

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 661 (Delegate Charkoudian)
Economic Matters

Consumer Protection and Debt Collection - Exemptions From Attachment and Requirements on Judgment Creditors

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 85% of the disposable wages due or \$750 of weekly disposable wages; plus any periodic increase required under the bill. The bill also establishes additional requirements for judgment creditors and makes several technical and conforming changes. A violation of requirements pertaining to a judgment arising out of a consumer transaction is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill’s requirements with existing resources.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law: Under current law, the following is exempt from attachment: the greater of 75% of the disposable wages due or 30 times the State minimum

hourly wage in effect at the time the wages are due, multiplied by the number of weeks during which the wages due were earned.

As under current law, any medical insurance payment deducted from an employee's wages by the employer are exempt. However, under the bill, the amount *exempt from* (rather than subject to) attachment must be calculated per pay period.

Comptroller Announcement

Under the bill, by March 1, 2027 (and every three years thereafter), the Comptroller must determine and announce:

- the percentage growth in the Consumer Price Index (CPI) for all urban consumers in the mid-Atlantic region, as determined by comparing the average of the index for the 36 months ending on the immediately preceding December 31 to the average of the index for 36 months preceding that time frame; and
- the amount exempt from attachment under the bill for the three-year period beginning on the immediately following April 1 as determined by the Comptroller (per the bill's requirements).

The amount exempt from attachment must be increased by the amount (rounded to the nearest \$5) that equals the product of (1) the amount exempt from attachment in effect on the date of the announcement noted above and (2) the percentage growth in the CPI for all urban consumers in the mid-Atlantic region, as specified.

Debt Collection Prohibitions

In collecting or attempting to collect an alleged debt, under the Maryland Consumer Debt Collection Act, a collector may not:

- use or threaten force or violence;
- threaten criminal prosecution, unless the transaction involved criminal action;
- disclose or threaten to disclose information that affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- unlawfully contact a person's employer with respect to a delinquent indebtedness before obtaining a final judgment against the debtor;
- unlawfully disclose or threaten to disclose to a person other than the debtor, the debtor's spouse, or, if the debtor is a minor, the debtor's parent, information that affects the debtor's reputation with knowledge that the other person does not have a legitimate business need for the information;

- communicate with the debtor or a person related to the debtor in a manner that can be reasonably expected to abuse or harass the debtor;
- use obscene or grossly abusive language in communicating with the debtor or a person to whom the debtor is related;
- claim, attempt, or threaten to enforce a right with knowledge that the right does not exist;
- use a communication that simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not;
- engage in unlicensed debt collection activity in violation of the Maryland Collection Agency Licensing Act; or
- engage in any conduct that violates specified provisions of the federal Fair Debt Collection Practices Act.

The bill also prohibits a debt collector from engaging in any conduct that violates provisions of law related to the duties of a judgment creditor.

Duties of Judgment Creditor

Under current law, within 15 days after the end of each month, the judgment creditor must furnish the employer/garnishee and the judgment debtor a written statement showing all payments that were credited to the account of the judgment debtor during that month. However, this requirement does not apply if no payments were received by the judgment creditor during that month.

The bill specifies that the statement must also show the manner in which each payment was credited. Furthermore, the judgment creditor must (1) retain a copy of each statement transmitted under the above requirements until 90 days after the termination of the garnishment proceeding and (2) make each statement available for inspection on request by any party to the garnishment proceeding or by the court. As under current law, within 15 days after the satisfaction of the judgement, interest, and costs, the judgment creditor must notify in writing the employer/garnishee and the clerk of the court of the satisfaction. Under the bill, the judgment creditor must also include in the notification an itemization of the sums received by the judgment creditor.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind, which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or

deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

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

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Department of Legislative Services

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