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January 19, 2023

TO: The Honorable Luke H. Clippinger, Chair
Judiciary Committee

FROM: Kathleen P. Hyland
Assistant Attorney General

RE: House Bill 42 – Courts – Judgments – Exemptions from Execution – SUPPORT

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 42, 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 42 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 42. 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 42 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 42 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 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 42 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 Judiciary Committee give House Bill 42 a favorable report.

cc: The Honorable Lesley Lopez
Members, Judiciary Committee