

HOUSE BILL 42

D3
HB 322/22 – JUD

(PRE-FILED)

3lr0578
CF SB 106

By: **Delegate Lopez**

Requested: October 19, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Judgments – Exemptions From Execution**

3 FOR the purpose of exempting up to a certain amount of money in certain accounts of a
4 judgment debtor from execution on the judgment without an election by the debtor
5 to exempt the money; establishing a certain limit on the cumulative value of property
6 and cash that may be exempted; requiring a writ of garnishment issued for certain
7 accounts to instruct the garnishee that it is to garnish only a certain amount; and
8 generally relating to exemptions from execution of a judgment.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 11–504
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2022 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Courts and Judicial Proceedings**

17 11–504.

18 (a) In this section, “value” means fair market value as of the date upon which the
19 execution or other judicial process becomes effective against the property of the debtor, or
20 the date of filing the petition under the federal Bankruptcy Code.

21 (b) The following items are exempt from execution on a judgment:

22 (1) Wearing apparel, books, tools, instruments, or appliances, in an amount
23 not to exceed \$5,000 in value necessary for the practice of any trade or profession except

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 those kept for sale, lease, or barter.

2 (2) Except as provided in subsection (i) of this section, money payable in
3 the event of sickness, accident, injury, or death of any person, including compensation for
4 loss of future earnings. This exemption includes but is not limited to money payable on
5 account of judgments, arbitrations, compromises, insurance, benefits, compensation, and
6 relief. Disability income benefits are not exempt if the judgment is for necessities contracted
7 for after the disability is incurred.

8 (3) Professionally prescribed health aids for the debtor or any dependent of
9 the debtor.

10 (4) The debtor's interest, not to exceed \$1,000 in value, in household
11 furnishings, household goods, wearing apparel, appliances, books, animals kept as pets,
12 and other items that are held primarily for the personal, family, or household use of the
13 debtor or any dependent of the debtor.

14 **(5) UP TO \$500 IN A DEPOSIT ACCOUNT OR OTHER ACCOUNT OF THE**
15 **DEBTOR HELD BY A BANK, CREDIT UNION, TRUST COMPANY, SAVINGS BANK, OR**
16 **SAVINGS AND LOAN ASSOCIATION OR ANY OF THEIR AFFILIATES OR SUBSIDIARIES,**
17 **WITHOUT ELECTION OF THE DEBTOR.**

18 **[(5)] (6)** Cash or property of any kind equivalent in value to \$6,000 is
19 exempt, if within 30 days from the date of the attachment or the levy by the sheriff, the
20 debtor elects to exempt cash or selected items of property in an amount not to exceed a
21 cumulative value of \$6,000, **EXCEPT THAT THE CUMULATIVE VALUE OF CASH AND**
22 **PROPERTY EXEMPTED UNDER THIS ITEM AND ITEM (5) OF THIS SUBSECTION MAY**
23 **NOT EXCEED \$6,000.**

24 **[(6)] (7)** Money payable or paid in accordance with an agreement or court
25 order for child support.

26 **[(7)] (8)** Money payable or paid in accordance with an agreement or court
27 order for alimony to the same extent that wages are exempt from attachment under [§
28 15–601.1(b)(1)(ii) or (2)(i)] **§ 15–601.1(B)(1)(I)** of the Commercial Law Article.

29 **[(8)] (9)** The debtor's beneficial interest in any trust property that is
30 immune from the claims of the debtor's creditors under § 14.5–511 of the Estates and Trusts
31 Article.

32 **[(9)] (10)** With respect to claims by a separate creditor of a husband or
33 wife, trust property that is immune from the claims of the separate creditors of the husband
34 or wife under § 14.5–511 of the Estates and Trusts Article.

35 (c) (1) **(I)** In order to determine whether the property listed in subsection
36 (b)(4) and **[(5)] (6)** of this section is subject to execution, the sheriff shall appraise the

property at the time of levy. The sheriff shall return the appraisal with the writ.

[(2)] (II) An appraisal made by the sheriff under this [subsection] **PARAGRAPH** is subject to review by the court on motion of the debtor.

[(3)] (III) Procedures will be as prescribed by rules issued by the Court of Appeals.

(2) A WRIT OF GARNISHMENT ISSUED FOR A DEPOSIT ACCOUNT OR OTHER ACCOUNT HELD BY A BANK, CREDIT UNION, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION OR ANY OF THEIR AFFILIATES OR SUBSIDIARIES SHALL INSTRUCT THE GARNISHEE THAT, SUBJECT TO ADDITIONAL EXEMPTIONS, IT IS TO GARNISH ONLY THE AMOUNT EXCEEDING THE AMOUNT EXEMPTED WITHOUT ELECTION OF THE DEBTOR.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) (1) (i) In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled “Bankruptcy”, any individual debtor domiciled in this State may exempt the debtor’s aggregate interest in:

1. Personal property, up to \$5,000; and

2. Subject to subparagraph (ii) of this paragraph:

A. Owner-occupied residential real property, including a condominium unit or a manufactured home that has been converted to real property in accordance with § 8B-201 of the Real Property Article; or

B. A cooperative housing corporation that owns property that the debtor occupies as a residence.

(ii) The exemption allowed under subparagraph (i)2 of this paragraph may not exceed the amount under 11 U.S.C. § 522(d)(1), adjusted in accordance with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of this subsection.

(2) An individual may not claim the exemption under paragraph (1)(i)2 of this subsection on a particular property if:

(i) The individual has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed; or

(ii) The individual's spouse, child, child's spouse, parent, sibling, grandparent, or grandchild has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed.

(3) The exemption under paragraph (1)(i)2 of this subsection may not be claimed by both a husband and wife in the same bankruptcy proceeding.

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt from any and all claims of the creditors of the beneficiary or participant, other than claims by the Maryland Department of Health.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described under paragraph (1) of this subsection shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Maryland Department of Health.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued earnings on such a portion, are not exempt under paragraph (1) of this subsection.

(i) (1) In this subsection, "net recovery" means the sum of money to be distributed to the debtor after deduction of attorney's fees, expenses, medical bills, and

1 satisfaction of any liens or subrogation claims arising out of the claims for personal injury,
2 including those arising under:

3 (i) The Medicare Secondary Payer Act, 42 U.S.C. § 1395y;

4 (ii) A program of the Maryland Department of Health for which a
5 right of subrogation exists under §§ 15–120 and 15–121.1 of the Health – General Article;

6 (iii) An employee benefit plan subject to the federal Employee
7 Retirement Income Security Act of 1974; or

8 (iv) A health insurance contract.

9 (2) Twenty–five percent of the net recovery by the debtor on a claim for
10 personal injury is subject to execution on a judgment for a child support arrearage.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
12 apply only prospectively and may not be applied or interpreted to have any effect on or
13 application to any writ of garnishment or writ of execution issued before the effective date
14 of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2023.