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FISCAL NOTE

Drafting Number: LLS 20-1277 Date: June 2, 2020
Prime Sponsors: Sen. Winter; Gonzales Bill Status: Senate Finance
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Bill Topic: LIMITATIONS ON EXTRAORDINARY COLLECTION ACTIONS

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill creates an 180-day prohibition on new extraordinary debt collection actions, modifies the thresholds for certain property that are exempt from levy, and amends the formulas for determining the amount of earnings subject to garnishment. The bill reduces state revenue and increases state workload in FY 2020-21 only.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 20-211

Table with 3 columns: Category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

Summary of Legislation

On its effective date, the bill prohibits any new extraordinary debt collection actions for a 180-day period. Extraordinary collection actions are defined as any action or proceeding related to an attachment, garnishment, levy, or execution to collect or enforce a judgment on a debt. During the 180-day prohibition, any action constitutes an unfair and unconscionable means of collecting a debt under the Colorado Fair Debt Collection Practices Act (FDCPA). The administrator of the Uniform Consumer Credit Code in the Department of Law may issue an order extending the prohibition for an additional 180 days to preserve and prioritize the resources of state and local agencies or to protect Colorado residents from economic hardship as a result of the COVID-19 disaster emergency.

In addition, the bill increases the value of property that is exempt from levy and sale under a writ of attachment or execution as follows:

- household goods from \$3,000 to \$6,000;
- a motor vehicle from \$7,500 to \$15,000;
- a motor vehicle kept and used by an elderly or disabled debtor from \$12,500 to \$20,000; and
- up to \$7,000 in a depository account in the name of the debtor.

Also, the maximum amount of an individual's aggregate disposable earnings for any workweek that is subject to garnishment or levy may not exceed 10 percent of the individual's disposable earnings for that week or an amount equal to 80 times the federal or state minimum hourly wage.

Finally, any attempt to collect debt amounts in excess of what is permitted is an unfair or unconscionable debt collection practice under the FDCPA.

Background and Assumptions

The current filing fee for a writ of garnishment is \$45. During the first six months of FY 2019-20, Colorado courts issued 55,825 civil garnishments.

State Revenue

In FY 2020-21 only, the bill will reduce state cash fund revenue in the Judicial Department by at least \$2,512,125 due to the prohibition on extraordinary collections actions. In addition, to the extent that debt collectors file fewer civil garnishments due to the new formulas for determining the amount of earnings subject to garnishment, state cash fund revenue may decrease on an ongoing basis.

State Expenditures

The bill increases workload in the Judicial Department and the Department of Law in FY 2020-21.

Judicial Department. The bill increases workload for trials courts in the Judicial Department to create a template order for clerks of courts to deny writ requests and to direct any party to refile their request after the 180-day prohibition is lifted. Workload may also increase for clerks to field and answer any questions related to the prohibition. Trial courts may also see an increase in cases

related to unfair trade practices under the bill. The fiscal note assumes most collectors will comply with the law and any increase in cases will be minimal. These workload impacts can be accomplished within existing resources and no appropriation is required

Department of Law. In addition, the bill may increase workload for the Department of Law related to the actions of the regulated debt community. Workload may also increase in order to determine whether to extend the 180-day prohibition. This workload is expected to be minimal and can be accomplished within existing resources.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The bill applies to writs of garnishment, attachment, or execution ordered on or after the bill's effective date.

State and Local Government Contacts

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|----------------|-----------|---------|
| Counties | Judicial | Law |
| Municipalities | Personnel | Revenue |