

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2023

CHAPTER _____

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 procedures a depository institution is required to
6 follow on receipt of a writ of garnishment or other levy or attachment under certain
7 circumstances; establishing a certain limit on the cumulative value of property and
8 cash that may be exempted; requiring a writ of garnishment issued for certain
9 accounts to instruct the garnishee that it is to garnish only a certain amount; and
10 generally relating to exemptions from execution of a judgment.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 11–504
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2022 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 11–504.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~(a) In this section, "value" means fair market value as of the date upon which the~~

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DEPOSITORY INSTITUTION" MEANS A BANK, CREDIT UNION, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION, OR ANY OF THEIR AFFILIATES OR SUBSIDIARIES.

(3) "VALUE" MEANS FAIR MARKET VALUE AS OF THE DATE ON WHICH THE execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

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

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

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

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

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

(5) ~~UP~~ SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION, UP TO \$500 IN A DEPOSIT ACCOUNT OR OTHER ACCOUNT OF THE DEBTOR HELD BY A ~~BANK, CREDIT UNION, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION OR ANY OF THEIR AFFILIATES OR SUBSIDIARIES~~ DEPOSITORY INSTITUTION, WITHOUT ELECTION OF THE DEBTOR.

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

1 [(6)] (7) Money payable or paid in accordance with an agreement or court
2 order for child support.

3 [(7)] (8) Money payable or paid in accordance with an agreement or court
4 order for alimony to the same extent that wages are exempt from attachment under [§
5 15–601.1(b)(1)(ii) or (2)(i)] **§ 15–601.1(B)(1)(I)** of the Commercial Law Article.

6 [(8)] (9) The debtor’s beneficial interest in any trust property that is
7 immune from the claims of the debtor’s creditors under § 14.5–511 of the Estates and Trusts
8 Article.

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

12 (c) (1) (I) In order to determine whether the property listed in subsection
13 (b)(4) and [(5)] (6) of this section is subject to execution, the sheriff shall appraise the
14 property at the time of levy. The sheriff shall return the appraisal with the writ.

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

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

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

25 (II) **A DEPOSITORY INSTITUTION MAY NOT BE LIABLE TO THE**
26 **JUDGMENT CREDITOR FOR ACTIONS TAKEN IN GOOD FAITH RELIANCE ON THE**
27 **INSTRUCTIONS IN THE WRIT OF GARNISHMENT REQUIRED UNDER THIS PARAGRAPH.**

28 (3) (I) **A DEPOSITORY INSTITUTION SHALL, ON RECEIPT OF A WRIT**
29 **OF GARNISHMENT OR OTHER LEVY OR ATTACHMENT, ANSWER THE WRIT OF**
30 **GARNISHMENT OR OTHER LEVY OR ATTACHMENT AND, IF THE DEBTOR MAINTAINS**
31 **ANY DEPOSIT ACCOUNTS WITH THE DEPOSITORY INSTITUTION, STATE:**

32 1. **THAT THE TOTAL AMOUNT DOES NOT EXCEED \$500;**
33 **OR**

2. THE AMOUNT OF FUNDS IN EXCESS OF \$500 THAT HAS BEEN HELD PENDING FURTHER ORDER OF COURT.

(II) FOR ANY FUNDS IN EXCESS OF \$500, THE DEPOSITORY INSTITUTION SHALL FOLLOW ALL OTHER CUSTOMARY PROCEDURES FOR HANDLING A WRIT OF GARNISHMENT OR OTHER LEVY OR ATTACHMENT, INCLUDING FREEZING OF FUNDS.

(III) 1. IF A DEBTOR HOLDS AN INTEREST IN MULTIPLE DEPOSIT ACCOUNTS AT A SINGLE DEPOSITORY INSTITUTION, THE DEPOSITORY INSTITUTION MAY DETERMINE HOW AND TO WHICH ACCOUNT OR ACCOUNTS THE \$500 EXEMPTION SHOULD BE APPLIED.

2. THIS SUBPARAGRAPH DOES NOT CREATE A CAUSE OF ACTION AGAINST A DEPOSITORY INSTITUTION THAT COMPLIES WITH A WRIT OF GARNISHMENT OR OTHER LEVY OR ATTACHMENT.

(IV) THE EXEMPTION UNDER SUBSECTION (B)(5) OF THIS SECTION:

1. APPLIES SEPARATELY TO EACH DEPOSITORY INSTITUTION AND TO EACH WRIT OF GARNISHMENT DIRECTED TO A DEPOSITORY INSTITUTION; AND

2. DOES NOT PRECLUDE OR REDUCE A DEBTOR'S RIGHTS TO ANY OTHER EXEMPTION PROVIDED BY STATE OR FEDERAL LAW.

(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

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

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

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

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

11 (ii) The individual's spouse, child, child's spouse, parent, sibling,
12 grandparent, or grandchild has claimed successfully the exemption on the property within
13 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this
14 subsection is claimed.

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

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

19 (h) (1) In addition to the exemptions provided in subsections (b) and (f) of this
20 section and any other provisions of law, any money or other assets payable to a participant
21 or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan
22 qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United
23 States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January
24 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt
25 from any and all claims of the creditors of the beneficiary or participant, other than claims
26 by the Maryland Department of Health.

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

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

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

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

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

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

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

(iv) A health insurance contract.

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

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

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