



SB 106 - Courts - Judgments - Exemptions From Execution

Committee: Senate Judicial Proceedings Committee

Date: January 25, 2023

Position: Favorable with Amendments

The Maryland Bankers Association (MBA) **SUPPORTS SB 106 WITH AMENDMENTS**. This bill would exempt up to \$500 from execution on a money judgement, without election by the judgement debtor. While well intentioned, SB 106 does not totally account for key facets of Maryland's judgement garnishment and exemption laws and as written does not fit with the reality of Maryland's current garnishment and exemption framework.

Garnishee Banks Cannot Replace the Courts as Gatekeepers for Exemption Claims

Under Maryland law, exemptions require debtor election. That is, when a creditor seeks to enforce its judgment via court process (such as through bank account garnishments), the debtor may file a motion electing to exempt certain property from execution. Under this framework, the court serves as a gatekeeper to ensure that the debtor obtains only the proper exemptions to which an individual is entitled. Under the current system, a creditor could object if the debtor's election is incorrect or if the debtor has already exhausted the permitted exemptions.

SB 106 could automatically trigger a \$500 cash exemption from bank account garnishment, but the \$500 exemption will count against a debtor's \$6,000 cap on exemptions. The problem is that by bypassing the court, SB 106 implicitly requires banks to determine whether a debtor has funds available in the \$6,000 wildcard exemption from which to apply the automatic exemption. A debtor could have already exhausted their \$6,000 cap, but the garnishee has no way of knowing.

The interplay between SB 106's Automatic Exemption and Preexisting Automatic Exemptions

Under federal law, certain federal benefits, such as Social Security benefits or VA benefits, are automatically exempt from garnishment. To the extent that another automatic exemption does not fully exempt a debtor's deposits, garnishee banks will not know whether the automatic exemption contemplated by SB 106 (a) stacks on top of the other automatic exemptions or (b) gets subsumed within the other automatic exemptions.

MBA looks forward to working with the sponsor and stakeholders to address concerns with the

bill. Accordingly, MBA urges issue a **FAVORABLE** report on **SB 106** with **AMENDMENTS**.

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 30,000 Marylanders and holding more than \$181 billion in deposits in over 1,000 branches across our State. The Maryland banking industry serves about 4 million customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.