

MAINE STATE LEGISLATURE

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 774, L.D. 1018, Bill, "An Act to Amend the Civil Court Procedure as it Pertains to Execution Liens"

Amend the bill in section 1 by striking out all of subsection 8 and inserting in its place the following:

'8. Abuse of lien process. A creditor who fails to discharge an execution filed against property of a debtor that is exempt from attachment and execution is liable to the debtor for actual damages suffered as a result of the failure to discharge if the debtor gave written notice and proof to the creditor that the property filed against is exempt from attachment and execution and the creditor failed to discharge the execution within 15 days after receiving the notice and proof. A debtor who prevails in an action to recover damages under this subsection is entitled to reasonable attorney's fees and costs incurred in bringing the action.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

COMMITTEE AMENDMENT

SUMMARY

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This amendment provides that a creditor is liable for actual damages caused by the failure to discharge an execution against exempt property of the debtor only if the debtor has given written notice and proof to the creditor that the property is exempt and the creditor fails to discharge the execution within 15 days after receiving the notice and proof. The amendment deletes language making the creditor liable for knowingly filing an execution against exempt property. The amendment also clarifies when a debtor is entitled to recovery of attorney's fees and costs. The amendment also adds a fiscal note.