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H.B. 6372 – Protection of exempt funds in bank accounts

Testimony of Raphael L. Podolsky
Banking Committee public hearing – February 9, 2021

Recommended Committee action: APPROVAL OF THE BILL

Existing Connecticut law prohibits banks from freezing or turning over to creditors the first $1,000 in bank accounts if it is "readily identifiable" to the bank that directly-deposited funds (which are electronically "tagged" to disclose their purpose) are exempt from creditors. The protection for such funds is automatic, and the account holder needs do nothing to implement this protection. "Readily identifiable," however, is narrowly defined; and the $1,000 cap is unforceable as to directly-deposited federal benefits (such as Social Security) and unreasonable as to state-created exempt benefits. The failure to require automatic protection results in all or parts of accounts being frozen, account holders being unable to get money to pay for ongoing expenses (groceries, rent, gasoline, etc.), ATM withdrawals and debit cards being blocked, and all sorts of new fees being assessed as checks bounce and bills go into default. This can be disastrous for families who live off current daily, weekly, or monthly income.

H.B. 6372 fixes many of these problems, primarily by defining "readily available" more broadly so as to make more protection automatic and to reduce the need for protections to be "claimed" by the account holder. Claiming results in freezing of funds, delays in access to the money, and in many cases complete loss of the exempt funds to the creditor (because many account holders do not understand the system and do not file a claim). In addition, many creditors use the freezing of funds as a way to leverage account holders to waive their claim to exemption and "voluntarily" agree to allow creditors to retain some or all of these funds that they could not legally obtain by bank account execution.

H.B. 6372 accomplishes these changes in two principal ways:

- Small accounts: It automatically protects the first $1,000 in each account. Everyone has a $1,000 exemption. Why should a claim procedure be necessary if the account contains less than $1,000? The practical effect is to preclude the removal of funds from accounts of under $1,000. This also saves banks the administrative costs related to the notices and processing that are part of the cumbersome claiming system for those small accounts. In addition, it brings Connecticut in line with states such as Massachusetts, New York, and California, which all have automatic self-enforcing protections with exemptions of well over $1,000. The Massachusetts protection, which is $2,500, was adopted just last year.

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- Existing protected direct deposits: For those direct deposits for which the existing statute already automatically protects the first $1,000, it eliminates the $1,000 cap. There is no point to this cap. These are exempt directly-deposited unemployment compensation, child support, wages, and Social Security and other federal benefits. As noted, this cap is unenforceable as to federal benefits. As to state benefits, since banks have obviously already identified the deposits as exempt and know the full amount of the exemption, why should the account holder have to face a full or partial account freeze and delayed claim process for the balance? Why, for example, should a custodial parent have to go through a claims process for weeks to get back a portion of a child support payment that is 100% exempt and was directly deposited into the account through a state agency?

We urge you to make these fixes to the system.