

SENATE BILL 678

I3, D3

5lr2241

By: **Senators Raskin and Montgomery**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Debt Collection – Attachment and Execution – Exemptions**

3 FOR the purpose of altering the amount of wages of a judgment debtor that are exempt
4 from attachment; altering certain exemptions from execution on a certain judgment;
5 establishing certain exemptions from execution on a certain judgment; authorizing
6 a debtor to waive a certain exemption relating to certain residential real property
7 under certain circumstances; providing for the application of this Act; and generally
8 relating to debt collection and exemptions from an attachment of wages or an
9 execution of judgment.

10 BY repealing and reenacting, with amendments,
11 Article – Commercial Law
12 Section 15–601.1
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2014 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 11–504
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2014 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Commercial Law**

23 15–601.1.

24 (a) In this section, “disposable wages” means the part of wages that remain after
25 deduction of any amount required to be withheld by law.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) The following are exempt from attachment:

(1) [Except as provided in item (2) of this subsection, the] **THE** greater of:

(i) The product of \$145 multiplied by the number of weeks in which the wages due were earned; or

(ii) 75 percent of the disposable wages due;

(2) In Caroline, Kent, Queen Anne's, and Worcester counties, for each workweek, the greater of:]

(i) 75 percent of the disposable wages due; or

(ii) [30] **80** times the federal minimum hourly wages under the Fair Labor Standards Act in effect at the time the wages are due; and

[(3)] **(2)** Any medical insurance payment deducted from an employee's wages by the employer.

(c) The amount subject to attachment shall be calculated per pay period.

Article – Courts and Judicial Proceedings

11–504.

(a) (1) In this section the following terms have the meanings indicated.

(2) “Value” means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) [Wearing] **EXCEPT THOSE KEPT FOR SALE, LEASE, OR BARTER, WEARING** apparel, books, tools, instruments, or appliances[,] **NECESSARY FOR THE PRACTICE OF ANY TRADE OR PROFESSION** in an amount not to exceed [\$5,000]:

(I) \$50,000 in value [necessary for the practice of any trade or profession except those kept for sale, lease, or barter] **FOR FARM TOOLS, EQUIPMENT, CROPS, AND ANIMALS; AND**

(II) \$30,000 FOR WEARING APPAREL, BOOKS, TOOLS, INSTRUMENTS, OR APPLIANCES.

1 (2) Except as provided in subsection (i) of this section, money payable in
2 the event of sickness, accident, injury, or death of any person, including compensation for
3 loss of future earnings. This exemption includes but is not limited to money payable on
4 account of judgments, arbitrations, compromises, insurance, benefits, compensation, and
5 relief. Disability income benefits are not exempt if the judgment is for necessities contracted
6 for after the disability is incurred.

7 (3) Professionally prescribed health aids for the debtor or any dependent of
8 the debtor.

9 (4) **(I)** [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND**
10 **(III) OF THIS PARAGRAPH, THE** debtor's interest[, not to exceed \$1,000 in value,] in
11 household furnishings, household goods, wearing apparel, appliances, books, animals kept
12 as pets, and other items that are held primarily for the personal, family, or household use
13 of the debtor or any dependent of the debtor.

14 **(II) THE DEBTOR'S INTEREST IN ANY ITEM OF FURNITURE,**
15 **APPLIANCE, ELECTRONIC DEVICE, YARD EQUIPMENT, RECREATIONAL ITEM,**
16 **PRECIOUS ITEM, UTENSIL, OR SET OF UTENSILS THAT HAS A VALUE THAT DOES NOT**
17 **EXCEED \$3,000.**

18 **(III) 1. ONE PIECE OF JEWELRY WITHOUT REGARD TO**
19 **VALUE; AND**

20 **2. JEWELRY IN AN AMOUNT NOT TO EXCEED \$2,500.**

21 (5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if
22 within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects
23 to exempt cash or selected items of property in an amount not to exceed a cumulative value
24 of \$6,000.

25 (6) Money payable or paid in accordance with an agreement or court order
26 for child support.

27 (7) Money payable or paid in accordance with an agreement or court order
28 for alimony to the same extent that wages are exempt from attachment under §
29 [15-601.1(b)(1)(ii) or (2)(i)] **15-601.1(B)(1)(I)** of the Commercial Law Article.

30 (8) The debtor's beneficial interest in any trust property that is immune
31 from the claims of the debtor's creditors under § 14.5-511 of the Estates and Trusts Article.

32 (9) With respect to claims by a separate creditor of a husband or wife, trust
33 property that is immune from the claims of the separate creditors of the husband or wife
34 under § 14.5-511 of the Estates and Trusts Article.

1 **(10) A BURIAL PLOT FOR THE DEBTOR OR A MEMBER OF THE DEBTOR'S**
2 **FAMILY.**

3 **(11) THE DEBTOR'S INTEREST IN A MOTOR VEHICLE IN AN AMOUNT**
4 **NOT TO EXCEED:**

5 **(I) \$15,000 IN VALUE; OR**

6 **(II) \$25,000 IN VALUE IF THE MOTOR VEHICLE HAS BEEN**
7 **ADAPTED FOR SPECIAL USE BECAUSE OF THE DISABILITY OF THE DEBTOR OR ANY**
8 **DEPENDENT OF THE DEBTOR.**

9 **(12) UP TO \$10,000 IN:**

10 **(I) CASH;**

11 **(II) A BANK ACCOUNT;**

12 **(III) ACCRUED INTEREST; OR**

13 **(IV) ACCRUED DIVIDENDS.**

14 **(13) UP TO \$100,000 IN EDUCATIONAL EXPENSE ACCOUNTS OR**
15 **SAVINGS ACCOUNTS PER DESIGNATED BENEFICIARY.**

16 **(14) UP TO \$250,000 OF THE VALUE OF:**

17 **(I) THE DEBTOR'S OWNER-OCCUPIED RESIDENTIAL REAL**
18 **PROPERTY, INCLUDING A CONDOMINIUM UNIT OR A MANUFACTURED HOME THAT**
19 **HAS BEEN CONVERTED TO REAL PROPERTY IN ACCORDANCE WITH § 8B-201 OF THE**
20 **REAL PROPERTY ARTICLE; OR**

21 **(II) A COOPERATIVE HOUSING CORPORATION THAT OWNS**
22 **PROPERTY THAT THE DEBTOR OCCUPIES AS A RESIDENCE.**

23 (c) (1) In order to determine whether the property listed in subsection (b)(4)
24 and (5) of this section is subject to execution, the sheriff shall appraise the property at the
25 time of levy. The sheriff shall return the appraisal with the writ.

26 (2) An appraisal made by the sheriff under this subsection is subject to
27 review by the court on motion of the debtor.

28 (3) Procedures will be as prescribed by rules issued by the Court of Appeals.

1 (d) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION**, A debtor may not waive, by cognovit note or otherwise, the provisions of
3 subsections (b) and (h) of this section.

4 (2) **A DEBTOR MAY WAIVE THE EXEMPTION PROVIDED IN SUBSECTION**
5 **(B)(14) OF THIS SECTION THROUGH CLEAR LANGUAGE IN A MORTGAGE OR DEED OF**
6 **TRUST AGREED TO BY EACH PERSON WHO HAS AN OWNERSHIP INTEREST IN THE**
7 **DEBTOR’S OWNER–OCCUPIED RESIDENTIAL REAL PROPERTY.**

8 (e) The exemptions in this section do not apply to wage attachments.

9 (f) (1) (i) In addition to the exemptions provided in subsection (b) of this
10 section, and in other statutes of this State, in any proceeding under Title 11 of the United
11 States Code, entitled “Bankruptcy”, any individual debtor domiciled in this State may
12 exempt the debtor’s aggregate interest in:

13 1. Personal property, up to \$5,000; and

14 2. Subject to subparagraph (ii) of this paragraph:

15 A. Owner–occupied residential real property, including a
16 condominium unit or a manufactured home that has been converted to real property in
17 accordance with § 8B–201 of the Real Property Article; or

18 B. A cooperative housing corporation that owns property that
19 the debtor occupies as a residence.

20 (ii) The exemption allowed under subparagraph (i)2 of this
21 paragraph may not exceed the amount under 11 U.S.C. § 522(d)(1), adjusted in accordance
22 with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of this subsection.

23 (2) An individual may not claim the exemption under paragraph (1)(i)2 of
24 this subsection on a particular property if:

25 (i) The individual has claimed successfully the exemption on the
26 property within 8 years prior to the filing of the bankruptcy proceeding in which the
27 exemption under this subsection is claimed; or

28 (ii) The individual’s spouse, child, child’s spouse, parent, sibling,
29 grandparent, or grandchild has claimed successfully the exemption on the property within
30 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this
31 subsection is claimed.

32 (3) The exemption under paragraph (1)(i)2 of this subsection may not be
33 claimed by both a husband and wife in the same bankruptcy proceeding.

1 (g) In any bankruptcy proceeding, a debtor is not entitled to the federal
2 exemptions provided by § 522(d) of the federal Bankruptcy Code.

3 (h) (1) In addition to the exemptions provided in subsections (b) and (f) of this
4 section and any other provisions of law, any money or other assets payable to a participant
5 or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan
6 qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United
7 States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January
8 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt
9 from any and all claims of the creditors of the beneficiary or participant, other than claims
10 by the Department of Health and Mental Hygiene.

11 (2) Paragraph (1) of this subsection does not apply to:

12 (i) An alternate payee under a qualified domestic relations order, as
13 defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

14 (ii) A retirement plan, qualified under § 401(a) of the United States
15 Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement
16 account qualified under § 408 of the United States Internal Revenue Code of 1986, as
17 amended; or

18 (iii) The assets of a bankruptcy case filed before January 1, 1988.

19 (3) The interest of an alternate payee in a plan described under paragraph
20 (1) of this subsection shall be exempt from any and all claims of any creditor of the alternate
21 payee, except claims by the Department of Health and Mental Hygiene.

22 (4) If a contribution to a retirement plan described under paragraph (1) of
23 this subsection exceeds the amount deductible or, in the case of contribution under § 408A
24 of the Internal Revenue Code, the maximum contribution allowed under the applicable
25 provisions of the United States Internal Revenue Code of 1986, as amended, the portion of
26 that contribution that exceeds the amount deductible or, in the case of contribution under
27 § 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued
28 earnings on such a portion, are not exempt under paragraph (1) of this subsection.

29 (i) (1) In this subsection, “net recovery” means the sum of money to be
30 distributed to the debtor after deduction of attorney’s fees, expenses, medical bills, and
31 satisfaction of any liens or subrogation claims arising out of the claims for personal injury,
32 including those arising under:

33 (i) The Medicare Secondary Payer Act, 42 U.S.C. § 1395y;

34 (ii) A program of the Department of Health and Mental Hygiene for
35 which a right of subrogation exists under §§ 15–120 and 15–121.1 of the Health – General
36 Article;

1 (iii) An employee benefit plan subject to the federal Employee
2 Retirement Income Security Act of 1974; or

3 (iv) A health insurance contract.

4 (2) Twenty-five percent of the net recovery by the debtor on a claim for
5 personal injury is subject to execution on a judgment for a child support arrearage.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
7 apply only prospectively and may not be applied or interpreted to have any effect on or
8 application to any case filed before the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2015.