

Banking Committee JOINT FAVORABLE REPORT

Bill No.: HB-6372

AN ACT EXEMPTING FROM EXECUTION CERTAIN FUNDS IN A JUDGMENT

Title: DEBTOR'S ACCOUNT.

Vote Date: 2/23/2021

Vote Action: Joint Favorable Substitute

PH Date: 2/9/2021

File No.: 51

***Disclaimer:** The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

SPONSORS OF BILL:

Banking Committee
Sen. Martin Looney – 11th Dist.

REASONS FOR BILL:

To require that financial institutions leave certain exempt funds in a judgement debtors account. It will allow all readily identifiable direct deposits (in certain categories) to be fully and automatically exempt. The bill will also allow for the one-thousand-dollar wild card exemption to be automatically claimed. It closes the loophole that now causes people to have to go to court to keep the last \$1,000 they have – and even then many people don't know this exemption already exists by law.

Existing Connecticut law in subsection (n) of section 52-352b does not include wages under the exempt property. The new bill will add this language in this subsection which will eliminate wages from its previous cap of one thousand dollars. (JFS language took wages out)

RESPONSE FROM ADMINISTRATION/AGENCY:

None Expressed

NATURE AND SOURCES OF SUPPORT:

Several Speakers testified that the current wildcard exemption does not guarantee protection of debtors last one thousand dollars. They spoke of personal experiences where clients faced procedural hurdles that would have been dire if it were not for their expertise and help. In order to claim exemption, people who may have the knowledge, money, or time are required

to fill out papers in court. During this time the money may be frozen from use until the court can verify this exemption. HB 6372 eliminates these difficulties of obtaining exemptions by automatically protecting one thousand dollars in a bank account, allowing people immediate access to pay necessities.

- **Ben A. Solnit, Lawyer, Connecticut Legal Services**
- **Cheryl Diane Feuerman, Project Manager, Consumer Law Project for Elders, Connecticut Legal Services**
- **David F. Falvey, Attorney, Action Advocacy**
- **Diana Pfeiffer, Vice President of Loan Servicing/Collections, Sikorsky Financial Credit Union**
- **Kathleen Flaherty, Executive Director, CT Legal Rights Project**
- **Martin M. Looney, Senator, Connecticut General Assembly**
- **Michelle Fica, Staff Attorney, Connecticut Legal Services**
- **Rochelle Palache, District Director and Vice President, Services Employees International Union**
- **Sarah Poriss, Attorney, West Hartford**
- **Susan M. Williams, Attorney, Enfield**

Carolyn L. Carter, Deputy Director, National Consumer Law Center: Inequities exist in the current statute that HB 6372 will address. Currently, only readily identifiable wages, Social Security benefits, and certain other benefits are electronically deposited. This lacks protection for retirees' pension's that do not fall into one of those categories. HB 6372 will reduce the harms faced by debtors by self-executing protection of the first one thousand dollars in the account. This bill will lessen the burden on banks who will no longer have to determine whether money in an account equal or less than one thousand dollars is protected. The burden on the courts will also be diminished because they will not take on as many exemption claims.

Raphael L. Podolsky, Public Policy Advocate, Connecticut Legal Services: HB 6372 reduces the number of claims by the account holder and results in less freezing of funds. This bill brings Connecticut in line with neighboring states, and he supports the automatic protection on accounts containing less than one thousand dollars. Mr. Podolsky also agrees with the language that eliminates the one-thousand-dollar cap on items that are identified and listed as one hundred percent exempt.

Sal Luciano, President, Connecticut AFL-CIO: Funds that are one hundred percent exempt should not have a one-thousand-dollar cap on the amount automatically protected. He supports HB 6372 because it eliminates this monetary cap and will automatically protect

items listed under the exemption statute, such as stimulus payments or unemployment benefits.

Sarah White, Connecticut Co-chair, National Association of Consumer Advocates:

Supports the automatic exemption of the \$1,000 wild card in consumers bank accounts. Also supports the cost-of-living update for protections from repossession for motor vehicles owners.

NATURE AND SOURCES OF OPPOSITION:

Several speakers shared similar testimony in opposition of HB 6372. They feel this bill will prevent small businesses from using a bank execution to claim lawfully owed money. They pointed to the existing statute as being adequate in protecting the money for people who need it to survive, including the wild card exemption. They fear this new bill will allow people to shelter assets from judgement creditors by allocating smaller amounts to multiple bank accounts. They also believe this reverses the 2016 Connecticut Supreme Court decision in *The Cadle Co. v. Fletcher*. This bill alters the playing field in favor of judgement debtors, allowing the evasion to pay court-ordered, legal obligations to creditors. The passing of this bill would effectively eliminate a creditor's ability to execute on funds in a judgement debtors account.

- **Adam J. Olshan, Attorney, Connecticut Creditor Bar Association**
- **Brian Mezick, Connecticut State Marshal, County of New Haven**
- **Donald Maurice, Representative, Receivables Management Assoc. International**
- **Joan-Alice Taylor, Owner and Physical Therapist, Taylor Therapy Center**
- **Linda Strumpf, Attorney, New Cannon**
- **Putnam Lowery, Attorney, Ford & Paulekas**
- **Russell London, Co-managing Attorney, London & London**
- **Sonia Gibson, National Government Affairs, Encore Capital Group**

Bruce Adams, President & CEO, Credit Union League of Connecticut: This bill discards 50 years of precedent that has balanced the rights of creditors and debtors concerning Connecticut post-judgement execution laws. Before making major change to laws that have been around since the Connecticut Law Review Commission in 1981, a deeper conversation is necessary to understand implications and unintended consequences.

Charles A. Maglieri, Attorney, Grafstein & Arcaro: He believes the bill addresses important reforms to the complexities of bank executions. However, Mr. Maglieri notes that providing banks with the right to turn over funds exceeding the wild card exemption of one thousand dollars to the debtor without further court order is a violation of due process. He does not want to lessen fair due process in exchange for a faster process. He recommends alternatives to expedite the process, including a 'notice of accounting' which asks the parties if they agree with the analysis, and conducting a hearing as quickly as possible if one side

objects. His suggestions also include a provision to always exempt one thousand dollars from the administrative freeze.

Thomas S. Mongellow, President & CEO, Connecticut Bankers Association: HB 6372 would expand the list of electronic direct deposits that a financial institution is required to automatically protect from an execution. The concern is that some of the added items are not as easily identifiable, particularly with wages, as exempt funds currently on the list. This increases the risk that financial institutions failing to identify and protect exempt direct deposits. There will also be added costs for financial institutions in identifying the expanded list of direct deposits.

Tim Bonner, East Haven, Resident: In 2014, Mr. Bonner had his life savings stolen from him from his investment advisor. With the current laws in place, he has not even recovered the costs of his civil lawsuit. The new laws will take away even more rights for creditors like him trying to collect on money that is theirs. It is not just that he is owed his life savings back but cannot even collect wages from the debtor's bank account.

Reported by: Kyle Delbalso / Dawn Marzik

Date: 3/23/2021