

## HB 2008 -1 STAFF MEASURE SUMMARY

### House Committee On Rules

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**Prepared By:** Erin Seiler

**Meeting Dates:** 4/27

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#### **WHAT THE MEASURE DOES:**

Exempts from execution or garnishment specific property and funds of judgment debtor. Increases minimum protected wage amount from \$254 to \$1,000 per week; exempts working car, work tools, and work equipment from debt collection seizures; increases homestead exemption from \$40,000 to median home value in county where home is located; and requires financial institution to leave a minimum of \$12,000 in debtor's account. Permits plaintiff to bring action, including class action, for unlawful debt collection practice within six years after discovering unlawful practice and increases amount of recoverable statutory damages. Takes effect on 91st day following adjournment sine die.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

-1 Replace the measure.

Exempts from execution or garnishment specific property and funds of judgment debtor including work tools and work equipment, software, farm tools and equipment, machines and equipment used to search for employment, and other items necessary for work. Exempts items necessary for work up to \$15,000 in value and farm equipment up to \$30,000 in value. Exempts household items and belongings up to \$3,000 in value. Exempts motor vehicle up to value of \$10,000. Increases homestead exemption to 33 percent of real market value for owners under age of 65 and 100 percent for owners over 65 years of age. Exempts child support, spousal support, and victim restitution payments.

Increases minimum protected wage amount as follows: 40 times Portland Metro Minimum Wage for one week or less work period; 80 times Portland Metro Minimum Wage for two-week work period; 88 times Portland Metro Minimum Wage for half-month period; and 176 times Portland Metro Minimum Wage for one-month period.

Requires financial institution leave minimum of \$2,500 in debtor's account and cannot freeze account.

Requires State Court Administrator to annually adjust dollar thresholds for cost of living based on changes in Consumer Price Index for Urban Consumers, West Region.

Updates Wage Exemption Calculation Form and Notice of Exemptions Form.

Permits plaintiff to bring action for unlawful debt collection practice within 3 years from discovery, but no more than six years from harm. Increases minimum penalty for violation of Unlawful Debt Collection Practice to \$1,000. Clarifies that unlawful debt collection practice if individual is taken to collections of debt that does not exist. Require debtor to pay attorney fees only if it is determined that claim is objectively unreasonable.

Repeals provision that permits debt collector subject to and in compliance with federal Fair Debt Collection Practices Act to be considered to be in compliance with state unlawful collection practices.

Applies to judgements of execution issued on or after effective date of Act. Takes effect on 91st day following adjournment sine die.

**BACKGROUND:**

The Unlawful Debt Collection Practices Act (UDCPA) controls how a creditor, including a collection agency, may attempt to collect a debt. Unlawful debt collection practices include the use of obscene, threatening, or abusive language; communications without permission or threats of communication with employer; communications in writing without clear identification of debtor and debt collector, in writing or orally; or pursuit of debtor for an incorrect amount or for a debt not owed. A creditor who willfully violates the UDCPA may be liable for minimum damages of \$200, legal fees, and in some cases punitive damages.

House Bill 2008 amends the scope of garnishments and how a debtor pursues violations of UDCPA. The measure increases the minimum protected wage amount from \$254 to \$1,000 per week; exempts working car, work tools, and work equipment from debt collection seizures; increases the homestead exemption from \$40,000 to the median home value in the county where the home is located; and requires a financial institution to leave a minimum of \$12,000 in a person's account, protected from garnishment.

In addition, the measure amends statutes related to ability of a debtor to pursue unlawful debt collection practices violations. The measure establishes that a debt collector engages in an unlawful collection practice if the debt collector, knowingly collects or attempts to collect any amount, including any interest fee, charge or expense incidental to the principal obligation, whether the principal obligation exists or does not exist, by any means, including through threatening to bring or bringing any legal action, unless the amount is expressly authorized by the agreement creating the debt or permitted by law.

The measure amends the statutes to allow a debtor to bring a good faith case under the UDCPA. A debtor would only be required to pay attorney fees if it was determined that the claim was objectively unreasonable. Finally, HB 2008 aligns the statute of limitations for a person to pursue an unlawful debt collection practices claim, including class action, with the timeframe debt collectors have to pursue a debt. A plaintiff must bring action, including class action, for unlawful debt collection practice within six years after discovering unlawful practice.