

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 814
Economic Matters

(Delegates Norman and Niemann)

Commercial Law - Debt Collection - Attachment Fees

This bill generally prohibits an employer/garnishee that is served with an attachment of wages from charging a judgment debtor any fee for responding to the attachment, withholding attachable fees, or remitting an amount to the judgment creditor or debtor. For each attachment served on a financial institution, the bill prohibits the financial institution/garnishee from charging the judgment debtor a fee greater than \$50 for responding to the attachment, withholding property, or remitting property to the judgment creditor or debtor.

Fiscal Summary

State Effect: Significant decrease in general fund revenues for the Comptroller's Office in FY 2014 and subsequent years to the extent that a financial institution charges an attachment fee of up to \$50 to the Comptroller for the placement of a bank attachment on a business tax account. No impact on general fund expenditures.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Attachment on a judgment is a tool by which a judgment creditor can reach the assets of a judgment debtor in the hands of a third party, the garnishee. An attachment may be issued against any property or credit, matured or unmatured, which belongs to a debtor.

A judgment creditor may also garnish up to 25% of the disposable wages of a judgment debtor, including one employed by the State, a county, municipal corporation, political subdivision, or private business for the enforcement of a private legal obligation. Disposable earnings are those remaining after legally required deductions are taken, including State and federal taxes, Social Security, unemployment insurance, and medical insurance. Under the Commercial Law Article, the following are exempt from attachment:

- any medical insurance payment deducted from an employee's paycheck;
- except as specified for certain counties, the greater of (1) the product of \$145 multiplied by the number of weeks in which the wages due were earned or (2) 75% of the disposable wages due; or
- in Caroline, Kent, Queen Anne's, and Worcester counties, for each work week, the greater of (1) 75% of the disposable wages due or (2) 30 times the federal minimum hourly wages under the Fair Labor Standards Act (FLSA) in effect at the time the wages are due.

Attachment of a judgment debtor's disposable wages is a lien that continues until the judgment, interests, and costs, as specified in the attachment, are satisfied. As long as the attachment remains a lien, the employer/garnishee must withhold all applicable wages payable to the judgment debtor and remit that amount to the judgment creditor within 15 days of the last pay period of each month. If the employer/garnishee is served with more than one attachment against the same judgment debtor, then each attachment is satisfied in the order in which they were served. Each prior attachment must be satisfied before the subsequent attachment can take effect.

Background: Title III of the federal Consumer Credit Protection Act (CCPA) prohibits an employer from firing an employee because the employee's wages have been garnished for any one debt; it also limits the amount of an employee's earnings that may be garnished per week. Under Title III of CCPA, the amount of an employee's earnings that may be garnished per week or pay period is the lesser of 25% of disposable earnings or the amount of disposable earnings that are more than 30 times the federal minimum hourly wage prescribed by FLSA. The federal minimum wage is \$7.25 per hour. The Wage and Hour Division of the Employment Standards Administration is responsible for administering and enforcing Title III of CCPA.

State Fiscal Effect: Significant decrease in general fund revenues for the Comptroller's Office in fiscal 2014 and subsequent years to the extent that a financial institution charges an attachment fee of up to \$50 to the Comptroller for the placement of a bank attachment on a business tax account.

The Comptroller is sanctioned to collect taxes on behalf of the State of Maryland. If a business fails to file a tax return or make a payment, the Comptroller of Maryland may use several methods to ensure compliance and collect past-due taxes. One such method is to serve a request on a financial institution for an attachment on a business tax account.

In fiscal 2012, the Comptroller placed financial institution attachments on approximately 12,725 business tax accounts. However, the amount of decrease in revenues is unknown because financial institutions do not charge the Comptroller any fee for the placement of an attachment. It is possible that a financial institution will not charge a fee or may not charge the entire \$50. If the Comptroller, as the judgment debtor, were charged \$50 per bank attachment, the potential annual revenue loss would be approximately \$636,250.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; U.S. Department of Labor; Department of Legislative Services

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ncs/kdm

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