

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

SPONSOR O'Neil/Chasey LAST UPDATED 3/17/2023  
ORIGINAL DATE 2/9/2023  
SHORT TITLE Bankruptcy Exemptions BILL NUMBER Senate Bill 216/aSHPAC/HF1  
ANALYST Gray

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Regulation and Licensing Department (RLD)

Workers' Compensation Administration (WCA)

New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of House Floor Amendment of Senate Bill 216

The House floor amendment to Senate Bill 216 clarifies how notice of garnishment will be provided to the defendant. The amendment provides that the defendant notification shall be given to the defendant at the same time it is given to the garnishee and shall be sent to the defendant's last known address.

### Synopsis of SHPAC Amendment of Senate Bill 216

The Senate Health and Public Affairs committee amendment to Senate Bill 216 reduces the homestead exemption from \$200 thousand to \$150 thousand or from \$400 thousand to \$300 thousand if the spouse of the person claiming the exemption dies within two years prior to the date of claiming the homestead exemption and if the deceased spouse would have been able to claim the homestead exemption had the deceased spouse survived until the date of claiming the homestead exemption.

### Synopsis of Original Senate Bill 216

Senate Bill 216 (SB216) makes substantial changes related to garnishment and garnishment exemptions in bankruptcy law. In a bankruptcy case, a court may order garnishment. This may

be wage garnishment, where a court orders an employer to withhold a specific amount of money from a person's paycheck, or through garnishment of other property of value. Statute provides exemptions to garnishments, which act to protect the value of that item from being garnished.

In addition, SB216 proposes the following changes:

- **Income.** The bill proposes to change income exemptions. Currently, income is exempt at a value equivalent to 75 percent of a person's disposable earnings or an amount equal to a 40-hour work week at the federal minimum wage. SB216 would keep the value equivalent to 75 percent of a person's disposable earnings but it would change this exemption from the value of a week of work with the federal minimum wage to the value of a week of work with the highest applicable minimum wage in that person's area.
- **Home value.** The bill proposes to change home value exemptions, as mentioned above. Currently, up to \$60 thousand of the value of a person's home is exempt from garnishment. SB216 increases that value up to \$200 thousand, \$400 thousand if the property is owned jointly, and \$250 thousand if the person is at least 65 years old or if the person is disabled. The bill also increases the exemption for people who do not own a homestead from \$5,000 to \$15 thousand of the value of that person's property.
- **Car value and household goods.** The bill proposes to change the vehicle value exemption from \$5,000 to \$10 thousand. The bill provides a detailed breakdown of the types of household goods which are exempt.
- **Bank account and others.** The bill proposes to exempt up to \$2,400 in a bank account, a provision not currently provided by statute. The bill also provides an exemption for refundable tax credits, retirement accounts, education accounts, and public benefits.
- **Index all exemptions to inflation.** The bill proposes to tie all exemption amounts to the consumer price index, a standard measure of inflation. The bill directs the Administrative Office of the Courts to publish inflation adjustments every two years.

SB216 also contemplates changing statute regarding unemployment compensation to provide that unemployment benefits are exempt.

The effective date of this bill is July 1, 2023.

## FISCAL IMPLICATIONS

According to the National Consumer Law Center, about 40 percent of all New Mexicans have some form of debt. That rate jumps to 47 percent in New Mexico's communities of color. Bankruptcy garnishments may have a significant economy-wide effect because many people and families struggle to eliminate debt and gain economic mobility. Research has indicated that increasing exemption amounts may also deter predatory lending because creditors must rely more on the consumer's true ability to repay the debt and decreases creditors' ability to rely on the seizure of property.

Despite these notable economic impacts for New Mexicans, it is difficult to estimate the fiscal implications and they are assumed to be minimal.

## SIGNIFICANT ISSUES

Many current exemption amounts have not been updated in many years. For example, since 1983

the exemption has not been updated for vehicles, jewelry, or personal property. The homestead exemption has not increased since 2007.

Analysis from the New Mexico Workers' Compensation Administration notes that the uninsured employer's fund may be limited in its ability to utilize the garnishment mechanism for reimbursement under SB216.

BG/rl/ne/al/hg