

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	10 - 0 - 0
Yeas:	Barton, Cowan, Gilliam, Krieger, Matthews, Riley, Tomei, Weidner, Wingard, Holvey
Nays:	0
Exc.:	0
Prepared By:	Victoria Cox, Administrator
Meeting Dates:	5/20, 5/27

WHAT THE MEASURE DOES: Protects amount in garnishee's financial account that is equal to the lesser of amount of certain direct deposit or electronic transfer exempt funds deposited in calendar month preceding delivery of writ of garnishment or total balance in account. Specifies funds exempt from garnishment. Specifies that protection applies when financial institution can identify qualifying exempt funds based on information received from the payor or when account holder formally identifies qualifying exempt funds. Specifies first in, first out as accounting method to be used when identifying exempt funds. Prohibits financial institution from charging processing fee if debtor's deposited funds are not subject to garnishment. Increases garnishment search fee paid to financial institution from \$10 to \$15. Exempts Department of Revenue from search fee increase. Releases financial institution from liability if institution acts in good faith when determining whether funds are subject to garnishment.

ISSUES DISCUSSED:

- Funds exempt from garnishment
- How financial institutions identify exempt funds
- Information transmitted to financial institutions by exempt fund payors
- Time required to recover exempt funds paid in error
- Use of affidavits to identify exempt funds
- Cost of maintaining segregated accounts

EFFECT OF COMMITTEE AMENDMENT: Specifies that information received from the payor is to be used to identify exempt funds.

BACKGROUND: Federal and state law prohibit the garnishment of certain funds. Funds exempt from garnishment include: Social Security benefits, veterans' benefits, unemployment insurance benefits, public assistance, workers' compensation, and other similar benefits or payments. Current law permits a judgment creditor to garnish an account in a financial institution, even if the debtor's funds in that account are exempt. The financial institution pays the creditor from the garnished account. In order to recover the exempt funds, the debtor must file a challenge to the garnishment and go to court. A debtor may incur fees from the financial institution or other entities if, during the process of garnishment and recovery of exempt funds, the debtor overdrafts or makes late payments because of temporarily insufficient funds in an account.

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This summary has not been adopted or officially endorsed by action of the committee.