

## **Frequently Asked Questions: HB2584 / SB1248**

**Sponsors: Representative Welch / Senator Biss**

### **What does the legislation do?**

HB2584 / SB1248 strengthens protections for people who have consumer debt and are in the debt collection process. It provides expanded protections for a worker's wages, creates a protection for bank accounts, strengthens protections for educational savings accounts, and improves the wage assignment disclosure notice to ensure that people are aware of their rights. These changes will allow people to continue to pay down their debt while enabling them to meet the basic needs of their families.

### **Why are protections for people in the debt collection process important?**

Lack of sufficient protections from debt collection practices make Illinois families even more financially vulnerable. In Illinois, 38.3% of Illinois households, and 55.9% of households of color, are considered liquid asset poor.<sup>1</sup> This means that they lack sufficient savings to live above the federal poverty level for at least three months if they experience a significant disruption in their income. For these liquid asset poor households, debt collection practices not only further limit an already strained household budget, but they also strip them of any meager savings they have and potentially put other assets at risk.

### **How does Illinois compare to other states?**

When compared to other states' debt collection protections, Illinois has room for improvement. Several other states protect a higher percentage of a worker's wages from garnishment than Illinois does, with some states exempting all wages from garnishment. A few other states have automatic protections for bank accounts, while Illinois does not have any protection for bank accounts. Furthermore, at least 20 other states have eliminated wage assignments, as it is considered to be a predatory practice.

### **Wage Protections**

#### **How much of a person's wages is currently protected in Illinois?**

The current wage protection in Illinois is not sufficient for an individual or a family with dependents to pay for daily expenses, much less face a sudden financial crisis, such as job loss, car repair or a medical expense. Illinois protects 85% of wages or \$371.25 a week (45 times the state minimum wage) – whichever is higher.

#### **How much of a person's wages will be protected under HB2584 / SB1248?**

HB2584 / SB1248 adjusts the wage deduction formula to account for local minimum wage ordinances. The bill protects 85% of wages (the same as current law) or 45 times the federal, state, or **local** minimum wage, whichever is higher. This will provide increased wage protection for Chicago workers that will see a municipal minimum wage increase to \$13 an hour by 2019, which calculates to protecting \$650 per week of a Chicago worker's wages by 2019. It will also protect other Illinois workers impacted by future minimum wage increases at the municipal level.

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<sup>1</sup> <http://scorecard.assetsandopportunity.org/latest/state/il>

**Does this proposal significantly change the wage garnishment process?**

No. While HB2584 / SB1248 increases the portion of a person's wages that are protected in certain municipalities, this proposal does not alter the wage garnishment process. Wage garnishment could still be used by creditors to collect on debt.

**Bank Account Protection**

**How are bank accounts currently treated in Illinois' debt collection process?**

Currently, Illinois does not protect any assets in a bank account, such as a checking or savings account. A creditor can have a person's entire bank account immediately frozen.

**Once a creditor freezes a bank account, how long will it stay frozen?**

Once a bank account is frozen, it will remain frozen until a person goes to court and activates a \$4,000 "wildcard" that unfreezes up to \$4,000 in the bank account. This process can take 7-10 days, if a person is very proactive. Usually, people do not realize that there is a wildcard or that they could activate it quickly, so most people wait until the assigned hearing date, which is 20 to 40 days from the time the bank account is frozen.

**How could a frozen bank account affect a person or family?**

During the course of 7 to 40 days without access to one's bank account, a person would likely miss a payment on their utilities or other bills, and may not be able to buy food for themselves and their family. It could also cause someone to miss rent payments and their family could be evicted. This could lead to a vicious cycle of debt, forcing a person to take out other forms of credit in order to meet their basic needs while they do not have access to their bank account. An automatic protection of some assets in a bank account would prevent these devastating impacts from occurring, allowing a family to meet their basic needs while the debt collection process continues.

**What protections for bank accounts does HB2584 / SB1248 provide?**

HB2584 / SB1248 automatically protects \$2,500 in a person's bank account. Because this protection is self-executing, a person will not have to navigate the court system to maintain the ability to provide for their families.

**What will be the role of banks?**

The role of banks in this process will not change significantly. Currently, a bank receives a Third Party Citation from the creditor, at which point they are required to freeze the bank account (with the exception of certain federal benefits such as Social Security, which cannot be frozen per federal law). Under HB2584 / SB1248, a bank would receive a Third Party Citation, at which point they would freeze anything above \$2,500 in the bank account. The rest of the process remains the same - no further action would be required from the bank until the hearing date, at which point a determination is made about the frozen assets.

## **Protection of Educational Savings Accounts**

### **What educational savings accounts are currently protected, and what additional accounts will be protected under this proposal?**

Illinois currently protects funds saved in the Illinois College Savings Pool. HB2584 / SB1248 expands protections to include ABLÉ Accounts and 529 college savings accounts. ABLÉ Accounts were recently created, with bipartisan support, by Congress. The ABLÉ Act allows individuals with disabilities, receiving Social Security Disability Insurance (SSDI), to save a limited amount in an ABLÉ Account without putting their benefits at risk. The funds in an ABLÉ Account can be used for any "qualified disability expense," which means any expense required of the individual as a result of living a life with a disability. This includes education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services.

### **Won't people use these accounts to hide their money from creditors?**

There are specific provisions that prevent individuals from hiding money in the Illinois College Savings Pool for the sole purpose of avoiding debt collectors. HB2584 / SB1284 does not amend the existing provisions that prevent individuals from hiding money in these accounts to avoid debt collection.

## **Wage Assignments**

### **What is a wage assignment?**

A wage assignment is a way that some creditors take a person's wages without using the court process. Creditors that use wage assignments often include a clause in the contract that allow them to later take a worker's wages to collect on a debt. When the creditor would like to collect, they send the worker a wage assignment notice and can begin taking the wages.

### **What is the difference between wage garnishment and wage assignments?**

A wage garnishment is processed through the court system (post-judgment, a creditor goes to court and requests a Wage Deduction Order), while a wage assignment is a process that occurs entirely outside of the court system.

### **What creditors tend to use wage assignments?**

Wage assignments are used by a particular cohort of creditors, including payday lenders, used car sellers, rent-to-own stores, and the like. More traditional creditors, such as banks and credit unions, do not usually use the wage assignment process; rather, these creditors tend to use the wage garnishment process, which provides workers the right to due process.

### **Do other states use wage assignments?**

The Federal Trade Commission bans irrevocable wage assignment clauses in most consumer contracts. Because of this ban, at least 20 states prohibit wage assignments altogether.

**Is wage assignment voluntary?**

While wage assignments are voluntary and revocable, most workers do not realize that they can revoke a wage assignment at any time. The wage assignment notice is often confusing to Illinois workers – people do not realize that they have the right to revoke a wage assignment because the current disclosure notice is very difficult to understand.

**What changes does HB2584 / SB1248 make to wage assignments?**

HB2584 / SB1248 helps workers understand their rights when it comes to wage assignments by creating a wage assignment notice that is clear and easy to understand. This bill does not significantly alter the wage assignment process– it simply provides more consumer friendly language for Illinois workers.

**Questions:**

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