

HOUSE BILL REPORT

HB 2300

As Reported by House Committee On:
Judiciary

Title: An act relating to updating creditor/debtor personal property exemptions.

Brief Description: Updating creditor/debtor personal property exemptions.

Sponsors: By Representatives Lantz and Esser.

Brief History:

Committee Activity:

Judiciary: 1/15/02, 1/22/02 [DP].

Brief Summary of Bill

- Makes changes to the types and amounts of personal property exemptions that are available to a debtor whose property is subject to execution, attachment or garnishment.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Lantz, Chair; Hurst, Vice Chair; Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Without recommendation. Signed by 2 members: Representatives Carrell, Ranking Minority Member; and Boldt.

Staff: Edie Adams (786-7180).

Background:

A creditor may seek payment for money or property owed by a debtor through execution, attachment or garnishment of the debtor's personal property. A portion of a debtor's property is protected against judgment creditors through exemptions. Washington law provides a number of personal property exemptions for items such as clothing, household goods, cars and tools of the trade. Some of the personal property exemptions are:

- Household goods, appliances and furniture not to exceed \$2,700 for an individual or a

community;

- Other personal property not to exceed \$1,000, including not more than \$100 in cash, and \$100 in bank or savings and loan accounts, or securities; and
- Two motor vehicles not to exceed \$2,500 in aggregate value.

There are no exemptions for child support payments, health aids, or for personal injury or loss of future earnings payments.

When an individual files for bankruptcy, certain property is exempt from the bankruptcy estate. A Washington debtor who files for bankruptcy may choose to claim either the property exemptions that are available under federal bankruptcy law or the property exemptions available under state law. Many of the exemptions available under federal law are higher than the state exemptions or are not available under state law. For example, the federal law provides exemptions for child support payments, health aids and portions of personal injury and loss of future earnings payments.

Summary of Bill:

The following changes are made to the types and amounts of personal property that are exempt from execution, attachment or garnishment:

- Household goods not to exceed \$2,700 for the individual and \$5,400 for the community;
- Other personal property not to exceed \$2,000, including not more than \$200 in cash and \$200 in bank or savings and loan accounts, or securities;
- Motor vehicle not to exceed \$2,500 for an individual or for a community two motor vehicles not to exceed \$5,000 in aggregate value;
- All child support payments;
- All professionally prescribed health aids;
- Personal injury payments, not to exceed \$16,150, and not including compensation for pain and suffering or actual monetary loss;
- Compensation for loss of future earnings to the extent necessary for the support of the debtor or a dependent.

The exemptions for personal injury claims and loss of future earnings claims do not apply

to the state's right to seek reimbursement for medical care assistance.

The personal property exemptions are not available against a judgment for criminal restitution or for actions instituted by or on behalf of a child support agency operating under federal child support laws.

A person who claims an exemption has the burden of establishing the exemption by providing sufficient documentation.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill updates the minimal protection to debtors with modest increases based on what a family needs for survival. All of the increases or expansions are derived from existing state or federal law. The bill balances the need for additional debtor protections with the needs of dependents by exempting child support payments and providing that the property exemptions are not available in actions by the Division of Child Support (DCS). There are adequate safeguards in the form of hardship waivers in the DCS's procedures to protect a person with a hardship.

(With concerns) The bill presents some significant concerns from a lender's perspective. Shielding more property from a bank creditor will hurt other innocent borrowers who will have to make up the losses.

Testimony Against: None.

Testified: (In support) Martin Snodgrass, Washington State Bar Association; and David Stillman, Department of Social and Health Services, Division of Child Support.

(With concerns) Gary Gardner, Boeing Employees Credit Union.