

HOUSE BILL REPORT

SB 6266

As Passed House:

March 7, 2002

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

Brief Description: Updating creditor/debtor personal property exemptions.

Sponsors: By Senators Johnson and Kline.

Brief History:

Committee Activity:

Judiciary: 2/22/02, 2/25/02 [DP].

Floor Activity:

Passed House: 3/7/02, 93-0.

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.
- Provides that 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.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 8 members: Representatives Lantz, Chair; Hurst, Vice Chair; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Without recommendation. Signed by 1 member: Representative Carrell, Ranking Minority Member.

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 not more than \$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 earning 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:

- Raises the household goods exemption for a community to \$5,400;
- Increases the other personal property exemption to \$2,000, including not more than \$200 in cash and \$200 in bank or savings and loan accounts, or securities;
- Raises the motor vehicle exemption to one motor vehicle for an individual not to exceed \$2,500 or two vehicles for a community not to exceed \$5,000 in aggregate value;
- Adds all child support payments;
- Adds all professionally prescribed health aids;
- Adds personal injury payments, not to exceed \$16,150, and not including compensation for pain and suffering or actual monetary loss; and

- Adds 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. The current economy makes this bill even more important. People are having to declare bankruptcy to protect enough of their assets to get by because the federal bankruptcy exemptions are higher. 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.

Testimony Against: The bill presents some significant concerns from a lender's perspective. The bill sends the wrong message. Debtors should repay their debts. Shielding more property from a bank creditor will hurt other innocent borrowers who will have to make up the losses. The expansion in the bill goes beyond what is needed to maintain a household. Increasing the property that is shielded increases the risks of loans which will put in jeopardy the availability of capital for people whose loans are on the margin.

Testified: (In support) Gail Stone, Washington State Bar Association; and Georgiann Dekay, Department of Social and Health Services, Division of Child Support.

(Opposed) Gary Gardner, Boeing Employee Credit Union and United Financial Lobby; and Denny Eliason, Washington Bankers Association.