
Civil Rights & Judiciary Committee

HB 1447

Brief Description: Concerning the garnishment of a debtor's wages, funds, or other property.

Sponsors: Representatives Walen, Simmons, Ramel, Shewmake, Ormsby, Pollet, Hackney and Macri.

Brief Summary of Bill

- Establishes automatic protection from attachment, execution, and garnishment for certain funds held by financial institutions.
- Requires writs of garnishment to include instructions to financial institutions directing such institutions to comply with the automatic protections.

Hearing Date: 2/9/21

Staff: John Burzynski (786-7133).

Background:

Attachment is a legal process by which a plaintiff may secure the property of a defendant, at the time of commencing a legal action, to secure any judgment the plaintiff may recover.

Execution is a legal process by which a judgment creditor may enforce a judgment requiring payment of money or delivery of property against the judgment debtor.

Garnishment is a legal process by which a judgment creditor may recover funds owed by a judgment debtor by compelling third parties to divert to the creditor certain funds owned by or owed to the debtor (e.g., funds held in the debtor's bank accounts or the debtor's wages held by an employer).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

A creditor seeking to garnish a debtor's funds must apply to a court to issue a writ of garnishment. Once issued, the creditor must serve the writ on the third party holding the funds and mail or serve a copy of the writ to the debtor. The third party must comply with the writ.

Washington law entitles debtors to claim certain funds as exempt from attachment, execution, and garnishment depending on the nature of the debt: for private student loan debt, \$2,500 is eligible for exemption; for consumer debt, \$2,000 is eligible for exemption; for all other debts, \$500 is eligible for exemption. To gain the benefit of an exemption against garnishment, the debtor must proactively file an exemption claim and mail the same to the creditor within 28 days of the date stated on the writ of garnishment. The deadline to file claimed exemptions may be extended by up to 21 days. The creditor may object to claimed exemptions, in which case the court will hold a hearing to determine the validity of the exemptions.

Summary of Bill:

Certain funds held in bank accounts, savings and loan accounts, stocks, bonds, or other securities, are given automatic protection from garnishment, attachment, and execution.

- For private student loan debt: \$1,000 in value is automatically protected.
- For consumer debt: \$1,000 in value is automatically protected.
- For all other debts: \$500 in value is automatically protected.

A writ of garnishment must contain instructions to financial institutions directing them to comply with the above automatic protections and release protected funds to the debtor. The financial institution is directed to only hold funds for the creditor if the debtor's accounts contain value in excess of the automatically protected total.

This act expires July 1, 2025.

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.