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Senate Bill 408 (Substitute S-1)
Sponsor: Senator Jeff Irwin
Committee: Finance, Insurance, and Consumer Protection

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INTRODUCTION

Primarily, the bill would modify the types and value of wages, money, and property exempt from garnishment and execution, which are forms of debt collection. Garnishment is a court process through which a creditor may compel a garnishee, a third-party such as a debtor's employer, to distribute money to the creditor instead of the debtor. Similarly, execution is a court-order process by which a creditor may request to seize and sell a debtor's non-exempt property. The bill also would require certain dollar amounts, mostly concerning Federal and State minimum wage, to be adjusted according to the Consumer Price Index.

Further, the bill would modify Michigan's garnishment and execution processes. For garnishment, the bill would establish a process by which priority would be determined in cases of multiple garnishments and expand provisions prohibiting a garnishee from disciplining a debtor for garnishment. For execution, the bill would require a creditor to provide notice to a debtor upon obtaining a writ of execution and throughout the execution process. These notices would have to inform the debtor of rights, including the ability to request a hearing to dispute an execution or to classify some property as exempt from execution. Lastly, the bill would define certain key concepts associated with garnishment and execution.

FISCAL IMPACT

The bill would likely increase varied administrative expenses for the State Court Administrative Office and local courts to a small degree. New exemptions, new exemption amounts, and new notice requirements for court proceedings regarding debt would possibly require local courts to revise current garnishment or bankruptcy proceedings. Additionally, the Office would have to produce and make available additional notice forms for use statewide. The bill would not directly affect State or local government. Tax garnishments are applied to refunds, after State and local taxes have been satisfied. Indirectly, the bill would likely decrease the number of garnishment filings by creditors and debt buyers due to the increased number of exemptions created and existing exemption amounts increased under the bill. Pre-pandemic, there were over 200,000 annual debt cases in Michigan with nearly 80% of those cases resulting in a garnishment for a median amount of \$1,600. Annual debt cases and garnishments were cut nearly in half during the pandemic. According to the Michigan Justice for All Commission (Commission), nearly 75% of all debt collection lawsuits are filed by ten high-volume plaintiffs.¹

The bill would address some of the recommendations in the Commission's report, such as additional notice requirements. The bill also would vastly increase existing exemptions from garnishment and bankruptcy, making certain assets more difficult to seize through garnishment. These increased thresholds are not expected to have a direct impact on the State or local courts, but could have an indirect impact, based on a reduced number of debt-

¹ Commission, [Advancing Justice for All in Debt Collection Lawsuits](#), p. 11, November, 2022.

related filings and associated adjustments to operating expenses or court fees. Outside of the potential for a slightly reduced amount fee revenue for Treasury to handle garnishment requests, the bill is not expected to affect State or local tax revenue, which has precedence over consumer debt garnishments.

MCL 600.2807 et al.

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CONTENT

The bill would amend Chapter 40 (Attachment and Garnishment) of the Revised Judicature Act to do the following:

- **Generally, exempt from garnishment money that a debtor received due to public assistance benefits, unemployment compensation benefits, earned income tax credits, disability benefits, or worker's compensation benefits.**
- **Require a garnishment that was for the support of an individual to have priority over all other garnishments.**
- **Exempt from garnishment a debtor's earnings for any week that were less than 80 times the greater of the Federal minimum wage or the State minimum wage.**
- **If a debtor's weekly garnishable earnings exceeded 50 times the greater of the Federal minimum wage or the State minimum wage, allow up to 15% more than the exempted amount to be subject to garnishment.**
- **If the weekly garnishable earnings of a debtor exceeded \$1,200, allow up to 15% more than the exempted amount to be subject to garnishment.**
- **Expand the actions a court could require a garnishee to take upon finding that the garnishee unlawfully disciplined a debtor for garnishment.**
- **Specify that if more than one garnishment were served on a garnishee with respect to the same debtor, the garnishment served earliest would take priority, except for garnishments established for support of other individuals.**

The bill also would amend Chapter 60 (Enforcement of Judgements) of the Act to do the following:

- **Modify and expand the types of property exempt from execution, such as by increasing the exempt value of a homestead.**
- **If a creditor obtained an execution against a person, entitle a person to receive a prompt hearing to claim exemptions, to contest the seizure of exempt property, or to seek to set aside the judgment.**
- **Require a creditor or executing officer to issue certain notices to a garnishee or debtor.**
- **Require the dollar amounts in Chapter 60 to be adjusted by the State Treasurer on July 1 of each even-numbered year according to and to the extent of changes in the Consumer Price Index.**
- **Define certain key terms and concepts.**

Definitions

The bill would add the following definitions across Chapters 40 and 60 of the Act.

"Creditor" would mean a person to whom a debt is owed and includes a judgment creditor and any other person that obtains an execution on a debt. The term would include an attachment, levy, garnishment, or other disablement, freeze, or seizure of property, whether

pre- or post-judgment, to satisfy a debt. Execution also would include a creditor's exercise of a right of setoff to collect a debt and would not include self-help repossession of collateral.

"Debt buyer" would mean a person that is engaged in the business of purchasing delinquent or charged-off consumer debt for collection purposes, whether that person collects the debt itself or hires a third party for collection or an attorney-at-law for litigation to collect the debt.

"Dependent" would mean an individual who relies in whole or in significant part on a debtor for support and maintenance.

"Earnings" would mean compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payment for skilled, personal, or professional services, or otherwise, whether earned as an employee or as an independent contractor, and includes alimony.

"Executing officer" would mean the official, creditor, or other individual who issues or implements an execution.

"Exempt" would mean, unless otherwise specified, not subject to execution, levy, attachment, garnishment, setoff, self-help, seizure, or any other form of process, court order, creditor, or other action for the purpose of debt collection or restitution or other equitable claim. Money that was exempt would remain exempt when it was paid or transferred to the debtor, the debtor's spouse, partner, beneficiary, or dependent or to an account for the benefit of the debtor, the debtor's spouse, partner, beneficiary, or dependent.

"Garnishment" would mean a legal or equitable procedure through which the earnings, property, or money of an individual are required to be withheld by another person for payment of any debt to a creditor.

"Garnishable earnings" would mean that part of the earnings of any individual remaining after the deduction from the earnings of any amounts required by law to be withheld, such as taxes, Social Security, or alternative pension and Medicare withholdings, and after further deduction of up to 15% of the remainder for contributions for health insurance, a medical expense account, a pension, or a retirement account.

"Homestead" would mean one of the following owned or being purchased under an executory contract by the debtor that the debtor or a dependent of the debtor occupies as the debtor's or the dependent's principal residence:

- If the land is located outside of a recorded plat, city, or village, a residence and appurtenances and the land on which they are situated, not exceeding 40 acres.
- If the land is located within a recorded plat, city, or village, a residence and appurtenances and the land on which they are situated, not exceeding one lot or parcel.
- A residence situated on land not owned by the debtor.
- A condominium unit.
- A unit in a cooperative.
- A motor home.
- A boat or other watercraft.

"Necessary property" or "necessary provisions" would mean property that is or provisions that are reasonably essential to or needed for everyday living, including any special needs because of health or physical or mental infirmity.

"Original creditor" would mean the person to which the consumer originally owed money before the debt was sold to a debt buyer or other person. If provisions in Chapter 40 required the original creditor to be identified, the name would have to be that which the original creditor used in its dealings with the consumer.

"Payroll card account" would mean an account that is directly or indirectly established through an employer or another person that pays earnings and to which electronic fund transfers of the employee's wages, salary, employee compensation, including commissions, or other earnings are made on a recurring basis, whether the account is operated or managed by the employer or other person that pays earnings, a third-party payroll processor, a depository institution, or any other person. Payroll card account would include any other payroll card account as defined in regulations issued under the Federal Electronic Fund Transfer Act.

"Prepaid account" would mean a prepaid account as that term is defined under regulations issued under the Electronic Fund Transfer Act and includes all the following:

- An account for distributing needs-tested benefits.
- A loyalty, award, or promotional gift card if used to pay or receive earnings.
- A general-use prepaid card, payment code, or other device as that term is defined in the electronic fund transfer act, 15 USC 1693l-1, and regulations promulgated under that section, if the card, code, or device is not labeled as a gift card.
- A health savings account, flexible spending account, or medical savings account, or a health reimbursement arrangement.

"Residence" would include real or personal property, including a share in a residential cooperative, a beneficial interest in a trust applying to the property, or a manufactured home, that is owned individually or in any form of joint ownership by the debtor or the debtor's dependent, spouse, or domestic partner.

"Value" would mean current fair market value of accounts, goods, or property less the amount of any liens or security interests in the accounts, goods, or property, based on the price that would be paid, assuming a willing buyer and a willing seller, for accounts, goods, or property of similar age and condition. A debtor's testimony as to the value of property the debtor owns or as to the advertised value of property similar to that claimed as exempt is admissible as evidence of an item's value.

Chapter 40

Garnishment; Generally

Garnishment is a form of debt collection. To request a garnishment, a creditor must first sue a debtor in court and receive a judgement that the creditor is owed money. After 21 days of receiving the judgement, if the debtor has not paid the creditor, the creditor may request a writ of garnishment, which is a court order requiring a garnishee, a third-party in control of the debtor's money or who pays the debtor, such as a bank, the State, a tenant, or an employer, to distribute money or wages to the creditor instead of the debtor. The creditor must serve the garnishee with the writ through a third party. In turn, the garnishee must send a copy of the writ to the debtor. If the debtor does not file an objection within a certain period, the garnishee must pay to the creditor the garnished money or wages, either on a periodic or non-periodic basis.

Currently, a creditor may garnish bank accounts, Michigan income tax refunds, rent payments and land contract payments paid to a debtor, and up to 25% of a debtor's weekly net income

or the amount of net income greater than 30 times the Federal minimum wage (\$7.25, or \$217.50).² This includes past-due taxes and child support payments.

Under the Act, if the State Treasurer is served a writ of garnishment, the State Treasurer must intercept the State tax refund or credit subject to the writ. The State's liability to a creditor is limited to the amount of the tax refund or credit due to the debtor for the period the writ is in effect, less any setoff, counterclaim, or other demand of the State against the creditor. Under the bill, if a writ of garnishment were issued on a judgment entered to recover a consumer debt,³ the State Treasurer could not intercept the debtor's State tax refund or credit by any amount that was payment of an earned income tax credit. The bill specifies that this would not affect any ability of the State to recover a setoff, a counterclaim, or other demand from the identified credit.

A creditor cannot garnish Federal and city income tax refunds; Supplemental Security Income; State welfare or Veteran's benefits; unemployment compensation; worker's compensation; State and Federal civil service retirement benefits or military retirement benefits; IRAs and life insurance payable to a spouse or child of the insured; and pension benefits *before* they are paid to the debtor. Generally, a creditor may not garnish Social Security benefits.⁴

Currently, a garnishment of periodic payments remains in effect until the balance of the judgement is satisfied. A garnishee is not liable for a garnishment of periodic payments to the extent that the garnishee is required to satisfy another garnishment against the same defendant that has a higher priority or that has the same priority but is received at an earlier date. Garnishments have priority in the order in which they are received. Under the bill, a garnishment that was for the support of an individual would have priority over all other garnishments.

Garnishment Exemptions

The bill would exempt from garnishment the money that a debtor received as payment of any means-tested public assistance benefits, unemployment compensation benefits, Federal earned income tax credit, State tax credit equal to an earned income tax credit, or a similar credit under a program of the State or a local unit of government providing an earned income tax credit, disability benefits, or worker's compensation benefits.

A financial institution that was holding money of the debtor in a deposit account that was served with a garnishment would have to calculate the amount of money deposited into the account during the 90 preceding days from Michigan one of the above sources or any other source that, based on information reasonably available to the financial institution, was exempt from garnishment. The financial institution would have to include these calculations in its disclosure. The amount of money held in a deposit account as calculated could not be paid or ordered to be paid to the creditor under the garnishment.

Additionally, the bill would exempt from garnishment a debtor's earnings for any week that were less than 50 times the greater of the Federal minimum wage (\$580) or the State minimum wage set by the State Treasurer under the Workforce Opportunity Wage Act

² The Federal Consumer Credit Protection Act establishes the rate by which an individual's wages may be garnished. For more information, see www.investopedia.com.

³ The bill would define "consumer debt" as an obligation or alleged obligation of an individual to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes, whether or not the obligation has been reduced to judgment.

⁴ "Michigan Garnishment Laws", Acclaim Legal Services, PLLC. Retrieved on 5-20-24.

(\$826.40).⁵ This exemption would have to be adjusted proportionally for a pay period longer than a week.

If a debtor's weekly garnishable earnings exceeded 50 times the greater of the Federal minimum wage or the State minimum wage, up to 15% more than the exempted amount would be subject to garnishment.

The bill would specify that the amount of a debtor's garnishable earnings that could be garnished for the support of a person would be subject to the laws of the State governing child support and alimony. It also would prohibit a financial institution from charging a debtor a fee for any actions taken by the financial institution in connection with a garnishment served on the financial institution.

Additionally, the bill would specify that the protections for earnings in the Act would apply to all debtors whose physical place of employment was in the State, regardless of whether the debtor's employer had offices or other places of business located outside the State.

Discipline for Garnishment

Currently, a garnishee cannot use the fact that a debtor has had one or more actions brought against the debtor as a cause of discipline or discharge of the debtor from employment. The bill would further prohibit a garnishee, due to multiple actions, from discharging a debtor from an independent contract or using them as a reason to not hire or contract with a debtor.

A garnishee who violates this provision must reinstate the debtor to employment and reimburse all compensation lost by the discipline or discharge. Under the bill, on a motion filed in an action or in a separate civil action, the court would have to require a garnishee to not only reinstate the debtor to employment and reimburse all compensation, including wages, earnings, and employment benefits, lost due to the discipline, discharge, or failure to hire or contract, but also to pay additional damages of up to \$1,000 and pay reasonable actual attorney fees and costs.

Multiple Garnishments

The bill would provide that, if more than one garnishment were served on a garnishee with respect to the same debtor, the garnishment served earliest would take priority; however, a garnishment for support of an individual, such as garnishment for child support, would take priority over any other garnishment regardless of the date of service. If a garnishment with greater priority consumed the garnishable earnings that were available for garnishment, no part of the debtor's garnishable earnings could be garnished under the garnishment with lower priority.

Additional Provisions

The Act provides that the provisions of the statutes relating to exemptions from execution, and the manner of levying upon property belonging to a class or species in which exemptions are by law allowed (see Property Exemptions), are applicable to the application of property and obligations to claims by attachment and garnishment; however, there are two property exemptions specific to garnishments:

- In any garnishment proceeding in which the indebtedness of the garnishee to the principal defendant is money owed to the principal defendant on account of the sale to the

⁵ Effective January 1, 2024, the State minimum wage increased from \$10.10 to \$10.33 an hour.

garnishee of milk, cream, or both produced on the farm or farms of the debtor, the garnishee's liability to the plaintiff is limited to 40% of such money.

- In any garnishment proceeding where the indebtedness of the garnishee to the principal defendant is money owed to the principal defendant on account personal labor performed by the principal defendant or his family, the garnishee's liability to the plaintiff is limited by the exemptions allowed under section 7511.

The bill would delete the latter exemption, as section 7511 no longer exists.

Chapter 60

Property Exemptions

Like garnishment, execution is another form of debt collection. A creditor may request from a court a writ of execution, allowing the creditor to seize and sell a debtor's property. Under the bill, "execution" would include an attachment, levy, garnishment, or other disablement, freeze, or seizure of property, whether pre- or post-judgment, to satisfy a debt. The Act exempts certain property from being levied or sold under an execution, such as family pictures, clothing, and provisions and fuel for comfortable subsistence of the debtor and the debtor's household for six months.

The bill would modify current exemptions. It would allow articles of clothing made of fur to be levied and sold. Additionally, the Act prohibits from levy and sale all household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000. The bill would change this to the debtor's *aggregate* interest in household goods, furniture, utensils, books, and appliances, not exceeding in value \$5,000. The Act also prohibits from levy and sale the debtor's interest in tools, materials, stock, team, motor vehicle, or other things to enable the debtor to carry on the profession, trade, occupation, or business in which the debtor is principally engaged, not exceeding in value \$1,000. The bill would modify this to the *aggregate* interest of such, not to exceed \$10,000 in value.

Currently, the Act prohibits from being levied and sold 10 sheep, two cows, five swine, 100 hens, five roosters, and enough hay and grain for properly keeping the animals and poultry for six months for each member of a household. The bill would allow as an alternative, and at the election of the debtor, the debtor to keep the debtor's aggregate interest in crops, farm animals, and feed for the farm animals, not to exceed \$10,000 in value.

The Act exempts the right of interest of a person in a profit-sharing, stock bonus, or other plan that is qualified under the Internal Revenue Code, as well as an annuity subject to Federal law. The bill would extend this exemption to the payments or distributions from a plan or annuity.

The Act also prohibits the sale of a homestead, with several exceptions. The bill would delete these, instead exempting from levy or sale under execution a homestead of up to \$125,000 in value or, if the debtor or a dependent of the debtor were 65 years of age or older or disabled, up to \$200,000 in value.

Currently, if the homestead of any debtor is appraised at a value of more than \$3,500 and cannot be divided, the debtor cannot for that reason lose the benefit of the exemption; however, in such cases the executing officer must deliver a notice, attached to a copy of the appraisal, to the debtor or someone in the debtor's household of a suitable age, that unless the debtor pays the officer the surplus over and above the \$3,500, or the amount due on the execution within 60 days thereafter, the homestead will be sold. In case the surplus, or the amount due on the execution or judgment is not paid, the executing officer may advertise

and sell the homestead, and out of the proceeds of said sale pay the debtor the sum of \$3,500, which would be exempt from execution for one year after and apply the balance on the execution. No sale may be made unless a greater sum than \$3,500 is bid, in which case the officer may return said execution for want of property, or report the facts to the court in which the judgment was rendered, as the case may require. The bill would apply these provisions to the modified homestead exemption.

Additionally, the bill would add the following to the list of property that could not be levied and sold under an execution:

- All household pets, companion animals, and service animals.
- The debtor's interest in a motor vehicle up to \$15,000 in value.
- Cemetery lots.
- The debtor's aggregate interest in computers, including mobile computing devices, mobile phones, and computer accessories, not to exceed \$5,000.
- All professionally prescribed health aids.
- Any money paid or to be paid because the debtor or a dependent of the debtor was a crime victim.
- Money held in a deposit account up to \$800 or the amount a financial institution that was holding money of the debtor in a deposit account that was served with a garnishment calculated, whichever was more.

As used above, "motor vehicle" would not include any of the following:

- A watercraft, defined as a contrivance used or designed for navigation on water, including a vessel, boat, motor vessel, steam vessel, vessel operated by machinery either permanently or temporarily affixed, scow, tugboat, or any marine equipment that can carry passengers, except a ferry.
- A recreational vehicle, defined as a new or used vehicle that has its own motive power or is towed by a motor vehicle; is primarily designed to provide temporary living quarters for recreational, camping, travel, or seasonal use; complies with all applicable Federal vehicle regulations; and does not require a special highway movement permit.
- An ORV, defined as a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain.
- A snowmobile, defined as any motor-driven vehicle that is designed for travel primarily on snow or ice and that uses sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan Vehicle Code.
- An aircraft, defined as any contrivance used or designed for navigation of or flight in the air.
- A vehicle that was a registered historic vehicle under the Michigan Vehicle Code.

Current exemptions do not extend to any lien on the exempt property that is excluded from exemption by law. The bill would extend current and proposed exemptions to any mortgage of or security interest in the exempt property that was excluded by law or that was consensually given or lawfully obtained unless the lien was obtained by judgment, attachment, levy, or similar legal process in connection with a court action or proceeding against the debtor.

Under the bill, only the debtor's interest in property would be subject to execution or another creditor's remedy. If a creditor were on notice, or was placed on notice by an objection, that another person claimed an interest in property with or instead of the debtor, the creditor would have to establish through a hearing that the debtor's share exceeded the amount

protected. A debtor's interest in a joint bank or similar account would be based on the debtor's contributions to the account, as determined by the tracing rules described below, to protect the interest of the person that was not the debtor. Each person with an interest in property could claim the person's full exemption amount applicable to that type of property.

Money or other property and proceeds that were exempt under Chapter 60 or other law of the State would be traceable by application of the first-in, first-out rule.

Money received from the sale or transfer of property that was exempt under Chapter 60 or other law would remain exempt for 18 months while in the debtor's possession, in a checking or similar account, in a savings account, in a certificate of deposit with a term that did not extend past the 18 months, or otherwise held in a way that the money was regularly available to the debtor and was traceable and could be converted into another type of exempt property. If property, or a part of property, that could have been claimed as exempt was sold or taken by condemnation, or had been lost, damaged, or destroyed and the owner had been indemnified for the property, the traceable proceeds of the property would be exempt for 18 months after the proceeds were received, and could be converted into another type of exempt property.

The bill would provide that the exemptions provided under Chapter 60 would be available to a Michigan resident and apply regardless of where the property was located. In an action to collect a debt against an individual who was *not* a resident, the court would have to apply the exempt property laws of the State with which the individual had the most significant contacts.

The exemptions provided in Chapter 60 would not apply to an order for the support of a child or dependent of the debtor or a judgment regarding the division of property between spouses, former spouses, or domestic partners entered by a court in accordance with an administrative or civil procedure that was established by State or Federal law, that afforded substantial due process, and that was subject to judicial review.

Costs incurred in making, or proposing to make, a levy on property would have to be paid out of the proceeds of a sale of the property if a sale occurred. If the proceeds of a sale of the property were insufficient to cover the costs incurred in the levy, garnishment, or attachment, the creditor would have to pay the costs and could not recover them from the debtor or the garnishee, notwithstanding any agreement of the parties to the contrary.

Execution Hearings

If a creditor obtained an execution against a person, the person would be entitled to a prompt hearing to claim exemptions, to contest the seizure of exempt property, or to seek to set aside the judgment. If a creditor obtained an execution against property of a person, the person would be entitled to a prompt hearing to claim that property levied on, while not exempt, was of such value to the financial rehabilitation or future support of the debtor or the debtor's dependents that it should be declared exempt by the court. The court also could order a greater exemption if other exceptional circumstances such as illness, injury, unemployment, death of a family member, disability, or old age made a greater exemption equitable.

If an item of property fell into a category that was fully exempt under Chapter 60 or for which the exemption depended on its value, or if an exemption depended on the debtor's designation of the property to which the exemption would apply but the exemption appeared to the executing officer to be sufficient to exempt all of the debtor's property, the executing officer would have to report that fact to the court and the creditor and could not execute on the property. The property would be presumed to be fully exempt unless the creditor requested

and obtained a hearing and established that the property did not fall into a fully exempt category or included significant value in excess of the amount exempt, or that the exemption was not sufficient to exempt all of the debtor's property. The judgment creditor would have to request the hearing not later than seven days after the executing officer's report. Notice of the hearing would have to be mailed to the debtor and describe the steps the debtor could take to contest the judgment creditor's claim as to the value of the property. The debtor could contest the judgment creditor's claim by appearing in person or through a representative at the hearing, or by filing a written response stating the debtor's belief of the amount that the property was worth and certifying the existence and amount of any liens or security interests against the property. The court would have to consider such a statement as evidence.

If an exemption depended on the debtor's designation of the property to which the exemption would apply, and the exemption did not appear to the executing officer to be sufficient to exempt all the debtor's property, the executing officer would have to provide the debtor a form and written instructions for designating the property to which the exemption would apply. If the debtor did not file the designation with the court within seven days after receiving the form, the executing officer would have to designate the items that would be exempt. If the debtor filed a designation, the clerk of the court would have to notify the creditor. The items designated by the debtor would be presumed to be exempt unless the creditor requested a hearing not later than seven days after the clerk's notice and established at the hearing that the value of the property exceeded the exemption. The hearing would have to be conducted as described above.

Additional Notice Provisions

Under the bill, a creditor, court officer, sheriff, or other person could not levy execution, garnish, attach, or otherwise seize property that could be exempt without a court order reasonably identifying the property and the manner of levy. On entry of a judgment in an action to collect a consumer debt, the clerk of the court would have to mail a notice to the last known address of each debtor stating that the debtor was responsible for paying the judgment but that the court would not require it to be paid with exempt income, assets, or property. The notice also would have to provide information about how the debtor could file a request for installment payments. The clerk would have to note the address to which the notice was mailed in the record. If the notice were returned undelivered, the clerk also would have to note that in the record.

When a creditor obtained a writ of execution, the clerk of the court, court officer, sheriff, or other person would have to give notice to the debtor, to any person in possession of the property involved, and to any person known to the creditor after reasonable inquiry to have an ownership claim to the property involved. The notice would have to state the person's right to a hearing to claim exemptions that were not self-executing, to contest the seizure of exempt or necessary property, or to seek to set aside the judgment, and the steps the person could take to assert these rights. If documents were served on the person in connection with the execution, the notice would have to be included with the documents, but otherwise it would have to be given by first-class mail.

The Act allows a creditor to request the court to issue a subpoena to summon any person to appear before the court at a specified time and place for an examination. Under the bill, at this time, the creditor also would have to provide a notice to the debtor that the debtor was responsible for paying the judgment, that the court would not require the judgment to be paid with exempt income, assets, or property, and that the individual had the right to a hearing to claim exemptions, to contest the seizure of exempt or necessary property, or to seek to set aside the judgment.

These required notices would have to list the most common Federal and State exemptions, give examples of income, assets, and property that were commonly exempt, and list sources of additional related information, such as the State's law libraries or the court's website. The notice also would have to state that the debtor could file a motion to set aside the judgment and would have to list the most common grounds for such a motion, including improper service or active-duty military service at the time of the suit.

The bill would require the State Court Administrative Office, acting under the direction of the Supreme Court, to develop and make publicly available notices to garnishees that described the exemptions applicable to particular types of garnishment. The forms would have to instruct the garnishee not to turn over money or other property that the garnishee could reasonably identify as exempt, but instead to report back that the money or property was exempt.

Additional Provisions; Chapter 60

The bill would amend Chapter 28 (Judgement Liens) of the Act, which, among other things, provides that a judgement lien does not attach to an interest in real property owned as tenants by the entirety unless the underlying judgment is entered against both the husband and wife. The bill would amend this provision to provide that a judgement lien *also* would not apply to an interest in real property to the extent of any available exemption from execution under Chapter 60.

The bill also would provide that the court could not permit proceedings under Chapter 60 if the result would be to allow the enforcement of the judgment in a manner that was otherwise expressly prohibited under the Act or that would result in the evasion of express prohibitions under the Act.

Dollar Amount Adjustments

The dollar amounts in Chapter 60, primarily concerning Federal and State minimum wage, would have to be adjusted according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, compiled by the Bureau of Labor Statistics, United States Department of Labor. The Index for the December preceding the bill's effective date would be the reference base Index. The dollar amounts would have to be adjusted on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the Index for December of the preceding year and the reference base index were 10% or more. All the following would apply to the adjustment:

- The portion of the percentage change in the Index in excess of a multiple of 10% would have to be disregarded and the dollar amounts adjusted only in multiples of 10% of the amounts provided before any adjustment.
- The dollar amounts could not be adjusted if the amounts required were those in effect because of an earlier application.
- Changes in dollar amounts would have to be rounded to the nearest whole dollar.

If the Index were revised, the percentage of change would have to be calculated on the basis of the revised Index. If a revision of the Index changed the reference base Index, a revised reference base Index would have to be determined by multiplying the reference base Index applicable by the rebasing factor furnished by the United States Department of Labor Bureau of Labor Statistics. If the Index were superseded, the Index referred to by the bill would be the one represented by the United States Department of Labor Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

The State Treasurer would have to perform the calculations required and publish both of the following:

- On or before April 30 of each year in which dollar amounts were to change, the changes in dollar amounts.
- Promptly after the changes occurred, changes in the Index, including, if applicable, the numerical equivalent of the reference base Index under a revised reference base Index and the designation or title of any Index superseding the Index.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.