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No. 1053

H.P. 776

House of Representatives, February 28, 2019

An Act To Reduce the Period of Enforcement for Judgments Based upon Consumer Obligations

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative COOPER of Yarmouth. Cosponsored by Senator BELLOWS of Kennebec and Representative: TALBOT ROSS of Portland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §864, as amended by PL 2017, c. 102, §1, is further amended to read:

§864. Presumption of payment of judgments

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Every judgment and decree of any court of record of the United States or of any state or justice of the peace in this State is presumed to be paid and satisfied at the end of 20 years after any duty or obligations accrued by virtue of such judgment or decree, except for a child support order and a judgment or decree based upon a consumer obligation. For the purposes of this section, "child support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. For the purposes of this section, "consumer obligation" means a debt or debts incurred for personal, family or household purposes and does not include a debt or debts incurred for business or commercial purposes. A judgment or decree of any court of record of the United States or of any state based upon a consumer obligation is irrebuttably presumed to be paid and satisfied at the end of one year after any duty or obligations accrued by virtue of the judgment or decree unless within that period the judgment creditor has commenced other action as permitted by this Title for the enforcement of the judgment or decree.

Sec. 2. 14 MRSA §4651-A, sub-§9, ¶C is enacted to read:

C. Notwithstanding any other provisions of this section, a lien created pursuant to this section arising out of a judgment on a consumer obligation does not continue for longer than one year after the date of that judgment unless within that one-year period the judgment creditor has commenced other action as allowed by this Title to enforce the lien. For the purposes of this paragraph, "consumer obligation" means a debt or debts incurred for personal, family or household purposes and does not include a debt or debts incurred for business or commercial purposes.

Sec. 3. 14 MRSA §4653, as amended by PL 2001, c. 275, Pt. A, §3, is further amended to read:

§4653. Renewal in 10 years

An alias or pluries execution may be issued within 10 years after the day of issuance of the preceding execution and not afterwards, except that such an execution may not be issued with respect to any judgment arising out of a consumer obligation, as defined in section 4651-A, subsection 9, paragraph C.

Sec. 4. 14 MRSA §4654 is amended to read:

§4654. Execution not timely; motion against debtor

 When execution is not issued within the times prescribed by sections 4652 and 4653, motion against the debtor may be made to show cause why execution on the judgment should not be issued, and if no sufficient cause is shown, execution may be issued thereon, except that such an execution may not be issued more than one year after the date of any judgment arising out of a consumer obligation, as defined in section 4651-A, subsection 9, paragraph C.

Sec. 5. Application. This Act applies to any judgment relating to a consumer obligation entered on or after the effective date of this Act. It also applies to any such judgment entered within 20 years before the effective date of this Act, except that the presumption of payment of consumer obligations provided for in this Act does not extend back more than 19 years and this Act may not reduce the time period for obtaining the issuance of an execution on any judgment to less than one year.

14 SUMMARY

Current law provides that a judgment or decree of a court of record of the United States or of any state is presumed to be paid and satisfied at the end of 20 years after any duty or obligations accrued by virtue of such judgment or decree. This bill provides an exception to this law for a judgment or decree based upon a consumer obligation, which is irrebuttably presumed to be paid and satisfied at the end of one year after any duty or obligation accrued by virtue of the judgment or decree unless within that period the judgment creditor has commenced other action as permitted by law for the enforcement of the judgment or decree.