HCS SS SCS SBs 835 & 1111 -- GARNISHMENTS

SPONSOR: Crawford

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 14 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 9 to 1.

The following is a summary of the House Committee Substitute for SBs 835 & 1111.

Under current law, whenever an execution against the property of any judgment debtor must be returned unsatisfied, within five years of the return, the judgment creditor may be entitled to an order by the court rendering such judgment, requiring the judgment debtor to undergo an examination on the ability and means to satisfy the judgment, and in the case of neglect or refusal, issuing a writ of attachment and punishing the judgment debtor for contempt. This bill provides a judgment creditor must, upon motion made at any time before the judgment is satisfied of record and presumed paid, be entitled to such orders.

Additionally, under current law, a judgment debtor can be granted immunity from prosecution by any prosecuting or circuit attorney for statements made at a judgment debtor's examination. This bill instead requires a judgment debtor to enjoy full use and derivative immunity and provides that no testimony in an examination can be used against a witness, except in cases of perjury or for giving false statements.

The bill exempts a person's interest in property from attachment and execution as follows:

(1) Household furnishings and goods, apparel, appliances, books, animals, crops, or musical instruments, held for personal, family, or household use from the current amount of $3,000 to $15,000 in value in the aggregate;

(2) A wedding ring not exceeding $1,500 in value and jewelry held for personal, family or household use from the current amount of $500 to $1,700 in value in the aggregate;

(3) Any property of any kind from the current amount of $600 to $1,700 in the aggregate;

(4) Any tools, equipment, or professional materials needed for the person's occupation or the occupation of a dependent of $3,000;

(5) Any motor vehicles from the current amount of $3,000 to $5,000, and can increased to the unused amount allowed for household furnishings, etc. listed in (1) above, not to exceed an additional $10,000;

(6) A mobile home used as a residence, from the current amount of $5,000 to $12,000.

The bill amends the current amount of homestead allowed of every person, from the current aggregate value of $15,000 to $40,000.

This bill provides that the maximum value for the property that is exempted from attachment and execution and the amount of a homestead exemption. Beginning April 1, 2029, and every three years thereafter, the amount will be adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or its successor index, as specified in the bill.

Beginning March 1, 2029, and every three years thereafter, the Revisor of Statutes must publish a schedule of adjusted dollar amounts annually, as specified in the bill.

Adjustments made in accordance with the three-year interval will not apply to cases commenced before the date of such adjustments. This bill outlines orders of garnishment issued for the purpose of attaching to account funds held by a "financial institution", as such term is defined in the bill. Such orders must attach on the date of service, provided that the effective date of service is a banking day and made prior to the business cutoff time, in which case it will attach the next business day. If an account receives electronic deposits for exempted funds, the attachment date must be the date and banking day that the financial institution applies for the look-back analysis. Additionally, where there are two or more accounts, the amount can be withheld from any of the accounts identified in the order and attachment dates between the accounts can be different depending on the look-back analysis.

If the account is held in joint tenancy with an individual not subject to the order of garnishment, the entire amount must be withheld. The garnishee must provide a copy of the order of garnishment to each account holder within two business days to

the address provided by the garnishee by mail or electronically if authorized by the account holder. Each account holder can file an objection or a request of exemption of all or a portion of the account with the court that issued the order of garnishment within 30 days of the date the garnishment attaches and serve their objection or request for exemption on the garnishor and the garnishee. If the objection or request of exemption is not resolved within 30 days of the timely filing of the objection or request of exemption, the garnishee may pay the garnished funds to the circuit court to be held for pending resolution of the objection or request.

The return date for orders of garnishment must not be less than 30 days from the effective date of service. This bill also provides certain information to be included in orders of garnishment for funds held by financial institutions.

No party will seek a garnishment of account funds held by a financial institution unless there is a good-faith belief that the party to be served with the garnishment has, or will have, account assets of the judgment debtor. No more than one garnishment for the same claim and against the same judgment debtor will be issued within any 30-day period, unless exempted by court order, as detailed in the bill.

Furthermore, a financial institution does not have a duty to investigate or assert the defenses of a judgment debtor. A financial institution served with an order of garnishment and interrogatories must answer within 20 days and will release funds to the judgment debtor 60 days after an answer is submitted, or sooner if required under an order to pay or paid into the court.

A garnishee acting in good faith compliance with a facially valid order of garnishment shall not be liable to any debtor, creditor, or other person for withholding, restraining or releasing funds in reasonable reliance upon the terms of the writ or order.

A garnishee will not be required to adjudicate competing claims of ownership to property or funds; determine the legal sufficiency or validity of the underlying judgment; or investigate facts outside the information contained in the writ or the garnishee's business records.

A garnishee shall be liable for damages arising from a garnishment only if the garnishee fails to follow the clear and express terms of the writ of order; such failure constitutes

gross negligence or willful misconduct; or actual damages are proven.

A garnishee shall not be liable if the garnishee corrects an error within five business days after receiving written notice identifying the alleged error and promptly releases any improperly restrained funds.

Temporary restraint of funds pending review of a claimed exemption shall not create liability if the garnishee, garnishor, and judgment debtor or other persons act within time frames required by law.

The provisions of this bill relating to orders of garnishment for funds held by financial institutions must be effective on January 1, 2028, and authorizes the Missouri Supreme Court to adopt rule amendments or issue a specific rule and forms to implement this Section.

The provisions of the bill relating to the attachment and execution have a delayed effective day of January 1, 2027.

This bill is similat to the Perfected HCS HB 1870.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate perfected version of the bill.

PROPONENTS: Supporters say that will provide immunity for debtors and establish the framework for garnishing funds from bank accounts.

Testifying in person for the bill were Senator Crawford; Missouri Bankers Association; and Missouri Creditors Bar, Inc. (MCBI).

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.