, car, and household goods, and sell the debtor's home. Exemption laws place limits on these seizures. They are designed to protect consumers and their families from poverty, to preserve their ability to be productive members of society, and to recover from financial setbacks.

The COVID-19 pandemic exposed the enormous gaps in the states' exemption laws. Only when stimulus checks started going out to families' bank accounts did many states realize that they had no protection for a basic amount in a bank account. As workers lost jobs and hours, states scrambled to institute moratoriums on wage seizure, bank account balance seizure, and collection lawsuits. While employment has since recovered, the highest inflation rates in a generation are once again pushing families to the breaking point as the cost of basic necessities soars.

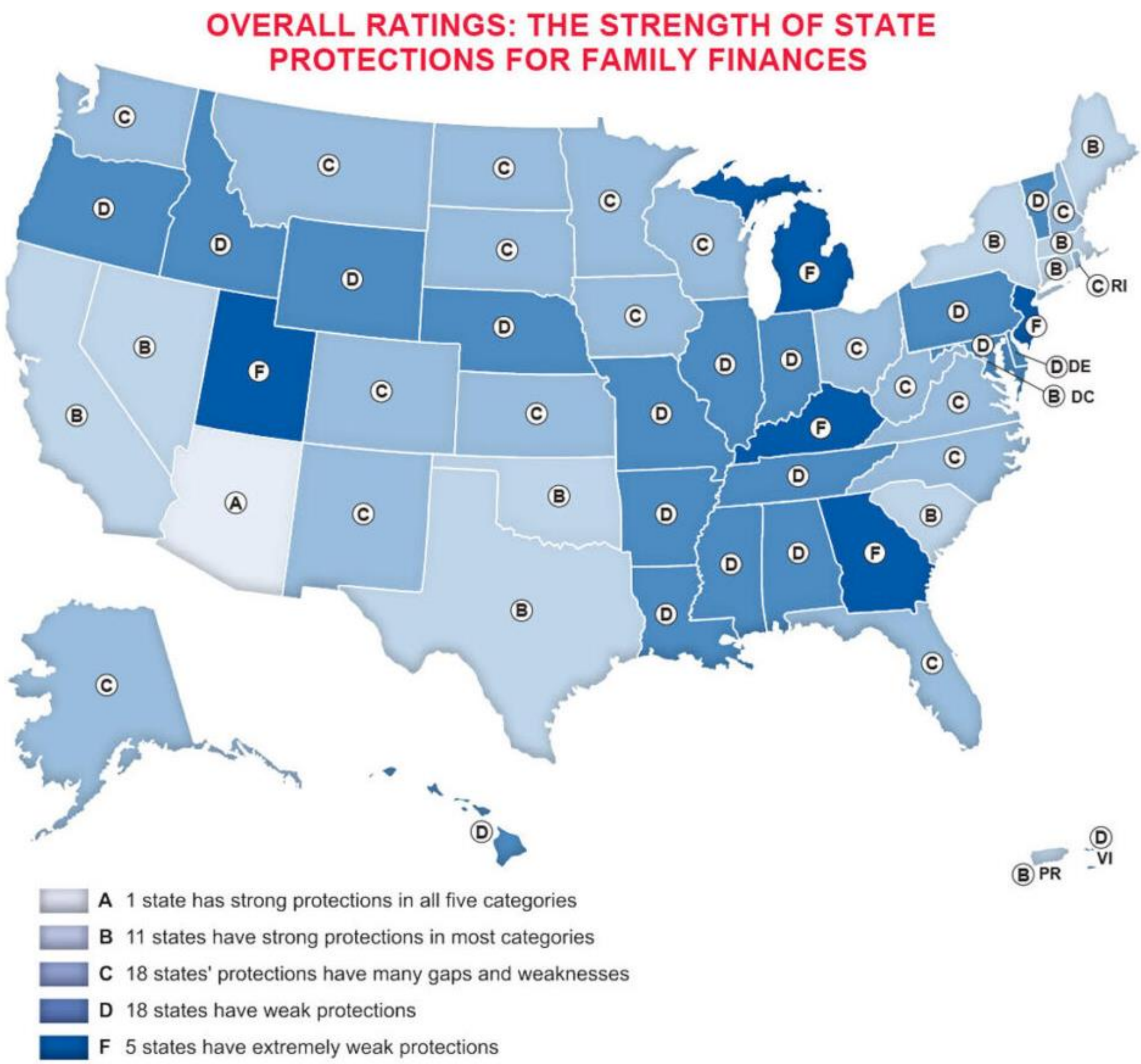
Increasing costs are forcing families to take on a mountain of debt. People struggling to get back on their feet after the one-two punch of a pandemic and inflation are likely to face a wave of lawsuits for medical bills, back rent, credit card debt, the balance due on repossessed cars, and even utility bills.

Exemption laws are particularly important because they protect cars, work tools, and other property that consumers need to stay in the workforce. When individuals lose their jobs, the consequences fall not just on them and their families, but also on landlords, local merchants, and other creditors that the consumer might have paid.

Without improved exemption laws, seizures by debt collectors will drain away the wages and resources that families need—and that the local economy needs them to be spending at Main Street businesses. Reform of exemption laws not only protects families from destitution but can also act as an economic stimulus tool that steers money into state and local communities.

Exemption laws also deter predatory lending. Creditors are less likely to make unaffordable loans if they know they will have to rely on the consumer's ability to repay the debt, not on seizure of the consumer's essential property. The gaps in exemption laws also give debt collectors enormous leverage. By threatening to take a debtor's essential personal property, such as the family car or household goods, a debt collector may persuade a debtor to use the money needed for rent or medicine to pay an old credit card bill that ought to be a much lower priority.

Exemption laws are primarily an area of state authority. Most distressed consumers depend on state garnishment and attachment rules for their protection. In NCLC's 2022 report, [No Fresh Start 2022: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?] we gave Maryland's exemption laws **an overall grade of D**, placing it behind 30 other states.



Protecting a Basic Amount in a Bank Account

Our ratings of the states are based on five essential protections – for the debtor's wages, the home, the family car, necessary household goods, and a basic amount in a bank account. Protection of a basic amount in a bank account is particularly important. Even if a state's exemption laws protect a debtor's wages, home, car, and household goods, a debtor needs access to a basic amount of cash to commute to work, buy groceries, and make the upcoming rent or mortgage payment or the next payment on the family car. A debtor who is left without cash may also be unable to pay for housing, transportation, daycare, utility service, and other necessities.

Unless the debtor files bankruptcy, the only protection that Maryland currently provides for the family home, the family car, more than $1,000 in household goods, or cash is a $6000 wildcard exemption - far below the amount necessary to protect even a working car and the basic household goods a family needs, much less enough cash to pay the next month's rent, groceries, and daycare. Moreover, without a self-executing protection for a basic amount of cash, the family's bank account is likely to be frozen as soon as the court order reaches the bank, creating an immediate crisis and causing a cascade of bounced checks, declined debits, and insufficient funds fees.

Md. H.B. 42 / S.B. 106 provides a $500 exemption to protect a small amount in a bank account from seizure by creditors and specifies that such protection is self-executing – preventing family bank accounts from being zeroed out by creditors or completely frozen while they navigate the process needed to claim the wildcard exemption in court.

At least six states—California, Connecticut, Nevada, Massachusetts, New York, and Washington have created a self-executing protection for a specified amount ranging from $400 in Nevada to $3,600 in New York. A self-executing protection for a specified dollar amount, without regard to the source of the funds, ensures that the exemption will achieve its purpose of protecting the debtor, saves time and money for the legal system, and relieves banks of the need to do complicated accounting or assist the debtor in tracing the source of the funds.

Enacting Md. H.B. 42 / S.B. 106 would represent a major improvement for working families in Maryland that are struggling with debt.

About NCLC

The National Consumer Law Center (NCLC) is a non-profit organization, founded in 1969, that works to advance fairness in the marketplace for low-income consumers. This testimony was prepared by April Kuehnhoff, a Staff Attorney at NCLC whose work focuses on advocacy for fair debt collection. She is the co-author of NCLC's Fair Debt Collection and a contributing author to Surviving Debt. This analysis draws from NCLC's 2022 report, No Fresh Start 2022: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?

Please contact April Kuehnhoff (akuehnhoff@nclc.org) if we can provide any further information.