

HB322 Crossover MVLS Favorable Testimony.pdf

Uploaded by: Amy Hennen

Position: FAV



MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF HB0322: DEBT COLLECTION – EXEMPTIONS FROM
ATTACHMENT AND EXECUTION
WEDNESDAY, MARCH 23, 2022

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Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of House Bill 322.

My name is Amy Hennen, and I am the Director of Advocacy and Financial Stabilization at the Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY21, MVLS volunteers and staff lawyers provided legal services to 4,459 people across the state. Approximately 30% of our cases focus on consumer issues like foreclosure, tax sale, bankruptcy, and debt collection. For the reasons explained below, we respectfully request a favorable report on House Bill 322.

MVLS assists Marylanders facing debt in several ways, including a courthouse clinic in Baltimore City as well as representing Marylanders statewide with bankruptcy and other debt collection relief. Since 1999, we have assisted over 8,000 Marylanders to get consumer assistance and in an average year we assist more than 400 people facing debt collection at our courthouse clinic in Baltimore City. From the data collected, the average consumer seen at these clinics is an African American woman earning less than half the Maryland median income. She is in her early 40s, does not have a college degree, and she cares for at least one child or parent at home.

We know that statistically people who do not show up to the courthouse to dispute a lawsuit make up more than 80% of people sued in the state. That means they do not have the opportunity to contest what they allegedly owe. This further means that the first interaction they have with the lawsuit is via a garnishment. Unless the debtor knows they can file to request to exempt funds in their account, the creditor can take up to 100% of the contents of their bank account. In my capacity as the courthouse clinic manager, along with my fellow MVLS staff attorneys, we have never met a non-lawyer who knew they could do this despite assisting hundreds of clients with consumer matters each year. These garnishments

keep people in a cycle of poverty. They can easily mean someone cannot cover their rent payments, leading to eviction and homelessness. This cycle is a greater strain on state resources.

Two of our clients exemplify the need for this bill. Mary had a frustrating experience. She is in her mid-70s, widowed and blind. Her only income comes from social security, and she owns no real property or tangible assets of value. Mary's son had given her \$200 so she could get groceries for the month. A creditor filed to garnish her account that contained these comingled funds. A motion was filed to exempt her funds and release them a few days later. Rather than automatically releasing the funds, the Court reviewed the motion and set it in for a hearing. At the hearing, MVLS asked that her funds be released, the creditor agreed that the request was timely filed, but still refused to release her funds without the Court ordering them to do so. The Court ordered the release of Mary's funds orally, however, a written order was not sent to the bank quickly. MVLS had to convince her bank's attorney to release the funds based on the court's written hearing notes from the court file. An official order was not sent by the Court to the bank until several weeks later. Mary's funds were frozen for four months only because her son tried to help her buy groceries. The funds would have been frozen for longer if the bank's attorney had not agreed to accept the Court's written notes from the hearing. Finally, she never would have been able to navigate this process without the assistance of an MVLS attorney, and most debtors do not obtain legal assistance.

Another client is Sharon who is in her late 60s. With a modest amount of debt and her only income from social security, her income was protected from garnishment. However, she forgot that her grandson had an account with her even though none of the funds were hers. One of her creditors did not freeze her checking account but did freeze the account that was held jointly with her grandson that contained only her grandson's wages. MVLS had to file to release the account, which took six weeks. My client, who was barely able to cover her basic expenses, had to give money to her grandson to ensure he would not get evicted. The grandson had to change banks. All of this occurred because she forgot her name was still on her grandson's account from when he was a minor years prior.

MVLS has been fighting to even the playing field for Marylanders with limited means for decades, and we know that these members of our community face significant financial obstacles. Although we believe Maryland's exemptions need to be expanded more broadly and specifically, the bill should add a bank account exemption rather than make it part of the \$6,000 wild card exemption, HB322 would benefit our residents who need the help the most. MVLS respectfully requests a favorable report on HB322.

Mister Chair and members of the Committee, thank you again for the opportunity to testify.

CCCSMD HB 322 Letter of Support_3.22.2022.pdf

Uploaded by: David Hall

Position: FAV



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800 642-2227
www.cccsmd.org

**Testimony to the Senate Judicial Proceedings Committee
HB 322 Courts-judgments-exemptions from Execution
Position: Favorable**

March 22, 2022

The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401
Cc: Members, Senate Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

Since 1966, Consumer Credit Counseling Service of Maryland and Delaware, Inc. (CCCSMD) - a Maryland 501c3 non-profit housing and credit counseling agency - has provided Maryland residents with financial education, debt management and budgeting tools to improve their financial well-being. This bill is consistent with CCCSMD's mission to improve the financial lives of the individuals and families we serve and supports our vision to help transform communities where everyone has a chance to become financially independent.

What the bill does

State exemption laws provide protections for families from income or property garnishment. The goal of state exemption laws is to protect households from financial ruin and leave families with enough assets that they can make a fresh start as they repay debt.

Maryland law provides \$6000 of protection for all of an individual's property-home, car, cash, and other valuables. To protect these assets, an individual must elect to protect them. **Very few Marylanders are aware of or able to take these exemptions and as a result almost all of their income and property can be garnished to satisfy a debt.**

HB322 sets an automatic exemption for \$500 that an individual can protect in their bank account from creditors.

Debt Collection

In 2016 more than 27,000 Maryland residents had their bank accounts or other property seized to satisfy a debt. In Maryland, the debts that residents many struggle with are medical debt and student loan debt. Medical debt is unlike other debts where there is little consumer choice and the individual is seeking care for an emergency or emergent illness. Student loan debt is usually considered a 'good' kind of debt but stagnant wages and costly interest rates mean that those graduating with degrees may be saddled with high interest loans that are difficult to pay.

Economic Equity and Racial Justice

A majority of the debt collection lawsuits and these garnishments took place in low-income communities or communities of color.

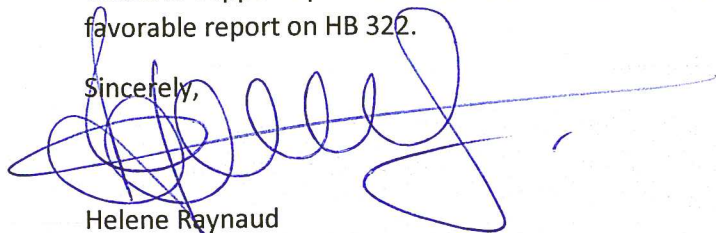
HB 322 is particularly critical legislation now to meet this unprecedented moment. A 2020 United Way study found that 39% of Maryland families are struggling and find it difficult to meet their basic needs. Many pandemic protections including financial assistance and eviction moratoriums are waning or have disappeared.

Yet, as COVID-19 continues to affect Maryland residents, particularly Black and Brown workers concentrated in essential services, many will face unexpected medical bills and other financial setbacks. In fact, an October 2020 Gonzales poll that MCRC commissioned found that 45% of African-American respondents would have to either use credit or would be unable to pay an unexpected \$500 bill.

This amount-\$500-is not very much for creditors but our analysis shows it will help protect approximately 50% of Maryland residents in collection from having their bank account zeroed out.

CCCSMD supports policies that end the criminalization of poverty. We ask that the Committee issue a favorable report on HB 322.

Sincerely,



Helene Raynaud
President/CEO
hraynaud@cccsmd.org
443-514-0600

Crossover MCRC Testimony 2022-HB 322 Bank Garnishm

Uploaded by: Isadora Stern

Position: FAV



Maryland Consumer Rights Coalition

**Testimony to the Senate Judicial Proceedings Committee
HB 322 Courts-judgments-exemptions from Execution
Position: Favorable**

March 23, 2022

The Honorable William Smith, Jr., Chair
Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

cc: Members, Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in support of HB322.

State exemption laws provide protections for families from income or property garnishment. The goal of state exemption laws is to protect households from financial ruin and leave families with enough assets that they can make a fresh start as they repay debt.

Maryland law provides a \$6000 wildcard exemption —one that that the debtor can use to protect a variety of types of property. In Maryland, the wildcard exemption means you can choose to use that \$6000 to protect a portion of your house, car, money in your bank account, tools, jewelry, and other items. In comparison, Mississippi does a better job than Maryland. Mississippi protects a home worth \$75,000 but then also provides a \$10,000 wildcard exemption to cover the debtor's car, bank account, household goods, and all other property.

Currently, the exemption in Maryland is not self-executing, which means that the debtor must know that these exemptions exist and elect to take them. Very few do.

In MCRC's 2018 report [No Exit](#), we found that in 2016, there were more than 27,000 property garnishments which include bank account or garnishment of other property. Our report also documented that there were more debt collection lawsuits and garnishments in communities of color than in majority-white communities. Our finding mirrors those in national reports that



documented that debt collection lawsuits disproportionately affect communities of color. This recommendation was one of the key policy recommendations in our 2018 report. This recommendation was also adopted by AG Frosh's Access to Justice Commission as a response to the COVID-19 pandemic.

HB322 updates our statute which has remained unchanged for the past 30 years. HB322 sets an automatic exemption for \$500 that an individual can protect in their bank account from creditors. The reason for this protection is self-evident: an individual needs to be able to keep some money to use for food, housing, utilities, and other basic needs until they receive their next paycheck.

While we believe that struggling families should be able to protect more from exemptions—at least \$1300 which is the average rent for a one-bedroom apartment—this legislation reflects a real compromise—we would prefer to pass a \$500 exemption this year to protect low-income households who are struggling amidst the pandemic and rising rental prices than work for the next 3-4 years to achieve a higher exemption down the road. It is critical to pass HB 322 this year and establish this protection now as federal and state protections wane.

HB322 is particularly critical legislation now to meet this unprecedented moment. A 2020 United Way study found that 39% of Maryland families are struggling and find it difficult to meet their basic needs. While unemployment is at 6.3 percent, certain sectors including hospitality and information services have been particularly hard-hit, throwing thousands of low-wage workers, predominantly Latinx & Black workers out of jobs. Others have seen their hours reduced or their small businesses close. As many continue to be unemployed and others (primarily women) leave their jobs in order to manage their child or eldercare responsibilities, financial hardships will increase. These financial strains, coupled with the potential for costly medical bills—and the long-term medical care needed by many COVID-19 survivors mount, may become overwhelming. Many will have problems paying their bills. Advocates anticipate a tsunami of debt collection filings for debts \$5000 or less.

In fact, an October 2020 Gonzales poll that MCRC commissioned found that 45% of African-American respondents would have to either use credit or would be unable to pay an unexpected \$500 bill.

HB322 responds to this economic and health crisis by updating our outdated formulas for protecting assets. The amount—\$500—is not very much for creditors but our analysis shows it will help protect approximately 50% of Maryland residents in collection from having their bank account zeroed out.



In addition to directly assisting homeowners, the legislation will also protect taxpayers from having to pay for emergency food and shelter for these struggling families; will support landlords, banks, and others because the household will have money to spend in the community.

HB322 will protect the household because if all money were zeroed out of a bank account, the individual would be hit with costly overdraft fees, deepening poverty and making it even harder to recover. HB 322 is easy for banks to manage since the amount is self-executing and it saves the courts time and money in terms of processing exemptions. In fact, Maryland banks have already demonstrated their ability to execute this kind of protection when in 2020 they protected stimulus funds from garnishment. This process will be much simpler than that one was and they were able to extend those protections with little preparation. Moreover, a number of states already have automatic bank account exemptions and banks in Maryland that are part of a national chain can simply reach out to other regions for guidance since these banks are already doing this in several other states.

HB322 extends some much-needed protections for financially struggling Maryland families, saves taxpayers and the state money, ensures that landlords, utilities, banks and others continue to receive payment for loans, bills, etc., and reduces costs and time for banks and for courts.

For all these reasons, we support HB322 and urge a favorable report.

Best,

Marceline White
Executive Director

HB322_MD Center on Economic Policy_FAV.pdf

Uploaded by: Kali Schumitz

Position: FAV



MARCH 23, 2022

Repaying Debt Should Not Leave Maryland Families Destitute

Position Statement Supporting House Bill 322

Given before the Senate Judicial Proceedings Committee

While it is reasonable to expect people to pay debt they owe, it is unreasonable to require families to experience extraordinary hardship in order to pay back debt. **The Maryland Center on Economic Policy supports House Bill 322 because it would create some automatic protections from creditors for Maryland households.**

State exemption laws provide protections for families from income or property garnishment. The goal of state exemption laws is to leave families with enough assets that they can make a fresh start as they repay debt. Maryland law already provides \$6,000 of protection for all of an individual's property-home, car, cash, and other valuables. To protect these assets, an individual must elect to protect them. Very few Marylanders are aware of or able to take these exemptions and as a result almost all of their income and property can be garnished to satisfy a debt.

HB 322 sets an automatic exemption for \$500 that an individual can protect in their bank account from creditors. Providing this minimal protection without the individual having to apply for it will increase economic security for Marylanders as they work to repay medical bills, student loans, or other debt.

In 2016 more than 27,000 Maryland residents had their bank accounts or other property seized to satisfy a debt. A majority of the debt collection lawsuits and these garnishments took place in low-income communities or communities of color.

HB 322 is particularly critical legislation as families recover from the pandemic. While tens of thousands of households are still having trouble affording rent, food, and other basics, many pandemic protections including financial assistance and eviction moratoriums are waning or have disappeared.

While \$500 has little impact on creditors, it is expected to help protect approximately 50% of Maryland residents in collections from having their bank account zeroed out. As is the case with family income supports, ensuring low-income households have funds to use also benefits local businesses and our economy.

The Maryland Center on Economic Policy supports policies that end the criminalization of poverty. We respectfully ask that the Judicial Proceedings Committee issue a favorable report on HB 322.

Equity Impact Analysis: House Bill 322

Bill Summary

HB 322 sets an automatic exemption for \$500 that an individual can protect in their bank account from creditors.

Background

State exemption laws provide protections for families from income or property garnishment. The goal of state exemption laws is to leave families with enough assets that they can make a fresh start as they repay debt. Maryland law already provides \$6000 of protection for all of an individual's property-home, car, cash, and other valuables. To protect these assets, an individual must elect to protect them. Very few Marylanders are aware of or able to take these exemptions and as a result almost all of their income and property can be garnished to satisfy a debt.

In 2016 more than 27,000 Maryland residents had their bank accounts or other property seized to satisfy a debt. A majority of the debt collection lawsuits and these garnishments took place in low-income communities or communities of color.

Equity Implications

- Due to various structural barriers to opportunity, Black and Latinx workers are far more likely than white workers to earn poverty-level wages and are therefore more likely to have trouble paying back debt while meeting other basic needs.
- Looking at student loan debt, as one example of racial disparities in debt burdensⁱ:
 - Black college graduates owe an average of \$25,000 more in student loan debt than white college graduates.
 - Four years after graduation, 48% of Black students owe an average of 12.5% more than they borrowed.
 - Black American student borrowers are the most likely to struggle financially due to student loan debt, with 29% making monthly payments of \$350 or more.
 - 54% of all student loan debt is held by White and Caucasian student borrowers.
- An October 2020 Gonzales poll that the Maryland Consumer Rights Coalition commissioned found that 45% of Black respondents would have to either use credit or would be unable to pay an unexpected \$500 bill.

Impact

House Bill 322 will likely **improve racial and economic equity** in Maryland.

ⁱ Education Data Initiative, Student Loan Debt by Race, <https://educationdata.org/student-loan-debt-by-race>

HB 322 Senate Sponsor Testimony.pdf

Uploaded by: Lesley Lopez

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

March 23, 2022

Testimony in SUPPORT of HB 322 - Courts - Judgments - Exemptions from Execution

Summary: HB 322 clarifies Maryland’s current exemption law by automatically exempting \$500 in an individual’s bank account from collection by creditors, protecting just a small fraction of our most economically vulnerable citizens’ assets.

Overview: In 2016, more than 27,000 Marylanders had their property seized or their bank account garnished to repay debts. Many of these families are facing medical or student debt, both kinds of debt that are taken on to help improve the borrower’s life.

As they work to pay back their debt, Marylanders should not lose everything they own or be subject to so much garnishment they cannot make basic ends meet.

Maryland law already protects \$6000 of protection for an individual’s property, including their vehicle, cash, and other valuables. However, this exemption is not automatic—the debtor must elect to take it. Many people facing debt collection are unaware of this, resulting in all or nearly all of their assets being seized at once to pay back the debt.

HB 322 merely makes automatic a small fraction of this existing exemption, shielding \$500 in a debtor’s bank account from collection. This amount, while a small number for the collectors, is absolutely crucial for these families—it can mean that they keep the ability to pay for food, medication, rent, utilities, and other essential needs.

The \$500 protected by HB 322, a compromise on the \$2600 requested last year, is a much smaller change to the current law than many other states have enacted. For example:

- California protects **\$1788** in a bank account automatically (Section 704.220.)
- Delaware prohibits **any** garnishment of a bank account ([12 Del. C. § 3502\(b\)](#).)
- Massachusetts protects up to \$2500 ([c. 235 sec. 34\(15\)](#)) and ([c. 246 sec. 28A](#))
- New York protects up to **\$3600** (240 x the applicable state or federal minimum wage--whichever is higher ([CVP 5232](#)))
- Washington protects **\$2000** in a bank account, \$1000 is self-executing ([RCW 6.15.010](#))

Conclusion: HB 322 provides an automatic layer of financial protection that will give families more stability as they work to pay off their debt.

This bill passed the House 101-32. Thank you and I ask for a favorable report on HB 322.

HB 322-Courts – Judgments – Exemptions From Execut

Uploaded by: Robin McKinney

Position: FAV



HB 322- Courts – Judgments – Exemptions from Execution
Senate Judicial Proceedings Committee
March 23, 2022
Support

Chairman Smith, Vice-Chair and members of the committee, thank you for the opportunity to provide testimony in support of House Bill 322. This bill will allow individuals and families to protect a modest reserve of money in bank accounts from debt collection.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

Under the current law Maryland families do not have automatic protection of even a small amount of savings in a bank account against debt collection once bankruptcy is declared. While households could potentially use the wildcard exemption to safeguard some money, most would instead prioritize using the bulk of the wildcard towards keeping a low-value vehicle, essential for employment, and leaving them almost no savings.

Access to liquid assets is a key factor in a household's ability to weather hardship¹. House Bill 322 would enable families to have a flexible, modest financial cushion to meet unexpected expenses, such as home repair, auto repair, and medical emergencies. A Pew study found that the average financial shock cost about \$2,000, but over a quarter of respondents needed to spend \$6,000 dollars or more². Data also shows that low-moderate income households are at increased risk of experiencing multiple emergencies³.

The current law deprives families of the ability to meet sudden life demands and serves to drive them into poverty. The dual financial and health challenges of the pandemic will expose more families in Maryland to these strict bankruptcy measures leaving them vulnerable and unable to address urgent needs.

House Bill 322 will allow families meet unexpected emergencies by:

- Protecting a modest amount of funds in a bank account

For these reasons, we urge this Committee to return a favorable report on HB 322.

¹ <https://www.stlouisfed.org/publications/in-the-balance/2017/cash-on-hand-is-critical-for-avoiding-hardship>

² https://www.pewtrusts.org/~media/assets/2015/10/emergency-savings-report-1_artfinal.pdf

³ <https://www.irl.wisc.edu/publications/focus/pdfs/foc301c.pdf>

CPD Support HB 322 (Exemptions) - Senate.pdf

Uploaded by: Steven Sakamoto-Wengel

Position: FAV

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Attorney General

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Consumer Protection Division

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Deputy Attorney General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

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March 23, 2022

TO: The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: House Bill 322 – Courts – Judgments – Exemptions from Execution – SUPPORT

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 322, sponsored by Delegate Lopez, which would strengthen the State’s existing property garnishment protections by implementing one of the recommendations of the Maryland Attorney General’s COVID-19 Access to Justice Task Force (“A2J Task Force”). Specifically, HB 322 would amend § 11-504 of the Courts and Judicial Proceedings Article by automatically exempting up to \$500 of a consumer debtor’s bank account, which represents a substantially lower amount than the Task Force recommendation. *See* A2J Task Force, *Confronting the COVID-19 Access to Justice Crisis*, January 2021, at 32.

The A2J Task Force made a number of important recommendations to address issues faced by consumers with debts arising as a result of the pandemic, as well as the significant debt burden prior to the pandemic, including the one that forms the basis for House Bill 322. The A2J Task Force found that, when a creditor obtains a judgment it will often obtain a garnishment against the debtor’s bank account, which results in the funds in the account being frozen, even if the funds are exempt from garnishment, such as Social Security, or less than the \$6,000 that the debtor may exempt from collection under Maryland law. The debtor is unable to pay rent and other bills while trying to unfreeze the improperly frozen funds. By automatically exempting up to \$500 of a consumer debtor’s bank account from execution of a judgment, HB 322 would help Marylanders in debt preserve minimal financial resources to meet their basic needs. And it is done in a way that is exceedingly fair to creditors, since it would not increase the cumulative value of the cash and property exempted from execution under Cts. & Jud. Proc. § 11-504(b)(6), which will remain at \$6,000.

HB 322 will help a substantial number of Maryland consumers. Maryland courts are flooded with lawsuits by debt collectors against consumer debtors, the vast majority of which are resolved via default judgment without the active participation of the debtors. Reports indicate that default often occurs because debtors are unaware of or do not understand the proceedings, do not

know their rights, or do not have time or resources to mount a defense. Such default judgments are often against the poor and that the judgments can have a disastrous impact on debtors' lives. The end result is that tens of thousands of Marylanders face daunting post-judgment proceedings and enforcement measures that weigh heavily in favor of debt buyers and other creditors.

As the A2J Task Force noted, current Maryland law imposes excessive burdens on people involved with debt proceedings. *Id.* Consumers face body attachment if they fail to appear in court in post judgment proceedings, many consumers are “left with inadequate resources to pay for basic needs after debt judgments,” and consumers “are often overwhelmed by having their wages garnished rather than being allowed to develop a reasonable income-based repayment plan.” *Id.* And while “the pandemic’s economic impact has put more people into legal jeopardy over debt, ... those legal aid organizations that work on consumer debt issues often lack the resources to meet the needs of distressed consumers.” *Id.*

HB 322 is an important consumer protection that will have a real and substantial benefit to many struggling Marylanders in debt, helping them to meet their essential, basic needs, while having little impact on debt buyers and other creditors. As such, the Division asks that the Judicial Proceedings Committee give House Bill 322 a favorable report.

cc: The Honorable Lesley Lopez
Members, Judicial Proceedings Committee

HB0322 - OPP - GR22.pdf

Uploaded by: Drew Jabin

Position: UNF



HB 322 - Courts - Judgments - Exemptions From Execution

Committee: Senate Judicial Proceedings Committee

Date: March 23, 2022

Position: Oppose

The Maryland Bankers Association (MBA) **OPPOSES** HB 322. This bill would exempt up to \$500 from execution on a money judgement, without election by the judgement debtor. While well intentioned, HB 322 does not totally account for key facets of Maryland's judgement garnishment and exemption laws and does not fit with the reality of Maryland's current garnishment and exemption framework.

Garnishee Banks Cannot Replace the Courts as Gatekeepers for Exemption Claims

Under Maryland law, exemptions require debtor election. That is, when a creditor seeks to enforce its judgment via court process (such as through bank account garnishments), the debtor may file a motion electing to exempt certain property from execution. Under this framework, the court serves as a gatekeeper to ensure that the debtor obtains only the proper exemptions to which an individual is entitled. Under the current system, a creditor could object if the debtor's election is incorrect or if the debtor has already exhausted the permitted exemptions.

HB 322 could automatically trigger a \$500 cash exemption from bank account garnishment, but the \$500 exemption will count against a debtor's \$6,000 cap on exemptions. The problem is that by bypassing the court, HB 322 implicitly requires banks to determine whether a debtor has funds available in the \$6,000 wildcard exemption from which to apply the automatic exemption. A debtor could have already exhausted their \$6,000 cap, but the garnishee has no way of knowing.

The interplay between HB322's Automatic Exemption and Preexisting Automatic Exemptions

Under federal law, certain federal benefits, such as Social Security benefits or VA benefits, are automatically exempt from garnishment. To the extent that another automatic exemption does not fully exempt a debtor's deposits, garnishee banks will not know whether the automatic exemption contemplated by HB 322 (a) stacks on top of the other automatic exemptions or (b) gets subsumed within the other automatic exemptions.

Accordingly, MBA urges issue a **UNFAVORABLE** report on **HB 322**.

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 29,000 Marylanders and holding more than \$201 billion in deposits in over 1,300 branches across our State. The Maryland banking industry serves about 4 million customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.

BY:

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO HOUSE BILL 322
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “amount;” insert “providing for a delayed effective date;”.

AMENDMENT NO. 2

On page 1, in line 18, after “(a)” insert “**(1)**”; in the same line, strike “section,” and substitute “SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.”

(2) “DEPOSITORY INSTITUTION” MEANS A BANK, CREDIT UNION, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION AND ANY OF THEIR AFFILIATES OR SUBSIDIARIES.

(3) ”.

On page 2, in line 17, after “**(5)**” insert “**(1)**”; strike beginning with “A” in line 14 down through “SUBSIDIARIES,” in line 19 and substitute “DEPOSITORY INSTITUTION,”; after line 20, insert:

(II) A DEPOSITORY INSTITUTION SHALL, UPON RECEIPT OF A WRIT OF GARNISHMENT, OTHER LEVY, OR ATTACHMENT, PROVIDE AN ANSWER AND IF THE DEBTOR MAINTAINS ANY DEPOSIT ACCOUNTS WITH THE DEPOSITORY INSTITUTION, STATE THAT:

- 1.** THE TOTAL AMOUNT OF FUNDS DOES NOT EXCEED \$500; OR
- 2.** THE AMOUNT OF FUNDS EXCEEDING \$500 THAT HAVE BEEN HELD PENDING FURTHER ORDER OF THE COURT.

(III) **1.** THIS PARAGRAPH MAY NOT BE CONSTRUED TO PRECLUDE OR REDUCE A DEBTOR’S RIGHT TO ANY OTHER EXEMPTION PROVIDED BY STATE OR FEDERAL LAW.

2. IF THE DEPOSITORY INSTITUTION IS REQUIRED TO APPLY ANY OTHER EXEMPTION WITHOUT DEBTOR ELECTION OR COURT ORDER UNDER APPLICABLE FEDERAL OR STATE LAW, THE EXEMPTION SET FORTH IN THIS PARAGRAPH SHALL APPLY TO ANY FUNDS THAT ARE NOT OTHERWISE DEEMED EXEMPT UNDER SUCH OTHER APPLICABLE LAW.

(IV) A DEPOSITORY INSTITUTION THAT COMPLIES WITH SUBPARAGRAPHS (I) THROUGH (III) OF THIS PARAGRAPH SHALL NOT BE LIABLE TO THE JUDGMENT CREDITOR IF THE DEBTOR HAS PREVIOUSLY ELECTED TO EXEMPT CASH AND OTHER PROPERTY WITH AN AGGREGATE VALUE OF \$6,000 PURSUANT TO PARAGRAPH (6) OF THIS SUBSECTION, OR IS OTHERWISE INELIGIBLE FOR AN EXEMPTION PURSUANT TO PARAGRAPH (6) OF THIS SUBSECTION.

AMENDMENT NO. 3

On page 5, in line 20, strike “October 1, 2022” and substitute “January 1, 2023”.