
THIRD READING

Bill No: SB 1200
Author: Skinner (D)
Amended: 4/21/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 4/19/22

AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern,
Wieckowski, Wiener

NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Enforcement of judgments: renewal and interest

SOURCE: East Bay Community Law Center

DIGEST: This bill restricts the renewal of money judgments to those pursuant to which a lien has been created. This bill reduces the interest rate applied to certain outstanding money judgments and extends the period of time within which a judgment debtor can move to vacate or modify a renewal.

ANALYSIS:

Existing law:

- 1) Defines “judgment creditor” as a person in whose favor a judgment is rendered. (Code Civ. Proc. § 680.240.)
- 2) Defines “judgment debtor” as a person against whom a judgment is rendered. (Code Civ. Proc. § 680.250.)
- 3) Defines “money judgment” as that part of a judgment which requires the payment of money. (Code Civ. Proc. § 680.270.)
- 4) Provides for enforceability of judgments in a civil action, including money judgements. (Code Civ. Proc. § 681.010.)

- 5) Provides that upon the expiration of 10 years after the date of entry of a money judgment or a judgment for possession or sale of property the judgment may not be enforced; all enforcement procedures shall cease; and any lien created by an enforcement procedure pursuant to the judgment is extinguished. (Code Civ. Proc. § 683.020.)
- 6) Authorizes the extension of the period of enforceability of a money judgment or a judgment for possession or sale of property by renewal of the judgment as provided. A judgment shall not be renewed if the application for renewal is filed within five years from the time the judgment was previously renewed. (Code Civ. Proc. § 683.110.)
- 7) Allows the judgment creditor to renew a judgment by filing an application for renewal with the court in which the judgment was entered. The filing of the application renews the judgment in the amount determined under Section 683.150 and extends the period of enforceability of the judgment as renewed for a period of 10 years from the date the application is filed. In the case of a money judgment payable in installments, for the purposes of enforcement and of any later renewal, the amount of the judgment as renewed shall be treated as a lump-sum money judgment entered on the date the application is filed. (Code Civ. Proc. § 683.120.)
- 8) Provides that in the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time before the expiration of the 10-year period of enforceability or, if the judgment is a renewed judgment, at any time before the expiration of the 10-year period of enforceability of the renewed judgment. It also provides timelines for money judgments payable in installments. (Code Civ. Proc. § 683.130.)
- 9) Provides the legal requirements for the contents of an application for renewal, attendant fees, the vacation or modification of a renewal, and the service of notice of renewal. The notice must inform the judgment debtor that they have 30 days to move to vacate or modify the renewal. (Code Civ. Proc. §§ 683.140-683.170.)
- 10) Provides that interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. The Legislature reserves the right to lower that rate of interest at any time. A change in the rate of interest may be made applicable only to the interest that accrues after the operative date of the statute that changes the rate. (Code Civ. Proc. § 685.010.)

This bill:

- 1) Limits the ability to renew money judgments to only those pursuant to which a lien has been created and such renewal is limited to renewing the lien.
- 2) Extends the period within which a judgment debtor can move to vacate or modify a renewal to 60 days.
- 3) Reduces the interest that accrues on money judgments where the principal on a claim related to medical expenses remaining unsatisfied is under \$200,000 or where the principal on a claim related to personal debt remaining unsatisfied is under \$50,000. The interest rate is set at the United States Prime Rate as it existed on December 31 of the year prior to the year judgment was entered with a cap of five percent.
- 4) Provides that the reduced rate does not apply to a money judgment that is based in whole or in part upon a finding of fraud or elder abuse. The bill provides a non-exclusive list of claims that are included, including those based on any of the following transactions:
 - a) An agreement governing the use of a credit card as defined in subdivision (a) of Section 1747.02 of the Civil Code;
 - b) A conditional sale contract as defined in subdivision (a) of Section 2981 of the Civil Code; and
 - c) A deferred deposit transaction as defined in subdivision (a) of Section 23001 of the Financial Code.
- 5) Defines “personal debt” to mean money due or owing or alleged to be due or owing from a natural person arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for the debtor’s personal, family, or household purposes.

Background

A judgment creditor has 10 years in which to enforce a money judgment. However, this period of enforceability may be extended by filing an application for renewal of the judgment with the court in which the judgment was entered. The filing of the application renews the judgment and extends the period of enforceability for a period of 10 years. The judgment debtor is provided 30 days within which to make a motion to vacate or modify the renewal. While a money judgment is outstanding, interest accrues at the rate of 10 percent per annum on the principal amount outstanding, in addition to any fees and penalties charged by the original creditor.

In response to concerns in California, as well as across the nation, that this legal structure is burying consumers in debt and incentivizing judgment creditors to sit on judgments rather than collect in a timely fashion, the bill limits the ability to renew money judgments to only those judgments to which a lien has been created, reduces the interest that accrues on certain outstanding money judgments, and increases the period of time within which a debtor has to respond to a notice of renewal.

This bill is sponsored by the East Bay Community Law Center. It is supported by community and legal services groups, including Centro Legal de la Raza. This bill is opposed by a variety of groups, including the California Association of Collectors, Encore Capital Group, Inc., and the Association of Certified Family Law Specialists.

Comments

Money judgments in California

When a money judgment is entered in a court of this state, the judgment creditor has 10 years in which to enforce such judgment. However, this period of enforceability may be extended by filing an application for renewal of the judgment with the court in which the judgment was entered. This may be done no sooner than five years after the initial judgment, but no later than ten years thereafter. The filing of the application renews the judgment and extends the period of enforceability of the judgment as renewed for a period of 10 years from the date the application is filed. Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied.

The burdens of indefinite renewal and exorbitant interest rates

Concerns have been raised across the country about the impact state laws governing money judgments have on debtors, especially low-income consumers. The focus is on several components: the interest rate that applies to such judgments, often in addition to other fees and interest already applied by creditors; the procedural protections granted debtors in connection with money judgments and attendant renewals; and the renewability of such judgments, sometimes indefinitely:

Post-judgment interest is a feature of the nation's complex debt collection system that has increasingly become a hotly contested battleground for creditors, loan buyers, and consumer advocates. The underlying judgments are often bought and sold by debt collectors who in many cases have the power to

seize the wages and put liens on property of consumers, who sometimes only learn a judgment has been made against them years after a loan balance has started ballooning at a high interest rate.¹

In California, as discussed above, money judgments are subject to an interest rate of 10 percent, placing it on the higher extreme in the country. For reference, the one-year treasury constant maturity rate is only slightly above one percent. Legal aid attorneys representing debtors argue it is low-income consumers who most often face such debt collection actions. They assert that the high interest rates often result in the debt ballooning, making it nearly impossible for these debtors to pay them off, and resulting in some declaring bankruptcy.

At its core, the purpose of charging interest on money judgments is to compensate the judgment creditor for the loss of the use of the underlying funds and to incentivize judgment debtors to pay off the judgment amount promptly.²

However, such a balancing of interests is arguably off kilter when the interest rate automatically placed on judgments is set well above market rates, especially in the context of consumer debts:

[I]n many states, the current post-judgment interest rate is a vestige of a different era, a time when interest rates were broadly much higher. These abnormally high rates have the potential of creating a windfall for creditors and a mismatch between the rate at which a judgment grows and the return rate of any savings or investment vehicle a consumer might reasonably use today to raise money to pay the judgment.³

Other states have recently addressed such gross discrepancies, including New York.⁴ Courts have also noted the gross discrepancy in this state for years.⁵ In fact, the California Constitution specifically provides a ceiling on the rate of interest

¹ Jillian Berman, 'I was barely making ends meet already and worrying about garnishment from your check—it's scary.' *How post-judgment interest became the new debt collection battleground* (December 15, 2021) MarketWatch, <https://www.marketwatch.com/story/i-was-barely-making-ends-meet-already-and-worrying-about-garnishment-from-your-check-its-scary-how-post-judgment-interest-became-the-new-debt-collection-battleground-11639575950>. All internet citations are current as of April 12, 2022.

² Christine Abely, *Adjusting Pre- and Post-Judgment Interest Rates for Consumer Debt Collection Actions*, 88 Tennessee Law Review 219 (2020). See also, *Hess v. Ford Motor Company* (2002) 27 Cal. 4th 516, 533 (pre-judgment interest).

³ See Note 1.

⁴ Karuna Patel, *Dismantling Unjust Interest Rates for Debt Collection Judgments* (March 30, 2022) The Regulatory Review, <https://www.theregreview.org/2022/03/30/patel-dismantling-unjust-interest-rates-for-debt-collection-judgments/>.

⁵ *In re Marriage of Cordero*, 95 Cal. App. 4th 653, 658 (2002).

that accrues upon a money judgment, which is the level set in Section 685.010, ten percent.⁶

Exacerbating these issues in California is the fact that money judgments can be renewed after five years, and be renewed indefinitely. Upon renewal, the accrued interest is added to the principal, creating a new principal amount that is thereafter accruing interest at ten percent. That means a creditor can essentially continue to compound the interest every five to ten years and continue to do this forever.

In response, this bill reduces the interest that accrues on certain money judgments, including medical debt and claims related to personal debt, with a cap on the amount of the judgments that qualify. In addition, this bill restricts the ability to renew money judgments to only those pursuant to which a lien has already been created and such renewal is limited to renewing the lien.

The author makes the case:

At the end of 2021, 61% of the U.S. population was living paycheck to paycheck. For families in that circumstance, an unexpected medical bill, car repair or the rising costs of basic goods can start a spiral of falling behind on credit card, loan or other payments. Under current California law, if the debt ends up in court, the interest rate on a court ordered debt payment is 10%, an amount additional to any interest that may have been accrued on the original debt.

SB 1200 seeks to provide relief to financially burdened Californians and increase their ability to pay off personal debt by reducing the interest rate a civil court can order on such debt [], and removing unlimited renewals of personal debt judgments.

This bill also extends the period within which a judgment debtor can move to vacate or modify a renewal to 60 days. This allows more time for a debtor, who may not even remember the original debt or money judgment, to present their case.

NOTE: For a more thorough analysis of this bill, please see the Senate Judiciary Committee analysis.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

⁶ Cal. Const, Art. XV, § 1.

SUPPORT: (Verified 5/16/22)

East Bay Community Law Center (source)
Bay Area Legal Aid
California Asset Building Coalition
Center for Responsible Lending
Centro Legal de la Raza
Children's Institute
Community Legal Aid SoCal
Felony Murder Elimination Project
Housing and Economic Rights Advocates
Initiate Justice
Legal Services for Prisoners with Children
Root & Rebound
San Francisco Financial Justice Project
Starting Over, Inc.
Tipping Point Community
United Way Bay Area
Western Center on Law & Poverty, Inc.

OPPOSITION: (Verified 5/16/22)

Association of Certified Family Law Specialists
California Association of Collectors
California Bankers Association
California Chamber of Commerce
California Credit Union League
California Financial Services Association
California Judgment Preservation Alliance
California Land Title Association
Encore Capital Group, Inc.
Judicial Judgment Enforcement Services
Receivables Management Association International
Nine individuals

ARGUMENTS IN SUPPORT: Centro Legal de la Raza asserts:

Californians are already struggling under immense financial pressure. With unceasing student debt burdens, uncertain employment, lack of affordable childcare, and exploding housing costs, families are struggling to get ahead. These hardships have only been compounded by the last two years with a once-

in-a-lifetime global pandemic which caused an inequitable economic recovery and a cascade of geopolitical and geo-economical disasters.

We know there are many barriers that can prevent someone from realizing financial stability. A decade is long enough to enforce a judgment. It's time to allow people to move forward with their lives and have the opportunity to start fresh without the costs and resources of bankruptcy.

ARGUMENTS IN OPPOSITION: The California Credit Union League (CCUL) argues:

SB 1200 will limit a creditor if they have not obtained a lien on some property under the original judgement during the 10 year enforcement period by not allowing the renewal of the judgement. The second limitation that is being proposed is the renewal is "limited to only the purpose of renewing the lien." In other words, a renewed judgment merely renews existing judgment liens. It appears the renewal will not allow a creditor to find new property upon which to impress a judgment lien. Creditors often renew judgements because if the judgment debtor acquires real property during the period of the renewed judgment the abstract lien will attach to the newly purchased property.

CCUL feels that these changes to the abstract lien process will encourage debtors to "run out the clock" and wait until the lien expires after 10 years. The entire lien process, especially renewing after 10 years, is costly for creditors so it is reserved for higher dollar debts.

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
5/18/22 14:29:01

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