

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 11, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3613 by Leach (Relating to the exemption of certain personal property from garnishment, attachment, execution, or other seizure by creditors.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code to provide that a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four, with certain exceptions, is exempt from seizure. The bill would provide that a judgment debtor is not required to assert an exemption from seizure before accessing the amount described by the bill.

The bill would amend the Government Code providing that the Texas Supreme Court must adopt rules that 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 a turnover security, require a court to stay a proceeding for a reasonable period to allow for the assertion of an exemption, and if timely asserted require a court to promptly set a hearing and stay proceedings until a hearing is conducted. The bill would require the rules to require the provision of a notice in plain language to a judgment debtor regarding the right to assert on or more exemptions, and the bill outlines what content the notice must contain. The bill would require the adopted rules to include the promulgation of a form in plain language asserting the exemptions, and the form must be in English with an integrated Spanish translation that can be easily understood by the public, and the court and must include instructions for use of the form. The bill would require a court to accept a promulgated form unless it has been completed in a manner that causes a substantive defect that cannot be cured. The bill would require the Supreme Court of Texas to adopt the rules and promulgate the forms no later than May 1, 2022.

The bill would amend the Civil Practice and Remedies Code to provide that for collection of judgments on consumer debt, a court order under Section 31.002 must exempt a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four, with certain exceptions, from freezing and turnover.

The bill would amend the Civil Practice and Remedies Code to provide that for collection of judgments on consumer debt, a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four, with certain exceptions, is exempt and cannot be frozen or turned over. The bill would require a writ of garnishment issued under Chapter 63 to collect a consumer debt to instruct the garnishee to exempt the amount specified in the bill.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, SLE, BH