

*Colorado Legislative Council Staff Fiscal Note*

**STATE  
FISCAL IMPACT**

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<b>Drafting Number:</b> LLS 15-1109	<b>Date:</b> April 29, 2015
<b>Prime Sponsor(s):</b> Sen. Woods Rep. Lee	<b>Bill Status:</b> Senate Judiciary
	<b>Fiscal Analyst:</b> Alex Schatz (303-866-4375)

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**BILL TOPIC:** DEBT COLLECTIONS ACTIONS AND EXEMPTIONS

<b>Fiscal Impact Summary*</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload impact. See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

Under current law, a creditor who has obtained a judgment in court is limited by statute in the types of property and amount of value that he or she can recover from the property of a debtor. The process of repossessing the assets of a judgment debtor through a debt collection action is known as execution and levy.

This bill modifies exemptions and procedures in certain debt collection actions. As described below, the bill changes provisions related to the type and amount of a debtor's property that is exempt from execution and levy by a judgment creditor. Procedures related to garnishment of a debtor's assets are also modified by the bill.

**Property subject to execution and levy.** The bill modifies the scope of agricultural assets, vehicles, and life insurance policies that are exempt from execution and levy. The exempt amount of certain types of property is increased. Table 1 lists specific changes to the type and amount of property subject to execution and levy.

**Garnishment procedures.** The bill clarifies that payments to an individual operating as an independent contractor are earnings subject to garnishment in all cases. For cases in which a judgment creditor seeks to garnish assets other than the debtor's earnings, the bill authorizes alternative methods for the creditor to notify the debtor of the pending levy. Specifically, a creditor may obtain:

- a receipt from the debtor that he or she has received the notice;
- personal service;
- proof of mailing the notice, including a return receipt from certified mail or an affidavit sworn by the judgment creditor; or
- if other methods fail after due diligence, proof of publication in a newspaper of general circulation proximate to the property to be levied.

In all affected cases, the judgment creditor must file the notice with the clerk of the court that entered the judgment that provides cause for the creditor's levy. This filing includes proof of service or an affidavit of publication.

<b>Table 1. Summary of statutory changes under SB 15-283.</b>		
	<b>Current law</b>	<b>SB 15-283</b>
<b>Types of property exempt</b>		
Agricultural assets	All livestock, animals, equipment, and seed, if agriculture is the debtor's primary occupation, up to \$50,000.	All agricultural products, if agriculture is the debtor's primary occupation, up to \$50,000.
Vehicles	Motor vehicles, subject to limits below, including recreational vehicles and watercraft.	Bicycles included in motor vehicle exemption, subject to revised limits below. Exemption is not available for certain recreational vehicles and watercraft.
Life insurance	All life insurance policies, with the exception of increases in cash value for contributions within the 4 years preceding the action to collect debt.	Life insurance policies owned for at least 4 years at the time of the action to collect debt, excluding increases in cash value from extraordinary contributions.
<b>Amounts of property exempt</b>		
Homestead property (real estate, mobile homes)	\$60,000; \$90,000 if the debtor is elderly or disabled.	\$75,000; \$105,000 if the debtor is elderly or disabled.
Clothing, including clothes of dependents	\$1,500	\$2,000
Watches and jewelry	\$2,000	\$2,500
Books and photographs	\$1,500	\$2,000
Business equipment and inventory	\$20,000	\$30,000 if the business is the primary occupation of the debtor; \$10,000 if the business is not the debtor's primary occupation
Motor vehicles not exempt as business property	\$5,000; \$10,000 if the debtor is elderly or disabled.	\$7,500; \$12,500 if the debtor is elderly or disabled; limited to two vehicles.
Disability benefits	\$3,000	\$4,000

**Background**

Generally, this bill affects legal actions between private parties. The adjustment of types and amount of assets recoverable in a debt collection action is not expected to significantly affect the efforts of government agencies to collect debts. Government agencies typically recover debts from bank accounts or wages, rather than the types of assets affected by the bill.

**State Expenditures**

The bill results in minimal workload impacts to trial courts in the Judicial Department. State trial courts have jurisdiction over debt collection actions and will experience both increases and decreases in workload. In some cases, higher exemption amounts may deter the filing of a court action or a hearing to contest an exemption. In other cases, narrowing of exemptions (e.g., to allow execution and levy against a boat) may prompt the filing of a court action or a hearing to contest an exemption. Overall, the bill is expected to affect a small number of cases and will have a minimal net effect on workload in the courts. No change in appropriations is necessary to implement the bill.

**Effective Date**

The bill takes effect July 1, 2015.

**State and Local Government Contacts**

Judicial Department  
Regulatory Agencies  
Local Affairs  
Sheriffs

Personnel and Administration  
Health Care Policy and Financing  
Public Trustees

Law  
Revenue  
County Clerks