

HOUSE BILL REPORT

SSB 5187

As Reported by House Committee On:
Judiciary

Title: An act relating to updating creditor/debtor personal property exemptions.

Brief Description: Updating creditor/debtor personal property exemptions.

Sponsors: By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline and Constantine).

Brief History:

Committee Activity:

Judiciary: 3/22/01, 3/29/01 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Makes changes to the types and amounts of personal property exemptions that are available to a debtor whose property is subject to execution, attachment, or garnishment.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Edie Adams (786-7180).

Background:

A creditor may seek payment for money or property owed by a debtor through execution, attachment, or garnishment of the debtor's personal property. A portion of a debtor's property is protected against judgment creditors through exemptions. Washington law provides a number of personal property exemptions for items such as clothing, household goods, cars, and tools of the trade. Some of the personal property exemptions are:

- household goods, appliances, and furniture not to exceed \$2,700 for an individual or a community;
- other personal property not to exceed \$1,000, including not more than \$100 in cash and \$100 in bank or savings and loan accounts or securities; and
- two motor vehicles not to exceed \$2,500 in aggregate value.

There are no exemptions for child support payments, health aids, or for personal injury or loss of future earnings claims.

When an individual files for bankruptcy, certain property is exempt from the bankruptcy estate. A Washington debtor who files for bankruptcy may choose to claim either the exemptions that are available under federal bankruptcy law or the property exemptions available under state law. Many of the exemptions available under federal law are higher than the state exemptions or are not available under state law. For example, the federal exemption for household goods is \$8,625 for an individual or \$17,250 for a community. The federal exemption for motor vehicles is \$2,575 for an individual or \$5,150 for a community. In addition, the federal law provides exemptions for child support payments, health aids, and portions of personal injury and loss of future earnings claims.

Summary of Amended Bill:

The following changes are made to the types and amounts of personal property that are exempt from execution, attachment, or garnishment:

- household goods not to exceed \$2,700 for the individual and \$5,400 for the community;
- other personal property not to exceed \$2,000, including not more than \$200 in cash and \$200 in bank or savings and loan accounts or securities;
- motor vehicle not to exceed \$2,500 for an individual or for a community, two motor vehicles not to exceed \$5,000 in aggregate value;
- all child support payments;
- all professionally prescribed health aids;
- personal injury payments, not to exceed \$16,150, and not including compensation for pain and suffering or actual monetary loss; and
- compensation for loss of future earnings to the extent necessary for the support of the

debtor or a dependent.

The exemptions for personal injury claims and loss of future earnings claims do not apply to the state's right to seek reimbursement for medical care assistance. The personal property exemptions are not available against a judgment for criminal restitution.

A person who claims an exemption has the burden of establishing the exemption by providing sufficient documentation.

Amended Bill Compared to Substitute Bill:

The substitute bill contained a provision stating that no personal property may be exempt from execution, attachment, or garnishment issued by a child support agency or the agency's agent or assignee.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is a recommendation of a task force of the creditor/debtor section of the Washington State Bar Association. The provision of property exemptions is mandated by the state constitution. The current exemptions have not kept pace with the federal bankruptcy exemptions or with inflation. The exemption amounts proposed in this bill are reasonable and are at or below the averages of exemptions provided in other states.

Testimony Against: None.

Testified: Martin Snodgrass, Washington State Bar Association.