

SENATE BILL NO. 133
INTRODUCED BY J. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT RETIREMENT FUNDING MECHANISMS AND INTERESTS IN UNMATURED LIFE INSURANCE CONTRACTS ARE EXEMPT FROM EXECUTION OF JUDGMENT; AND AMENDING SECTIONS 25-13-608 AND 25-13-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-13-608, MCA, is amended to read:

"25-13-608. Property exempt without limitation -- exceptions. (1) A judgment debtor is entitled to exemption from execution of the following:

- (a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;
- (b) benefits the judgment debtor has received or is entitled to receive under federal social security or local public assistance legislation, except as provided in subsection (2);
- (c) veterans' benefits, except as provided in subsection (2);
- (d) disability or illness benefits, except as provided in subsection (2);
- ~~(e) except as provided in subsection (2), individual retirement accounts, as defined in 26 U.S.C. 408(a), to the extent of deductible contributions made before the suit resulting in judgment was filed and the earnings on those contributions, and Roth individual retirement accounts, as defined in 26 U.S.C. 408A, to the extent of qualified contributions made before the suit resulting in judgment was filed and the earnings on those contributions;~~

~~(e) except as provided in subsection (2), the individual's right to receive benefits from or interest in a private or governmental retirement, pension, stock bonus, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service unless:~~

- ~~—— (i) the plan or contract was established by or under the auspices of an insider that employed the individual at the time the individual's rights under the plan or contract arose;~~
- ~~—— (ii) the benefit is paid on account of age or length of service; and~~
- ~~—— (iii) the plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code, 26 U.S.C. 401(a), 403(a), 403(b), 408, or 409;~~

(E) EXCEPT AS PROVIDED IN SUBSECTION (2), INDIVIDUAL RETIREMENT ACCOUNTS, AS DEFINED IN 26 U.S.C. 408(A), TO THE EXTENT OF DEDUCTIBLE CONTRIBUTIONS MADE BEFORE THE SUIT RESULTING IN JUDGMENT WAS FILED AND THE EARNINGS ON THOSE CONTRIBUTIONS, AND ROTH INDIVIDUAL RETIREMENT ACCOUNTS, AS DEFINED IN 26 U.S.C. 408A, TO THE EXTENT OF QUALIFIED CONTRIBUTIONS MADE BEFORE THE SUIT RESULTING IN JUDGMENT WAS FILED AND THE EARNINGS ON THOSE CONTRIBUTIONS;

(f) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be used to pay for the care;

(g) maintenance and child support;

(h) a burial plot for the judgment debtor and the debtor's family;

~~(i) benefits or payments paid or payable from a retirement system or plan within Title 19, chapters 3, 5 through 9, and 13, as provided by 19-2-1004; and~~

~~———(j) benefits or payments paid or payable from a retirement system or plan within Title 19, chapter 20, as provided by 19-20-706~~

~~(i) property exempt from execution of judgment as provided in 19-2-1004, 19-18-612, 19-19-504, 19-20-706, 19-21-212, Title 25, chapter 13, part 6, 33-7-522, 33-15-512 through 33-15-514, 39-51-3105, 39-71-743, 39-73-110, 53-2-607, 53-9-129, Title 70, chapter 32, and 80-2-245; and~~

(I) BENEFITS OR PAYMENTS PAID OR PAYABLE FROM A RETIREMENT SYSTEM OR PLAN WITHIN TITLE 19, CHAPTERS 3, 5 THROUGH 9, AND 13, AS PROVIDED BY 19-2-1004; AND

(J) BENEFITS OR PAYMENTS PAID OR PAYABLE FROM A RETIREMENT SYSTEM OR PLAN WITHIN TITLE 19, CHAPTER 20, AS PROVIDED BY 19-20-706; AND

~~(j)(k) the judgment debtor's interest in any unmatured life insurance contracts owned by the judgment debtor.~~

(2) Veterans' and social security legislation benefits based upon remuneration for employment, disability benefits, and assets of individual retirement accounts are not exempt from execution if the debt for which execution is levied is for:

(a) child support; or

(b) maintenance to be paid to a spouse or former spouse."

Section 2. Section 25-13-609, MCA, is amended to read:

"25-13-609. Personal property exempt subject to value limitations. A judgment debtor is entitled to exemption from execution of the following:

(1) the judgment debtor's interest, not to exceed \$4,500 in aggregate value, to the extent of a value not exceeding \$600 in any item of property, in household furnishings and goods, appliances, jewelry, wearing apparel, books, firearms and other sporting goods, animals, feed, crops, and musical instruments;

(2) the judgment debtor's interest, not to exceed \$2,500 in value, in one motor vehicle; and

(3) the judgment debtor's interest, not to exceed \$3,000 in aggregate value, in any implements, professional books, and tools, of the trade of the judgment debtor or a dependent of the judgment debtor; ~~and~~

~~———— (4) the judgment debtor's interest, not to exceed \$4,000 in value, in any unmaturred life insurance contracts owned by the judgment debtor."~~

NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] APPLIES TO EXECUTIONS OF JUDGMENT IN ACTIONS RESULTING IN JUDGMENT FILED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].

- END -

