

BILL ANALYSIS

C.S.H.B. 3613
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In recent years the number of debt collection lawsuits has reportedly increased by 162 percent over a five year period. It has been suggested that debt collection increases in times of economic hardship, especially in light of the recent winter storm and ongoing pandemic, make it important to update the law pertaining to personal property garnishment and seizure by creditors and to ensure debtors are aware of their legal options and the exemptions to garnishment that currently exist in state law. C.S.H.B. 3613 seeks to address these issues by providing for a procedure by which a judgment debtor can assert an exemption for certain personal property from garnishment, attachment, execution, or other seizure by creditors.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3613 amends the Government Code to require the Texas Supreme Court to adopt rules that do the following:

- establish a simple and expedited procedure for a judgment debtor to assert an exemption to the seizure of personal property by a judgment creditor or an appointed receiver;
- require a court to stay a proceeding, for a reasonable period, to allow for the assertion of the exemption; and
- require a court to promptly set a hearing and stay proceedings until a hearing is held, if a judgment debtor timely asserts the exemption.

The bill requires the rules to require the provision of a notice in plain language to a judgment debtor regarding the debtor's right to assert one or more exemptions and set outs requirements for the content of the notice. The bill requires the rules to also include the promulgation of a form in plain language for asserting the exemption, sets out requirements for the content of the form, and requires a court to accept the form unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

C.S.H.B. 3613 requires the supreme court, not later than May 1, 2022, to adopt the rules and promulgate the forms under the bill's provisions.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3613 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a deadline that appeared in the original by which the notice of the judgment debtor's right to assert an exemption must be provided to the debtor under the adopted rules.

The substitute also does not include provisions that appeared in the original providing for a personal property and a basic needs exemption in an amount equal to the monthly equivalent of 250 percent of the federal poverty guidelines for a family of four.