

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 103

(Chairman, Budget and Taxation)
(Departmental – Comptroller)

Budget and Taxation

Ways and Means

Income Tax - Wage Lien - Excluded Amounts

This bill alters the amount that is exempt from an income tax wage lien to the amount that is exempt from a judgment lien under the Commercial Law.

Fiscal Summary

State Effect: None. Overall collections of past-due taxes would not be affected by changing the amount of the exemption. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: The Comptroller's Office has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Under the Tax General Article, the amount exempt from a wage lien for unpaid income taxes is \$50 plus \$15 for each exemption per week. Under the Commercial Law Article, the exemption amount for judgment debtors includes medical insurance payments deducted by an employer and, in most counties, the greater of: (1) \$145 per week; or (2) 75% of the disposable wages due. In Caroline, Kent, Queen Anne's, and Worcester counties, the exemption amount includes, in addition to a medical insurance payment, the greater of: (1) 75% of the disposable wages due; or (2) 30 times the federal minimum wage.

The Comptroller must give notice of the lien to the employer either by certified mail or personal service. The Comptroller must also give prompt notice of satisfaction or release of the wage lien.

If an employer pays an employee an amount in excess of the statutory exemption, the employer is personally liable for the excess amount paid to the employee. However, the amount that the Comptroller recovers from the employer may not exceed the total excess amount paid to the employee.

Background: The Comptroller's Office advises that it obtains approximately 5,000 to 6,000 wage liens annually against individuals who have failed to pay their income taxes. The Comptroller's Office sends three notices, the third being a warning notice, before obtaining a wage lien. Upon obtaining the lien, a notice of the lien is sent to the employee and employer.

Although no Maryland appellate court has addressed the issue, federal bankruptcy courts have held that pre-calculated federal and State withholding amounts are not "disposable wages" within the meaning of § 15-601.1 of the Commercial Law Article.

State Revenues: The Comptroller's Office advises that it often enters into payment agreements on terms identical to the wage lien provisions under the Commercial Law Article. To the extent that this occurs, the bill codifies existing practice. While increasing the amount of the exemption for an income tax wage lien could increase the period of time to collect past-due taxes, overall collections would not be affected because the lien is not extinguished until satisfied or released.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office (Income Tax Division), Department of Legislative Services

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ncs/jr

Analysis by: Ryan Wilson

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510

