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## Civil Rights & Judiciary Committee

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### HB 1602

**Brief Description:** Concerning consumer debt.

**Sponsors:** Representatives Reeves, Walen, Jinkins, Appleton, Ryu, Morgan, Orwall, Ortiz-Self, Hudgins and Ormsby.

#### Brief Summary of Bill

- Changes the post-judgment interest rate for unpaid consumer debt to 2 percentage points above the prime rate, unless the judgment interest rate is specified in the contract.
- Increases the bank account and wage garnishment exemptions for judgments on consumer debt.
- Modifies the writs and forms for garnishment and continuing lien on earnings to specify whether a writ is for consumer debt, and outlines debtor exemption rights for consumer debt.

**Hearing Date:** 2/6/19

**Staff:** Ingrid Lewis (786-7289).

#### **Background:**

##### Enforcement of Debts.

A creditor may seek enforcement of a debt owed by a debtor through execution, attachment, or garnishment of the debtor's property. Garnishment allows a creditor to reach a debtor's property that is held by a third party. The third party may be an employer, if the creditor seeks to garnish a debtor's wages. The creditor may serve an employer with a writ of garnishment called a "writ of continuing lien on earnings" that allows the creditor to garnish a portion of the debtor's wages each pay period for a limited time. Financial institutions, such as banks, may also be a third party, when the creditor seeks to garnish a debtor's funds in a bank account. The creditor will serve a financial institution with a general "writ of garnishment" that orders the financial institution to hold a specified amount for the creditor. The form of the writ is provided in statute.

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The creditor must provide the debtor with a copy of the writ, a notice of the debtor's rights, and an exemption claim form, as provided in statute.

Generally a judgment may be enforced for a period of 10 years from the date of judgment, and for an additional 10 years if the judgment is extended within 90 days of the end of the initial 10-year period. All real and personal property of a judgment debtor is subject to execution to satisfy the judgment, unless the property is exempt.

There are a number of exemptions for personal property up to a certain value, for such things as household goods, clothing, vehicles, and tools of the trade. Except for private student loan debt, the exemption for bank accounts is \$500. For private student loan debt, the maximum exemption is \$2,500.

Generally in a garnishment proceeding, a debtor's earnings are exempt up to the greater of 35 times the federal minimum hourly wage or 75 percent of the disposable earnings, except:

- The exempt amount for a judgment for child support is 50 percent of disposable earnings; and
- The exempt amount for a judgment for private student loan debt is the greater of the following: 50 times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or 85 percent of disposable earnings.

#### Interest.

Every loan or forbearance of money, goods, or thing in action bears interest at the rate of 12 percent per year where no different rate is agreed to in writing between the parties.

Post-judgment interest begins to run on a judgment on the date the judgment is entered and does not vary over the life of the judgment. Post-judgment interest accrues on the amount of the judgment from the date of the entry until the judgment is paid. Judgments predicated on a written contract providing for interest at a particular rate bear interest at that rate if that interest rate is set forth in the judgment. Other judgments bear interest as follows: unpaid child support at 12 percent; tort judgments at a special rate established in statute; unpaid private student loan debt at 2 percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day of the calendar month immediately preceding the date of entry; and all other judgments at the maximum rate permitted under the usury statute.

The usury statute provides that any rate of interest shall be legal so long as the rate does not exceed the higher of: 12 percent; or 4 percent above the interest rate on 26-week treasury bills.

#### **Summary of Bill:**

Consumer debt is defined as any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes.

The exemption allowed for bank accounts, savings and loan accounts, stocks, bonds, or other securities for consumer debt is \$2,500, regardless of the number of existing separate accounts, stocks, bonds, or securities. For garnishment based on a judgment issued for the collection of consumer debt, wages exempt from garnishment is the greater of the following: 50 times the

minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or 85 percent of disposable earnings.

If a writ of garnishment or a writ for continuing lien on earnings is issued under an order or judgment for consumer debt, the forms notifying the debtor of the garnishment or continuing lien on earnings must specify that the garnishment or continuing lien is based on an order or judgment for consumer debt. The form notifying a debtor of garnishment and their exemption rights must state the bank account and wage garnishment exemptions for consumer debt, if applicable.

Interest.

For unpaid consumer debt, the judgment interest rate is 2 percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day of the calendar month immediately preceding the date of entry, unless the interest rate is specified in the loan contract and set forth in the judgment.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.