Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL:	**Sub. H.B. 108**	DATE:	**April 8, 1997**
STATUS:	**As Reported by House Health, Retirement and Aging**	SPONSOR:	**Rep. Tiberi**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Removes limitations on an individual's right to hold exempt an individual retirement account or individual retirement annuity from execution, garnishment, attachment, or sale to satisfy a judgement or order**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Potential decrease	Potential decrease	Potential decrease

- The increase in property exempt from execution, garnishment, attachment, or sale could result in a potential loss in revenue collected by the Attorney General's office.

- An increase in the number of estates exempt from the collection of debts owed could result in a potential decrease in the number of cases pursued through the courts, thus creating a potential decrease in expenditures for adjudication.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Political Subdivisions			
Revenues	Indeterminate minimal loss	Indeterminate minimal loss	Indeterminate minimal loss
Expenditures	Potential decrease	Potential decrease	Potential decrease

- Political subdivisions could experience decreased revenue collections from debtors.

- If a political subdivision contracts for legal services in an attempt to collect from debtors, a decrease in the number of cases pursued could potentially decrease expenditures on legal services.

Detailed Fiscal Analysis

The bill increases the value of property which Ohio residents may hold exempt from execution, garnishment, or sale to satisfy a judgement or order. It removes the following two limitations that currently allow for IRA garnishment actions. One limitation is that any portion of the assets deposited into an IRA or individual retirement annuity for the purpose of evading the payment of a debt is not exempt. The other limitation is provided for under the law governing the payment of child support (secs 3111.23 and 3113.21), and essentially removed the exemption for child support collections. Under this bill, one may protect assets via IRA deposits regardless of child support owed or intent to avoid debt payment.

A potential fiscal effect could arise from this bill for two reasons:

(1) In cases where creditors become aware that judgment debtors do not possess sufficiently valuable assets to satisfy a judgment, they may choose not to pursue the recovery of debts through the courts. It is not expected that such a decrease would be sufficient to significantly decrease expenditures by the court system. There could also be a reduction in filing fees.

(2) The potential increase in the number of exempt estates could affect revenue collections by the state and political subdivisions as they pursue debtors. The Revenue Recovery Section of the Attorney General's office is responsible for collecting moneys owed to the different entities of state government. Although the section is unable to calculate the exact amount that would be lost to the state as a result of increased exemptions, the office is of the opinion that the loss would not be significant. The bill may even have the effect of decreasing the threat that potential foreclosure or garnishment poses to debtors, making them less likely to pay debts owed. The bill has the effect of preventing an execution, garnishment, attachment or sale of an IRA or individual retirement annuity to satisfy a judgement or order under any circumstances.

The Revenue Recovery Section would still have a legal obligation to pursue recovery cases as vigorously as under current law, even though it might eventually collect less. However, it is possible that the section may choose to eventually abandon pursuit of those cases in which it becomes clear that increased exemptions will make recovery very difficult.

An additional affect would be a potential slight decrease in child support collections. Currently, if child support is collected for a public welfare recipient, a portion of that collection is deposited in the GRF to offset cash assistance costs. It is unlikely that many such collections are now made from IRAs on behalf of such recipients.

Similarly, political subdivisions like counties, municipalities, and townships could experience decreased revenue collections from judgment debtors. It is not possible to estimate the magnitude of such a decrease, but it could be the case that where a political subdivision is aware that the judgment debtor does not possess assets that would satisfy a judgement or order, they may decide that the case is no longer worthy of pursuit. If a political subdivision contracts for legal services in such a situation, any decrease in the number of cases pursued could potentially decrease expenditures on legal services. However, the amounts that would be protected by the removal of these limitations are probably not significant enough to affect the ability or the decision to collect through a judgement or an order of the courts.

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