

SENATE BILL REPORT

SB 6352

As of January 18, 2010

Title: An act relating to modifying provisions on personal property exempt from execution, attachment, and garnishment.

Brief Description: Modifying provisions on personal property exempt from execution, attachment, and garnishment.

Sponsors: Senator Kline.

Brief History:

Committee Activity: Judiciary: 1/15/10.

SENATE COMMITTEE ON JUDICIARY

Staff: Karen Campbell (786-7448)

Background: An individual's personal property can be taken to satisfy a debt by garnishment, attachment, or the execution of a judgment. Garnishment, attachment, and the execution of a judgment are legal judgments against a debtor, by a creditor, for a claim owed to him or her. However, not all of a person's property can be seized by utilization of these proceedings. A person is allowed to retain portions of their personal property up to certain amounts. These amounts are as follows:

- apparel, jewelry, furs, and personal ornaments up to \$1,000 for an individual;
- private libraries up to \$1,500;
- household goods, appliances, furniture, home and yard equipment not to exceed \$2,700 for an individual or \$5,400 for the community;
- other personal property up to \$2,000: not more than \$200 may consist of cash, money in bank accounts, savings and loan accounts, stocks, bonds, or other securities;
- a motor vehicle up to \$2,500 for an individual; or \$5,000 for two vehicles belonging to a community;
- personal injury claims up to \$16,150;
- farm equipment, including vehicles and tools, up to \$5,000;
- office equipment, supplies, furniture, and library of a professional person such as an attorney, clergyman, or surgeon not to exceed \$5,000;
- tools and instruments necessary to carry on a trade up to \$5000; and
- tuition units in Washington's Guaranteed Education Tuition (GET) account purchased two years prior to the date of bankruptcy filing or court judgment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The money contained in some employee benefit plans is exempt from execution, attachment, or garnishment. A debtor is allowed to retain up to \$2,500 if in a fixed annuity.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The amount of personal property a person is allowed to retain is increased as follows:

- apparel, jewelry, furs, and personal ornaments up to \$5,000 for an individual;
- private libraries up to \$3,000; library is expanded to include electronic media;
- household goods, furniture, home and yard equipment up to \$10,000 for an individual or \$15,000 for the community;
- other personal property up to \$10,000: not more than \$2,500 may consist of cash, money in bank accounts, savings and loan accounts, stocks, bonds, or other securities;
- a motor vehicle up to \$5000 for an individual; or \$10,000 for two vehicles belonging to a community;
- personal injury claims up to \$25,000;
- farm equipment, including vehicles and tools, up to \$25,000;
- office equipment, supplies, furniture, and library of a professional person such as an attorney, clergyman, or surgeon not to exceed \$25,000;
- tools and instruments necessary to carry on a trade up to \$25,000; and
- tuition unit exemption to Coverdell education savings accounts and all tuition savings accounts covered by Section 529 of the Internal Revenue Code (commonly known as a 529 plan).

The definition of employee benefit plan is expanded to include custodial accounts, individual retirement annuities, or a health savings account. A debtor is allowed to retain up to \$5000 of income received from a fixed annuity.

The Washington State Bar Association must review the monetary threshold amounts and make recommendations to the Legislature every five years concerning whether the amounts should be modified.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The changes in the bill provide direct benefits to those affected by the current fiscal crises. For example, the motor vehicle exemption increase reflects a reasonable amount of what an individual would need to survive in today's dollars. Some of the amounts have not changed since 1965. The amounts were compared to federal exemption limits and those found in other states. The increases are fair to everyone including both debtors and creditors.

CON: The increase in the personal property exemption amounts negatively impact those seeking to collect on garnishments. The amounts are higher than the federal exemption limits and could be subject to abuse by some individuals. The largest concern is the bank exemption amount. The increase is very large, well over five times the current amount. The proposed increases in exemption limits will take away the ability to negotiate creditor claims particularly in the area of garnishment proceedings.

Persons Testifying: PRO: Bill Hames, Attorney, Washington State Bar Association.

CON: Ray Henning, Kevin Underwood, Washington Collectors Association.