Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 1433 (Delegates Norman and McComas)
Judiciary

Commercial Law - Attachment of Contract Payments Due from or Payable by the State, a Local Governing Body, or a Public Officer

This bill allows a judgment creditor, for the purposes of enforcing a private legal obligation, to garnish a contract payment made by the State, a local government, or its public officers to a judgment debtor by way of attachment. As a result, a creditor owed money by a State contractor may require a State agency to make a contract payment directly to the creditor.

Fiscal Summary

State Effect: Any increase in the workload of the Office of the Attorney General can likely be handled with existing resources. No effect on revenues.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Current Law: Attachment on a judgment is a tool by which a judgment creditor can reach the assets of a judgment debtor in the hands of a third party, the garnishee. An attachment may be issued against any property or credit, matured or unmatured, which belongs to a debtor. Currently, contract payments are not subject to the attachment process for the enforcement of a private legal obligation.

However, a judgment creditor may garnish up to 25% of the disposable wages of a judgment debtor employed by the State, a county, municipal corporation, political subdivision, or private business for the enforcement of a private legal obligation.

Disposable earnings are those remaining after legally required deductions are taken, including State and federal taxes, Social Security, unemployment insurance, and medical insurance. Under the Commercial Law Article, the following are exempt from attachment:

(1) any medical insurance payment deducted from an employee's paycheck;

(2) except as specified for certain counties, 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

(3) 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 (FLSA) in effect at the time the wages are due.

Attachment of a judgment debtor's disposable wages is a lien that continues until the judgment, interests, and costs, as specified in the attachment, are satisfied. As long as the attachment remains a lien, the employer/garnishee must withhold all applicable wages payable to the judgment debtor and remit that amount to the judgment creditor within 15 days of the last pay period of each month. (*See* Md. Rule 3-646, Commercial Law Art. §§ 15-601 – 15-607.)

Background: Title III of the Consumer Credit Protection Act (CCPA) prohibits an employer from firing an employee because the employee's wages have been garnished for any one debt, and limits the amount of an employee's earnings that may be garnished per week. Under Title III of CCPA, the amount of an employee's earnings that may be garnished per week or pay period is the lesser of 25% of disposable earnings; or the amount of disposable earnings that are more than 30 times the federal minimum hourly wage prescribed by FLSA. The federal minimum wage is $7.25 per hour. The Wage and Hour Division of the Employment Standards Administration is responsible for administering and enforcing Title III of CCPA.

Additional Information

Prior Introductions: HB 1252 of 2009 received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Office of the Attorney General, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/kdm

Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510