

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 42
Judiciary

(Delegate Lopez)

Judicial Proceedings

Courts - Judgments - Exemptions From Execution

This bill exempts from execution on a money judgment, without election by the judgment debtor, up to \$500 in a deposit account or other account of a judgment debtor held in a “depository institution.” The cumulative value of cash and property exempted under the bill’s exemption and the existing election-based exemption may not exceed \$6,000 (the current statutory limit). A writ of garnishment issued for a deposit account or other account held by a depository institution must instruct the garnishee that, subject to additional exemptions, the garnishee is to garnish only the amount exceeding the amount exempted without election of the debtor. A depository institution may not be liable to the judgment creditor for actions taken in good faith reliance on these instructions. The bill also establishes procedures a depository institution must follow on receipt of a writ of garnishment or other levy or attachment. The bill applies prospectively only to any writ of garnishment or writ of execution issued on or after the bill’s October 1, 2023 effective date.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State revenues, as discussed below. State expenditures are not materially affected.

Local Effect: The bill is not anticipated to materially affect local revenues, as discussed below. Local expenditures are not materially affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A depository institution must answer, upon receipt, the writ of garnishment or other levy or attachment and, if the debtor maintains any deposit accounts with the depository institution, state that the total amount does not exceed \$500 or the amount of funds in excess of \$500 that has been held pending further order of court. For any funds in excess of \$500, the depository institution must follow all other applicable customary procedures, including freezing of funds. If a debtor holds an interest in multiple deposit accounts at a single depository institution, the depository institution may determine how and to which account or accounts the \$500 exemption should be applied. This determination does not create a cause of action against a depository institution that complies with a writ of garnishment or other levy or attachment.

The bill's exemption applies separately to each depository institution and to each writ of garnishment directed to a depository institution and does not preclude or reduce a debtor's rights to any other exemption provided by State or federal law.

"Depository institution" means a bank, credit union, trust company, savings bank, or savings and loan association, or any of their affiliates or subsidiaries.

Current Law: 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 and may be executed by a writ.

In general, statute specifically exempts specified items from execution on a money judgment, including up to \$6,000 of cash or property of any kind, if the debtor elects to exempt such cash or property within 30 days from the date of attachment or the levy by the sheriff. Additional exemptions for a debtor's interests in real and personal property are available in bankruptcy proceedings.

A creditor who wishes to garnish a debtor's bank account must obtain a writ of garnishment from the court and enforce the writ according to specified procedures. If the judgment debtor wants to object or raise exemptions to the garnishment, the debtor must do so within 30 days of the bank being served with the writ of garnishment.

A writ of execution is a court-issued document that allows a creditor to use the judgment debtor's property to satisfy the money judgment. 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. Upon the issuance of a writ of execution, a sheriff or constable may seize (levy) the debtor's property and sell the debtor's legal or equitable interest in the real or personal property. The sheriff or constable

must execute the writ, conduct the sale, and distribute the proceeds pursuant to court-approved rules.

State Revenues: The Central Collections Unit (CCU) has historically advised that while it does have the authority to garnish the bank account of a debtor, it has rarely done so. Assuming that CCU's approach reflects the overall debt collection practices of the State, the bill is not expected to materially affect State revenues.

Local Revenues: Information is not readily available on (1) the extent to which local governments pursue collection of debts through garnishment of bank accounts; (2) the value of debts owed to local governments in which this method of collection was pursued; and (3) the extent to which a judgment debtor's failure to make a timely election to exempt up to \$6,000 in cash and property allowed for the collection of money from a bank account to satisfy a money judgment entered in favor of a local government.

Regardless, this analysis assumes that the bill's creation of a \$500 exemption without election by the debtor and protection of these account funds from garnishment does not materially affect local finances. Baltimore, Carroll, and Queen Anne's counties do not anticipate a material fiscal impact from the bill.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 322 of 2022 and HB 772 of 2021.

Designated Cross File: SB 106 (Senator Sydnor) - Judicial Proceedings.

Information Source(s): Baltimore, Carroll, and Queen Anne's counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2023
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Analysis by: Amy A. Devadas

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