HOUSE BILL REPORT
SHB 1602

As Passed Legislature

Title: An act relating to consumer debt.

Brief Description: Concerning consumer debt.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Reeves, Walen, Jinkins, Appleton, Ryu, Morgan, Orwall, Ortiz-Self, Hudgins and Ormsby).

Brief History:
Committee Activity:
Civil Rights & Judiciary: 2/6/19, 2/15/19 [DPS].
Floor Activity:
Passed House: 3/1/19, 72-22.
Senate Amended.
Passed Senate: 4/15/19, 44-4.
House Concurred.
Passed House: 4/18/19, 67-27.
Passed Legislature.

Brief Summary of Substitute Bill

- Changes the postjudgment interest rate for unpaid consumer debt to 9 percentage points above the prime rate, unless the judgment interest rate is specified in the contract.
- Increases the bank account and wage garnishment exemptions for judgments on consumer debt.
- Modifies the writs and forms for garnishment and continuing lien on earnings to specify whether a writ is for consumer debt, and outlines debtor exemption rights for consumer debt.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking

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Minority Member; Goodman, Hansen, Kilduff, Kirby, Orwall, Shea, Valdez, Walen and Ybarra.

Minority Report: Do not pass. Signed by 2 members: Representatives Graham and Klippert.

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

Staff: Ingrid Lewis (786-7289).

Background:

Enforcement of Debts.
A creditor may seek enforcement of a debt owed by a debtor through execution, attachment, or garnishment of the debtor's property. Garnishment allows a creditor to reach a debtor's property that is held by a third party. The third party may be an employer, if the creditor seeks to garnish a debtor's wages. The creditor may serve an employer with a writ of garnishment called a "writ of continuing lien on earnings" that allows the creditor to garnish a portion of the debtor's wages each pay period for a limited time. Financial institutions, such as banks, may also be a third party, when the creditor seeks to garnish a debtor's funds in a bank account. The creditor will serve a financial institution with a general "writ of garnishment" that orders the financial institution to hold a specified amount for the creditor. The form of the writ is provided in statute. The creditor must provide the debtor with a copy of the writ, a notice of the debtor's rights, and an exemption claim form, as provided in statute.

Generally a judgment may be enforced for a period of 10 years from the date of judgment, and for an additional 10 years if the judgment is extended within 90 days of the end of the initial 10-year period. All real and personal property of a judgment debtor is subject to execution to satisfy the judgment, unless the property is exempt.

There are a number of exemptions for personal property up to a certain value, for such things as household goods, clothing, vehicles, and tools of the trade. Except for private student loan debt, the exemption for bank accounts is $500. For private student loan debt, the maximum exemption is $2,500.

Generally, in a garnishment proceeding, a debtor's earnings are exempt up to the greater of 35 times the federal minimum hourly wage or 75 percent of the disposable earnings, except:

- the exempt amount for a judgment for child support is 50 percent of disposable earnings; and
- the exempt amount for a judgment for private student loan debt is the greater of the following: 50 times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or 85 percent of disposable earnings.

Interest.
Every loan or forbearance of money, goods, or thing in action bears interest at the rate of 12 percent per year where no different rate is agreed to in writing between the parties.

Postjudgment interest begins to run on a judgment on the date the judgment is entered and does not vary over the life of the judgment. Postjudgment interest accrues on the amount of the judgment from the date of the entry until the judgment is paid. Judgments predicated on a written contract providing for interest at a particular rate bear interest at that rate if that interest rate is set forth in the judgment. Other judgments bear interest as follows: unpaid child support at 12 percent; tort judgments at a special rate established in statute; unpaid private student loan debt at 2 percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day of the calendar month immediately preceding the date of entry; and all other judgments at the maximum rate permitted under the usury statute.

The usury statute provides that any rate of interest shall be legal so long as the rate does not exceed the higher of: 12 percent; or 4 percent above the interest rate on 26-week treasury bills.

Summary of Substitute Bill:

Consumer debt is defined as any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. Consumer debt includes medical debt.

The exemption allowed for bank accounts, savings and loan accounts, stocks, bonds, or other securities for consumer debt is $2,000, regardless of the number of existing separate accounts, stocks, bonds, or securities. For garnishment based on a judgment issued for the collection of consumer debt, wages exempt from garnishment is the greater of the following: 35 times the state minimum wage; or 80 percent of disposable earnings.

If a writ of garnishment or a writ for continuing lien on earnings is issued under an order or judgment for consumer debt, the forms notifying the debtor of the garnishment or continuing lien on earnings must specify that the garnishment or continuing lien is based on an order or judgment for consumer debt. The form notifying a debtor of garnishment and their exemption rights must state the bank account and wage garnishment exemptions for consumer debt, if applicable.

<u>Interest</u>.
For unpaid consumer debt, the judgment interest rate is 9 percent.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is about making sure working families can break the cycle of poverty. Working families are struggling to get by, and consumers are putting more items on credit cards or taking out short term loans to make ends meet. The cost of living has increased, and wages remain stagnant. Unexpected circumstances such as medical debt and unplanned car maintenance burden a consumer with debt that is difficult to climb out of. Consumer debt impacts families of color disproportionately.

The bill is not about absolving a person from the responsibility of paying off obligations that the person owes. This bill is an opportunity to provide families relief from high percentage interest rates and the garnishment of wages above and beyond what is affordable. People who are both living paycheck to paycheck and getting wages garnished are unable to pay for rent, food, or other basic necessities. The goal is to ensure payment of debt in a manner that allow people to make realistic progress towards climbing out of debt.

The current postjudgment interest rate of 12 percent is unrealistically high, making it difficult for debtors to make a dent in the principal amount. The purpose of interest is to make a creditor whole, but it should not be to punish the debtor. Some debts that have been bought and sold numerous times contain inaccurate judgements. Actions are occasionally commenced by entities who do not have standing to collect a debt. Debt collectors wait years to allow interest to accrue so that they receive a windfall.

(Opposed) Collection agencies offer benefits to the country and the state. Agencies provide jobs and contribute to the state and local economy. There are safety nets that exist in the current system: charity care for medical debt; payment plans with agencies; and community resources. Garnishment is a last resort; legal action is expensive for agencies to pursue due to filing fees and upfront legal costs. Agencies do not utilize this option unless all other methods of collection have failed.

The bill removes the balanced boundaries that have been created and extends the exemptions and recovery percentages to an extreme level. This would remove accountability and diminish the ability of businesses to recover losses from consumers that a healthy economy requires. Businesses will raise prices on products and services, cut payroll, and cut back on extending credit if there is not a trustworthy way to enforce debt collection.

A static interest rate is safer for consumers. When the prime rate is high, this will cripple a person's ability to pay back debt.

Persons Testifying: (In support) Representative Reeves, prime sponsor; Jay Doran, Statewide Poverty Action Network; Antonio Ginatta, Columbia Legal Services; and SaraEllen Hutchinson.

(Opposed) Kelsi Hamilton, Melinda Chumbley, and Diana Hernandez, Washington Collectors Association.

Persons Signed In To Testify But Not Testifying: Paul Krause; Justin Murphy; Julia Kellison; and Megan Rue.