

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 629
Judiciary

(Delegate Norman, *et al.*)

Courts - Garnishment of Joint Account - Burden of Proof (Bank Customer Protection Act)

This bill establishes that an account holder has the burden of proving that a garnishment against property held in an account in the name of the account holder and one or more persons at specified financial institutions is not valid.

Fiscal Summary

State Effect: The bill is procedural/technical and is not anticipated to materially affect State finances.

Local Effect: The bill is procedural/technical and is not anticipated to materially affect local finances.

Small Business Effect: Potential minimal impact on small businesses whose jointly held accounts are subject to garnishment.

Analysis

Current Law: A garnishment against property held in a bank, trust company, credit union, savings bank, or savings and loan association or any of their affiliates or subsidiaries is not valid:

- against property held jointly by a husband and wife, unless both owners are judgment debtors, so long as the account was established as a joint account prior to the date of entry of judgment giving rise to the garnishment;

- against property held by one person in trust for that person and another person or persons, unless all of the persons are judgment debtors;
- against property held by one or more persons in trust for another person or persons, unless all of the persons are judgment debtors; or
- against property to be payable on the death of one or more persons to another person or persons, unless all of the persons are judgment debtors.

Regardless of these provisions, if property held in an account in the name of two or more persons at a bank, trust company, credit union, savings bank, or savings and loan association or any of their affiliates or subsidiaries is garnished, and fewer than all of the persons named on the account are the judgment debtors, the garnishee may answer the writ of garnishment by stating (1) that the property is held in an account at the garnishee in the name of two or more persons, and at least one but not all of the persons are judgment debtors and (2) the amount held in the account at the time the writ of garnishment was served on the garnishee.

If the garnishee answers to this effect, the garnishee must hold the lesser of the amount of the judgment or the amount in the account subject to an entry of a court order releasing the property held by the garnishee or a final judgment in the garnishment proceeding.

If the garnishee answers and holds property held in the name of multiple persons, not all of whom are judgment debtors, the garnishee may not be held liable to the judgment creditor or to any person named on the account for wrongful dishonor or for any other claim relating to the garnishment.

Small Business Effect: The Comptroller's Office advises that the bill could affect certain small business entities, such as pass-through entities, where an individual or entire ownership party is considered a judgment debtor.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mc/kdm

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