



General Assembly

February Session, 2020

Raised Bill No. 5427

LCO No. 2374



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT CONCERNING ISSUES RELATING TO DEBT COLLECTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 52-367b of the 2020 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2020*):

4 (c) If any such financial institution upon which such execution is
5 served and upon which such demand is made is indebted to the
6 judgment debtor, the financial institution shall remove from the
7 judgment debtor's account the amount of such indebtedness not
8 exceeding the amount due on such execution before its midnight
9 deadline, as defined in section 42a-4-104, except that the financial
10 institution shall leave the lesser of the account balance or one thousand
11 dollars in the judgment debtor's account. Notwithstanding the
12 provisions of this subsection, if electronic direct deposits that are readily
13 identifiable as [(1)] exempt federal veterans' benefits [, Social Security
14 benefits, including, but not limited to, retirement, survivors' and
15 disability benefits, supplemental security income benefits, exempt
16 benefits paid by the federal Railroad Retirement Board or the federal

17 Office of Personnel Management, unemployment compensation
18 benefits exempt under section 52-352b, or child support payments
19 processed and received pursuant to Title IV-D of the Social Security Act,
20 or (2) wages] were made to the judgment debtor's account during the
21 look-back period of either the sixty-day period preceding the date that
22 the execution was served on the financial institution, or [, with regard
23 to federal benefits,] such greater period as required by federal law, then
24 the financial institution shall leave the lesser of the account balance or
25 [one] two thousand dollars in the judgment debtor's account. [,
26 provided nothing] Nothing in this subsection shall be construed to limit
27 a financial institution's right or obligation to remove such funds from
28 the judgment debtor's account if required by any other provision of law
29 or by a court order. The judgment debtor shall have full and customary
30 access to such funds left in the judgment debtor's account pursuant to
31 this subsection. The financial institution may notify the judgment
32 creditor that funds have been left in the judgment debtor's account
33 pursuant to this subsection. Nothing in this subsection shall alter the
34 exempt status of funds which are exempt from execution under
35 subsection (a) of this section or under any other provision of state or
36 federal law, or the right of a judgment debtor to claim such exemption.
37 Nothing in this subsection shall be construed to affect any other rights
38 or obligations of the financial institution with regard to the funds in the
39 judgment debtor's account.

40 Sec. 2. Subsection (n) of section 52-367b of the 2020 supplement to the
41 general statutes is repealed and the following is substituted in lieu
42 thereof (*Effective October 1, 2020*):

43 (n) If the financial institution fails or refuses to pay over to the serving
44 officer the amount of such debt, not exceeding the amount due on such
45 execution, such financial institution shall be liable in an action therefor
46 to the judgment creditor named in such execution for the amount of
47 nonexempt moneys which the financial institution failed or refused to
48 pay over, excluding funds [of up to one thousand dollars which] the
49 financial institution in good faith allowed the judgment debtor to access
50 pursuant to subsection (c) of this section. The amount so recovered by

51 such judgment creditor shall be applied toward the payment of the
52 amount due on such execution. Thereupon, the rights of the financial
53 institution shall be subrogated to the rights of the judgment creditor. If
54 such financial institution pays exempt moneys from the account of the
55 judgment debtor over to the serving officer contrary to the provisions of
56 this section, such financial institution shall be liable in an action therefor
57 to the judgment debtor for any exempt moneys so paid and such
58 financial institution shall refund or waive any charges or fees by the
59 financial institution, including, but not limited to, dishonored check
60 fees, overdraft fees or minimum balance service charges and legal
61 process fees, which were assessed as a result of such payment of exempt
62 moneys. Thereupon, the rights of the financial institution shall be
63 subrogated to the rights of the judgment debtor.

64 Sec. 3. Subsection (g) of section 36a-785 of the general statutes is
65 repealed and the following is substituted in lieu thereof (*Effective October*
66 *1, 2020*):

67 (g) (1) If the goods retaken consist of a motor vehicle the aggregate
68 cash price of which was more than [four] nine thousand dollars, as
69 adjusted in accordance with the provisions of subdivision (2) of this
70 subsection, the prima facie fair market value of such motor vehicle shall
71 be calculated by adding together the average trade-in value for such
72 motor vehicle and the highest-stated retail value for such motor vehicle
73 and dividing the sum of such values by two. Such average trade-in value
74 and highest-stated retail value shall be determined by the values as
75 stated in the National Automobile Dealers Association Used Car Guide,
76 Eastern Edition, as of the date of repossession. If an average trade-in
77 value is not stated in said guide, the highest-stated trade-in value stated
78 in said guide for the motor vehicle shall be used. If the goods retaken
79 consist of a boat the aggregate cash price of which was more than [four]
80 nine thousand dollars, as adjusted in accordance with the provisions of
81 subdivision (2) of this subsection, the prima facie fair market value of
82 such boat shall be calculated by adding together the average trade-in
83 value for such boat and the highest-stated retail value for such boat and
84 dividing the sum of such values by two. Such average trade-in value

85 and highest-stated retail value shall be determined by the values as
86 stated in the National Automobile Dealers Association Appraisal Guide
87 for Boats, Eastern Edition, as of the date of repossession. If an average
88 trade-in value is not stated in said guide, the highest-stated trade-in
89 value stated in said guide for the boat shall be used. In the event that the
90 value of such motor vehicle or boat is not stated in such publication, the
91 fair market value at retail minus the reasonable costs of resale shall be
92 determined by the court. The prima facie evidence of fair market value
93 of such motor vehicle or boat so determined may be rebutted only by
94 direct in-court testimony. If such value of the motor vehicle or boat is
95 less than the balance due under the contract, plus the actual and
96 reasonable expenses of the retaking of possession, the holder of the
97 contract may recover from the retail buyer, or from anyone who has
98 succeeded to such retail buyer's obligations, as a deficiency, the amount
99 by which such liability exceeds such fair market value, as defined in this
100 subsection. If the actual resale price received by the holder exceeds such
101 fair market value, as defined in this subsection, the actual resale price
102 shall govern.

103 (2) On August 1, 2021, and on each August first thereafter, the
104 Banking Commissioner shall announce the adjustment in the aggregate
105 cash price threshold of a repossessed motor vehicle or boat, which shall
106 become the new aggregate cash price threshold of a repossessed motor
107 vehicle or boat for purposes of subdivision (1) of this subsection and
108 shall be effective on the October first immediately following. The
109 Banking Commissioner shall make such adjustment in accordance with
110 any change in the consumer price index for all urban consumers as
111 published by the United States Department of Labor, Bureau of Labor
112 Statistics, during the period beginning on July first of the preceding year
113 and ending on June thirtieth of the year in which said adjustment is to
114 be made.

115 Sec. 4. Section 52-598 of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective October 1, 2020*):

117 (a) No execution to enforce a judgment for money damages rendered

118 in any court of this state, other than a small claims session, may be
119 issued after the expiration of twenty years from the date the judgment
120 was entered and no action based upon such a judgment may be
121 instituted after the expiration of twenty-five years from the date the
122 judgment was entered, except that there shall be no time limitation on
123 the issuance of such execution or the institution of such action if the
124 judgment was rendered in an action to recover damages for personal
125 injury caused by sexual assault where the party legally at fault for such
126 injury was convicted of a violation of section 53a-70 or 53a-70a.

127 (b) No execution to enforce a judgment for money damages rendered
128 in a small claims session may be issued after the expiration of ten years
129 from the date the judgment was entered, and no action based upon any
130 such judgment may be instituted after [the expiration of fifteen years
131 from] the date the judgment was entered.

132 (c) With respect to a judgment for money damages rendered in any
133 court of this state, [including, but not limited to,] other than a small
134 claims session, a motion to revive such judgment may be filed with the
135 Superior Court prior to the expiration of any applicable period of time
136 to enforce such judgment as set forth in this section. The court may grant
137 the motion to revive the judgment if the court finds that the applicable
138 time period to enforce the judgment under this section has not expired.
139 No order to revive a judgment may extend the time period to enforce a
140 judgment beyond the applicable time period set forth in this section.

141 Sec. 5. Section 37-1 of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective October 1, 2020*):

143 (a) [The] Except as otherwise provided in subsection (c) of this
144 section, the compensation for forbearance of property loaned at a fixed
145 valuation, or for money, shall, in the absence of any agreement to the
146 contrary, be at the rate of eight per cent a year; and, in computing
147 interest, three hundred sixty days may be considered to be a year.

148 (b) Unless otherwise provided by agreement, interest at the legal rate
149 from the date of maturity of a debt shall accrue as an addition to the

150 debt.

151 (c) In the case of a credit card debt, the provisions of subsection (a) of
152 this section (1) shall apply to such debt arising from a cash advance, and
153 (2) shall not apply to such debt arising from the purchase of goods or
154 services.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2020 | 52-367b(c) |
| Sec. 2 | October 1, 2020 | 52-367b(n) |
| Sec. 3 | October 1, 2020 | 36a-785(g) |
| Sec. 4 | October 1, 2020 | 52-598 |
| Sec. 5 | October 1, 2020 | 37-1 |

Statement of Purpose:

To (1) require financial institutions to leave the lesser of the account balance or one thousand dollars in a judgment debtor's account during a bank execution; (2) increase the amount of the threshold of the aggregate cash price of a repossessed motor vehicle or boat for purposes of the formula for calculating the prima facie fair market value of such motor vehicle or boat; (3) eliminate extension options and establish a firm ten-year statute of limitations for the enforcement of small claims judgments; and (4) clarify that credit card charges for the purchase of goods and services are not to be considered moneys loaned for purposes of post-judgment interest.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]