

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 673 (Delegates Barron and C. Howard)
Judiciary and Economic Matters

Debt Collection - Exemptions From Attachment

This bill alters the amount of wages of a judgment debtor that are exempt from attachment. Under the bill, the following is exempt from attachment: the greater of 75% of the disposable wages due or 80 times the State minimum hourly wages under the Fair Labor Standards Act (FLSA) in effect at the time the wages are due. The bill also repeals provisions that only apply in Caroline, Kent, Queen Anne's, and Worcester counties. The bill applies prospectively and may not be applied or interpreted to affect or apply to any writ of garnishment or writ of execution issued before the bill's October 1, 2018 effective date.

Fiscal Summary

State Effect: Potential significant decrease in general fund revenues due to the bill's changes to amount of wages exempt by law from attachment. The bill can be implemented with existing resources.

Local Effect: Local revenues likely decline due to the greater value of wages exempt from attachment. Expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Exemptions from Attachment

Under the Commercial Law Article, the following are exempt from attachment: (1) 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 (2) 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 FLSA in effect at the time the wages are due. Medical insurance payments deducted from an employee's wages by the employer are also exempt. Under § 13-811 of the Tax-General Article, the amount exempt from the attachment under the Commercial Law Article is also exempt from a wage lien for unpaid income taxes.

Money Judgments

Under the Courts and Judicial Proceedings Article, a "money judgment" is a judgment that a specified amount of money is immediately payable to the judgment creditor. A money judgment constitutes a lien on the debtor's interest in real or personal property located where the judgment was rendered. A judgment may be executed by a writ. A sheriff or constable may then seize the legal or equitable interest of the debtor in real or personal property. A writ of execution on a money judgment does not become a lien on the personal property of the debtor until an actual levy is made. The lien then extends only to the property included in the levy. Statute specifies several items that are exempt from execution on a money judgment, including money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under the Commercial Law Article.

Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to FLSA. State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage (which is currently \$7.25 per hour) or \$9.25 per hour. Under Chapter 262 of 2014, the State minimum wage is scheduled to increase to \$10.10 per hour as of July 1, 2018.

However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment,

including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of \$7.25 or 85% of the State minimum wage. Exceptions to the minimum wage requirement also exist for a training wage and a disabled employee of a sheltered workshop under specified conditions.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

State Fiscal Effect: General fund revenues decline, potentially significantly, due to the increased value of wages exempt from wage attachments and reduced tax revenues as a result. The Comptroller's Office uses wage attachments to collect on tax arrearages. However, the Comptroller's Office advises that it does not have data on which to base an exact estimate. The bill is not expected to have a significant fiscal or operational impact on the District Court.

Small Business Effect: Small businesses that offer goods or services on credit and pursue debt collection through wage attachments may encounter difficulties due to the bill's increases to the amount of wages exempt from attachment.

Additional Information

Prior Introductions: None.

Cross File: SB 22 (Senator Smith) - Finance and Judicial Proceedings.

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

Fiscal Note History: First Reader - February 6, 2018
mm/kdm

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