**WASHINGTON STATE BAR ASSOCIATION**

**Creditor-Debtor Section**

**Executive Committee**

**Minutes re: Telephonic Meeting of Executive Committee on January 31, 2022 at 3:00 p.m. regarding pending legislation to amend the Washington state personal property exemption statute.**

Meeting location: Telephonic

In attendance by phone: Bill Malaier (EC-Chair); Todd Tracy (EC-Secretary); Jennifer Faubion (EC), Bruce Medeiros (EC), David Kazemba (EC), Darren Digiacinto (EC), Russell Garrett (EC), Brian Walker (EC), Jacob DeGraff (EC), Sallye Quinn (EC), Christina Henry (EC)

Also, in attendance by phone: Ellen Brown, Steven Reilly and Ruth Nelson.

1. INTRODUCTIONS:

Bill Malaier called the meeting to order at 3:02 p.m. and a roll call was taken to establish a quorum.

Todd Tracy also asked for introduction of section members who were also participating in the meeting.

1. Bill Malaier advised that the purpose of the meeting was to vote on whether to take a position on behalf of the Section regarding legislation introduced before the Washington State Senate to amend the exemption statute.

Bill reviewed the process and the choices that the Executive Committee can take which are then passed through the WSBA Legislative Lobbyist.

Bill also indicated that all comments received through the Section list-serve would be incorporated into the minutes.

1. Bill Malaier made an initial motion for the Executive Committee to take a position regarding the bill. Bruce Medeiros seconded the motion

Bill Malaier then asked each member of the Executive Committee to express their views on whether the section should take a position on the proposed legislation using the format approved by the WSBA.

1. Bill Malaier

Bill does not support taking a position on the pending bill:

* This particular bill has the potential to be divisive. Noted the many different views within the comments received via the listserv.
* Was concerned that the bill came up very quickly with little time to study it. Believes more time is needed to study the pending changes.
* Is concerned what it would do to the cost and ability to obtain credit.
* Recognizes that the bill just increases existing exemption amounts without creating new Exemptions.

1. Bruce Medeiros

Bruce does not support taking a position on the pending bill:

* Understands the desire to make comments, but finds it difficult in trying to come to consensus on the specifics. Noted the wide-ranging opinions and disagreement/discussion on the listserv comments.

1. David Kazemba

David does not supports taking a position on the pending bill:

* Agrees with all of the points raised by Bill Malaier

1. Darren Digiacinto

Darren does not supports taking a position on the pending bill:

* Agrees with all of the positions previously stated.

1. Jacob DeGraff

Jacob supports taking a position on the pending bill:

* Believes that the legislature is looking to the Section for a comment, regardless of the position.
* Does not believe that the EC is picking a side in the creditor vs. debtor dichotomy.
* Just remember that even small creditors can end up as debtors at some point in the future.

1. Brian Walker

Brian does not support taking a position on the pending bill.

1. Russ Garrett

Russ does not support taking a position on the pending bill:

* Believes it would be viewed as taking a position of creditor vs. debtor.
* Is concerned that it could potentially run afoul *Keller* prohibitions.
* Believes it could be divisive, noting the divergent opinions of the comments from the listserv.
* The bill came up too quickly and all stakeholders need to have time to study the gray areas.

1. Sallye Quinn

Sallye does not support taking a position on the pending bill:

* Thinks that there are other areas in the personal property exemption statute that also need to be addressed by the legislation and clarified.
  + Are the exemptions per community or are they stackable per individual?

1. Christina Henry

Christina supports taking a position on the pending bill:

* Does not see how the proposed wild card change is different that the federal exemption so there would not be any notable change in treatment to general unsecured creditors.
* The way the statute is currently drafted, it is very unclear how you use state exemptions in bankruptcy. There is confusion that needs to be clarified.
* The $15,000 in the vehicle exemption takes into account the current market conditions for used vehicles. Probably would still leave many vehicles unprotected.
* Recognizes the PI tort injury issues are challenging and difficult and noted that those were the biggest issues raised in the listserv comments. Specifically, the allocation issues are difficult.

1. Todd Tracy

Todd supports taking a position on the pending bill:

* EC took a position on the homestead legislation, so why not this piece of legislation.
* The personal property exemptions have not been updated in years. The numbers are inadequate in today’s world.
* Even many of the proposed increases would be inadequate in today’s market, specifically the vehicle exemption.
* Does recognize that the bill came up rather quickly as need the request for comment. Wished it had been slowed down so that the issues could be studied better.

1. Jennifer Faubian

Jennifer does not support taking a position on the pending bill:

* Agrees with the reasons stated by Bruce Medeiros and does not think the EC needs to make a comment on this pending bill.

There were no further comments from EC members or from the section members on the phone.

Based upon the foregoing the Executive Committee is not going to take a position on the pending legislation.

The vote on Bill Malaier’s motion is as follows:

NO: Brian Walker, Bruce Medeiros, David Kazemba, Darren Digacinto, Jennifer Faubian, Russ Garrett, Sallye Quinn, Bill Malaier

YES: Todd Tracy, Jacob DeGraff, Christina Henry.

The motion to take a position on the pending legislation fails.

Bill Malaier made a motion to adjourn the meeting. Todd Tracy seconded the motion.

The motion to adjourn passed unanimously.

The meeting was adjourned at 3:29 p.m.

Minutes Prepared by Todd Tracy, Secretary