

HOUSE BILL REPORT

HB 2702

As Reported by House Committee On:
Judiciary

Title: An act relating to enforcement of judgments.

Brief Description: Changing provisions relating to the enforcement of judgments.

Sponsors: Representatives Carrell, Lantz and Boldt.

Brief History:

Committee Activity:

Judiciary: 2/7/02 [DPS].

Brief Summary of Substitute Bill

- Expands the law that allows a 10 year extension of the time for enforcing a judgment from a superior court to also cover judgments originating from federal courts, courts of other states, and district courts of this state.
- Allows the assignee or other current owner of a judgment to get a 10 year extension on the enforcement of a judgment in the same manner as the original judgment creditor.
- Clarifies that garnishment and other legal procedures can be used to enforce a judgment that has been extended.
- Provides that an extension must be granted to a judgment creditor as a matter of right, subject to limited review.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Boldt, Esser, Jarrett, Lovick and Lysen.

Minority Report: Do not pass. Signed by 1 member: Representative Dickerson.

Staff: Bill Perry (786-7123).

Background:

The statute of limitations for enforcing the judgment of a court is generally 10 years. In 1994, however, the Legislature authorized judgment creditors to seek a 10 year extension on this period. Under the current law, a judgment creditor may, within 90 days before the expiration of the 10 year period, apply to the court that issued the judgment for an extension. These provisions apply to all manner of civil judgments and also include restitution or other financial obligations ordered in criminal cases, and both judicial and administrative orders for the payment of accrued child support.

The current extension provision is limited to judgments from "courts of record of this state." It also authorizes an extension only for "a party in whose favor a judgment has been rendered." Courts have held that these provisions mean that extensions cannot be applied for if the judgment is from a federal court, or if the judgment is currently held by someone other than the original judgment creditor.

Summary of Substitute Bill:

The class of courts whose judgments may be extended for an additional 10 years is expanded to include not just "courts of record of this state," but also:

- The U.S. Supreme Court, courts of appeal, district courts, and bankruptcy courts;
- The Washington state Supreme Court, courts of appeal, superior courts, and district courts; and
- Courts from other states and jurisdictions whose judgments have been filed in a Washington court.

The assignee or other current holder of a judgment may seek an extension of the 10 year statute of limitations.

Garnishment or "other legal process" are explicitly included as enforcement mechanisms that may be used by a judgment creditor during the original 10 year period of limitation and during an extension.

Generally, judgments are not enforceable beyond 20 years past the date of entry of the judgment in the originating court. However, the 20 year limit does not apply to judgments for child support or to court-ordered legal obligations in adult or juvenile criminal cases. Extensions under Washington law do not operate to extend the expiration date of foreign judgments beyond the date applicable in the jurisdiction of origin.

An application for an extension must be granted as a matter of right, subject to review only on questions of timeliness of the application, factual dispute over whether or how

much of the debt is still owed, or errors in calculating the judgment summary amounts.

A properly filed and recorded judgment lien does not need to be re-recorded upon the extension of the judgment, and the lien retains its original priority position.

No filing fee is required when a collection agency or county collection service applies for an extension regarding a court-ordered restitution or other legal financial obligation.

Substitute Bill Compared to Original Bill:

The substitute adds the provisions clarifying that the 20 year limit on enforcement does not apply to child support or court-ordered legal obligations, and that foreign judgments cannot be extended beyond the limit applicable in the jurisdiction of origin.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The bill just restores the original intent of the legislation which was to allow all judgments to be extended. Two court opinions narrowly interpreting the statute have narrowed the affect of the current law.

Testimony Against: None.

Testified: Patrick Layman, attorney; and Kevin Underwood, Washington Collector's Association.