

HB 2008 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 03/29/23

Action: Without recommendation as to passage and be referred to Rules.

Vote: 8-3-0-0

Yeas: 8 - Boshart Davis, Grayber, Holvey, Hudson, Nelson, Nosse, Scharf, Sosa

Nays: 3 - Elmer, Osborne, Owens

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 3/6, 3/8, 3/29

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:

- Debt collection practice impact on availability of credit
- Ability of debtor to satisfy debt through garnishments and maintain financial resources to live
- Self-executing exemptions and automatic Consumer Price Index adjustments
- Reasons people have consumer debt: health care, accidents, and one-time, emergent life events
- Changes to homestead exemption
- Amount of net earnings protected from garnishment

EFFECT OF AMENDMENT:

No amendment.

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.

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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.