

SENATE BILL NO. 408

June 27, 2023, Introduced by Senators IRWIN, CAVANAGH, CHANG, GEISS, MCMORROW and BAYER and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2807, 4011, 4015, 4031, 4061a, 6023, 6027, 6059, and 6104 (MCL 600.2807, 600.4011, 600.4015, 600.4031, 600.4061a, 600.6023, 600.6027, 600.6059, and 600.6104), section 2807 as added by 2004 PA 136, section 4011 as amended and section 4061a as added by 1994 PA 346, and section 6023 as amended by 2012 PA 553, and by adding sections 4001a, 4032, 4033, 6001a, 6023b, 6023c, 6023d, 6023e, 6023f, 6023g, and 6023h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2807. (1) A judgment lien does not attach to ~~an~~**either of**
2 **the following:**

3 **(a) An** interest in real property owned as tenants by the
4 entirety unless the underlying judgment is entered against both the
5 husband and wife.

6 **(b) An interest in real property to the extent of any**
7 **available exemption from execution under chapter 60.**

8 (2) With the following exceptions, a judgment lien has
9 priority over a lien recorded with the register of deeds after the
10 notice of judgment lien is recorded:

11 (a) A purchase money mortgage.

12 (b) A mortgage to the extent that proceeds of the mortgage are
13 used to pay 1 or more of the following:

14 (i) Purchase money mortgage debt.

15 (ii) A subsequent refinancing of purchase money mortgage debt.

16 (iii) A nonpurchase money mortgage recorded before attachment of
17 the judgment lien.

18 (c) A lien that secures an advance made under a previously
19 recorded future-advance mortgage.

20 (d) A lien that has or acquires priority by operation of law.

21 (e) A claim of lien recorded with the register of deeds under
22 section 111 of the construction lien act, 1980 PA 497, MCL
23 570.1111.

24 (f) A lien for unpaid assessments or charges due to a
25 condominium association, homeowners' association, or property
26 owners' association that arises from or ~~pursuant to~~**under** recorded
27 restrictions that run with the land.

28 (g) A state or federal tax lien.

1 (3) If property subject to a judgment lien recorded under this
2 chapter is sold or refinanced, proceeds of the sale or refinancing
3 due to a judgment creditor are limited to the judgment debtor's
4 equity in the property at the time of the sale or refinancing after
5 all liens senior to the judgment lien, property taxes, and costs
6 and fees necessary to close the sale or refinancing are paid or
7 extinguished.

8 **Sec. 4001a. As used in this chapter:**

9 (a) "Consumer" means an individual.

10 (b) "Consumer debt" means an obligation or alleged obligation
11 of an individual to pay money arising out of a transaction in which
12 the money, property, insurance, or services that are the subject of
13 the transaction are primarily for personal, family, or household
14 purposes, whether or not the obligation has been reduced to
15 judgment.

16 (c) "Creditor" means a person to whom a debt is owed and
17 includes a judgment creditor and any other person that obtains an
18 execution on a debt. As used in this subdivision, "execution"
19 includes an attachment, levy, garnishment, or other disablement,
20 freeze, or seizure of property, whether pre- or post-judgment, to
21 satisfy a debt. Execution includes a creditor's exercise of a right
22 of setoff to collect a debt. Execution does not include self-help
23 repossession of collateral.

24 (d) "Debt buyer" means a person that is engaged in the
25 business of purchasing delinquent or charged-off consumer debt for
26 collection purposes, whether that person collects the debt itself
27 or hires a third party for collection or an attorney-at-law for
28 litigation to collect the debt.

29 (e) "Earnings" means that term as defined in section 6001a.

1 (f) "Exempt" means that term as defined in section 6001a.

2 (g) "Garnishment" means a legal or equitable procedure through
3 which the earnings, property, or money of an individual are
4 required to be withheld by another person for payment of any debt
5 to a creditor.

6 (h) "Garnishable earnings" means that part of the earnings of
7 any individual remaining after the deduction from the earnings of
8 any amounts required by law to be withheld, such as taxes, Social
9 Security, or alternative pension and Medicare withholdings, and
10 after further deduction of up to 15% of the remainder for
11 contributions for health insurance, a medical expense account, a
12 pension, or a retirement account.

13 (i) "Original creditor" means the person to which the consumer
14 originally owed money before the debt was sold to a debt buyer or
15 other person. If this chapter requires the original creditor to be
16 identified, the name must be that which the original creditor used
17 in its dealings with the consumer.

18 Sec. 4011. (1) Subject to ~~sections 4061 and 4061a, and the~~
19 ~~conditions in the limitations in this chapter, including~~
20 subsections (2) to (10), ~~the~~ a court ~~has power~~ may by garnishment
21 ~~to~~ apply the following property or obligation, or both, to the
22 satisfaction of a claim evidenced by contract, judgment of this
23 state, or foreign judgment, whether or not ~~the~~ **this** state has
24 jurisdiction over the person against whom the claim is asserted:

25 (a) Personal property belonging to the person against whom the
26 claim is asserted but ~~which~~ **that** is in the possession or control of
27 a third person if the third person is subject to the judicial
28 jurisdiction of ~~the~~ **this** state and the personal property to be
29 applied is within the boundaries of this state.

1 (b) An obligation owed to the person against whom the claim is
2 asserted if the obligor is subject to the judicial jurisdiction of
3 ~~the~~**this** state.

4 (2) Except as provided in sections 4061 and 4061a, the court
5 may exercise the jurisdiction granted in this section only in
6 accordance with the Michigan court rules. Except as otherwise
7 provided by sections 4061 and 4061a and the Michigan court rules,
8 ~~the~~**this** state and each governmental unit within ~~the~~**this** state,
9 including, but not limited to, a public, municipal, quasi-
10 municipal, or governmental corporation, unincorporated board,
11 public body, or political subdivision, may be proceeded against as
12 a garnishee in the same manner and with the same effect as a
13 proceeding against an individual garnishee.

14 (3) A writ of garnishment may be issued before judgment only
15 as provided in this subsection. ~~Upon~~**On** ex parte application
16 showing that the person against whom the claim is asserted is not
17 subject to the judicial jurisdiction of ~~the~~**this** state or, after
18 diligent effort, cannot be served with process as required to
19 subject the person to the judicial jurisdiction of ~~the~~**this** state,
20 a copy of the writ of garnishment ~~shall~~**must** be served ~~upon~~**on** the
21 person against whom the claim is made in the same manner as
22 provided by the Michigan court rules for service of process in
23 other civil actions in which personal jurisdiction over the
24 defendant is not required. ~~Upon~~**On** entry of judgment in the
25 principal action, the obligation or property garnished ~~shall~~**must**
26 be applied to the satisfaction of the judgment.

27 (4) A **person shall not commence a** garnishment proceeding ~~shall~~
28 ~~not be commenced~~ against ~~the~~**this** state or a governmental unit of
29 ~~the~~**this** state, including, but not limited to, a public, municipal,

1 quasi-municipal, or governmental corporation, unincorporated board,
2 public body, or political subdivision, until after the plaintiff's
3 claim has been reduced to judgment.

4 (5) A **person shall not commence a** garnishment proceeding ~~shall~~
5 ~~not be commenced against a~~**another** person for money owing to a
6 defendant ~~on account~~**because** of labor performed by the defendant
7 until after the plaintiff's claim has been reduced to judgment.

8 (6) A sheriff or other public officer is not subject to
9 garnishment for money or things received or collected by ~~him or her~~
10 ~~pursuant to~~**the sheriff or other public officer in carrying out** an
11 execution or other legal process in the favor of the defendant or
12 because of any money in ~~his or her~~**the sheriff's or other public**
13 **officer's** hands for which ~~he or she~~**the sheriff or other public**
14 **officer** is accountable merely as a public officer to the defendant.

15 (7) A **person shall not commence a** garnishment proceeding ~~shall~~
16 ~~not be commenced if the commencement of such a~~**the** proceeding is
17 forbidden by a statute of this state.

18 (8) Except as otherwise provided in sections 4012 and 4061, a
19 plaintiff shall pay a fee of \$1.00 to the garnishee at the time the
20 garnishee is served with a writ of garnishment.

21 (9) If the court or garnishee possesses money or property
22 ~~pursuant to~~**under** a writ of garnishment after the court releases
23 the garnishee from liability under ~~that~~**the** writ, the court shall
24 convey or order the conveyance of the money or property to any of
25 the following, as the court determines appropriate:

26 (a) The defendant's attorney, if the defendant is represented
27 by counsel in the garnishment proceeding.

28 (b) The defendant, if the defendant is not represented by
29 counsel in the garnishment proceeding.

1 (c) The plaintiff.

2 (10) A writ of garnishment is not effective if both of the
3 following conditions are met:

4 (a) The plaintiff fails to provide the garnishee with
5 information sufficient for the garnishee to identify the defendant.

6 (b) The garnishee provides the court with written notice of
7 the insufficiency described in subdivision (a).

8 Sec. 4015. **(1)** A garnishee defendant shall not use the fact
9 that the principal defendant has had 1 or more actions brought
10 against ~~him~~ **the principal defendant** under ~~the provisions of this~~
11 chapter or section 8306 as a ~~cause of~~ **reason to discipline the**
12 **principal defendant** or discharge ~~of~~ the principal defendant from
13 employment **or from an independent contract, or as a reason to not**
14 **hire or contract with the principal defendant.**

15 **(2)** ~~A~~ **On a motion filed in the action or in a separate civil**
16 **action, a court shall enter a judgment against a** garnishee
17 defendant who violates ~~the provisions of this section shall be~~
18 ~~required~~ **requiring the garnishee defendant to reinstate** ~~do all of~~
19 **the following:**

20 **(a) Reinstate** the principal defendant to employment. ~~and~~
21 ~~reimburse~~

22 **(b) Reimburse** all compensation, **including wages, earnings, and**
23 **employment benefits,** lost ~~by~~ **because of** the discipline, ~~or~~
24 discharge, **or failure to hire or contract.** ~~The principal defendant~~
25 ~~may enforce his rights under this section by appropriate civil~~
26 ~~action.~~

27 **(c) Pay additional damages of not more than \$1,000.00.**

28 **(d) Pay reasonable actual attorney fees and costs.**

29 Sec. 4031. (1) The provisions of ~~the~~ **this act and any other**

1 statutes ~~relating~~**that relate** to exemptions from execution, and the
2 manner of levying ~~upon~~**on** property ~~belonging~~**that belongs** to a
3 class or species in which exemptions are **allowed** by law, ~~allowed,~~
4 ~~shall be applicable~~**apply** to the application of property and
5 obligations to claims by attachment and garnishment.

6 (2) In ~~any~~**a** garnishment proceeding ~~where~~**in which** the
7 indebtedness of the garnishee to the principal defendant is money
8 owed to the principal defendant ~~on account~~**because** of

9 ~~(a)~~ the sale to the garnishee of milk or cream, or both,
10 produced on the farm or farms of the principal defendant, the
11 garnishee's liability to the plaintiff is limited to 40% of ~~such~~
12 **the** money. †

13 ~~(b) personal labor performed by the principal defendant or his~~
14 ~~family, the garnishee's liability to the plaintiff is limited by~~
15 ~~the exemptions allowed under section 7511.~~

16 **Sec. 4032. (1) The money that a debtor receives as payment of**
17 **any means-tested public assistance benefits, unemployment**
18 **compensation benefits, federal earned income tax credit under 26**
19 **USC 32, state tax credit under section 272 of the income tax act of**
20 **1967, 1967 PA 281, MCL 206.272, or a similar credit under a program**
21 **of this state or a local unit of government providing an earned**
22 **income tax credit, disability benefits, or worker's compensation**
23 **benefits is exempt from garnishment.**

24 (2) A debtor's garnishable earnings for any week that are less
25 than 80 times the greater of the federal minimum hourly wage
26 prescribed by 29 USC 206(a)(1) or the state minimum hourly wage
27 provided by the workforce opportunity wage act, 2014 PA 138, MCL
28 408.411 to 408.424, that is in effect at the time are exempt and
29 not subject to garnishment. This exemption must be adjusted pro

1 rata for a pay period longer than a week.

2 (3) If the debtor's garnishable earnings exceed the amount
3 provided in subsection (2), not more than 10% of garnishable
4 earnings in excess of the amount exempt under subsection (2) is
5 subject to garnishment unless the weekly garnishable earnings of
6 the debtor exceed \$1,200.00, adjusted, as applicable, under section
7 6023f, in which case not more than 15% of garnishable earnings are
8 subject to garnishment. The amount not subject to garnishment is
9 exempt.

10 (4) The amount of a debtor's garnishable earnings that can be
11 garnished for the support of a person is subject to the laws of
12 this state governing child support and alimony.

13 (5) If more than 1 garnishment is served on a garnishee with
14 respect to the same debtor, the garnishment served earliest takes
15 priority, except that a garnishment for support of an individual
16 takes priority over any other garnishment regardless of the date of
17 service. If a garnishment with greater priority consumes the
18 garnishable earnings that are available for garnishment under this
19 section, no part of the debtor's garnishable earnings may be
20 garnished under the garnishment with lower priority.

21 (6) The protections for earnings provided in this section
22 apply to all debtors whose physical place of employment is in this
23 state, regardless of whether the debtor's employer has offices or
24 other places of business located outside this state.

25 (7) At least 15 days and not more than 45 days before
26 requesting a court to issue a writ of garnishment, the person
27 requesting the issuance must serve the judgment debtor, in a manner
28 that complies with Michigan court rules, with a notice in plain
29 language using a form developed by the state court administrative

1 office, under the direction of the supreme court.

2 Sec. 4033. (1) A financial institution that is holding money
3 of the debtor in a deposit account that is served with a
4 garnishment shall calculate the amount of money deposited into the
5 account in the 90 days preceding service that was deposited from a
6 source described in section 4032(1) or any other source that is
7 exempt from garnishment. The financial institution shall include
8 its calculations in its disclosure.

9 (2) The amount of money held in a deposit account as
10 calculated under subsection (1) must not be paid or ordered to be
11 paid to the plaintiff under the garnishment.

12 (3) A financial institution shall not charge a debtor a fee
13 for any actions taken by the financial institution in connection
14 with a garnishment served on the financial institution.

15 Sec. 4061a. (1) ~~The~~ **Subject to subsection (6),** the state
16 treasurer shall intercept a state tax refund or credit that is
17 subject to a writ of garnishment served ~~upon~~ **on** the state treasurer
18 ~~pursuant to~~ **under** section 4061. ~~Upon~~ **On** intercepting a state tax
19 refund or credit ~~pursuant to~~ **under** a writ of garnishment, the state
20 treasurer shall do all of the following:

21 (a) Calculate the amount available from the interception to
22 satisfy all or part of the garnishment, and ~~within~~ **not later than**
23 90 days after establishing other liability for which the state tax
24 refund or credit may be applied under section 30a of ~~Act No. 122 of~~
25 ~~the Public Acts of 1941, being section~~ **1941 PA 122, MCL 205.30a,** ~~of~~
26 ~~the Michigan Compiled Laws,~~ do both of the following:

27 (i) File with the court a verified disclosure that identifies
28 the intercepted amount, less any setoff, counterclaim, or other
29 demand of the state against the defendant.

1 (ii) Serve ~~upon~~**on** the plaintiff and defendant a copy of the
2 disclosure described in subparagraph (i).

3 (b) Unless notified by the court that objections to the writ
4 of garnishment have been filed, deposit the amount available for
5 the garnishment with either of the following ~~pursuant to~~**in**
6 **accordance with** the terms of the writ not less than 28 days after
7 filing the disclosure ~~pursuant to~~**under** subdivision (a):

8 (i) The clerk of the court.

9 (ii) The plaintiff's attorney of record in the garnishment
10 action, or, if the plaintiff is not represented by counsel, the
11 plaintiff or the plaintiff's designee.

12 (2) Objections to the writ of garnishment of a tax refund
13 ~~shall~~**must** be filed with the court ~~within~~**not later than** 14 days
14 after the date of service of the disclosure on the defendant.

15 (3) If an interception of a state tax refund or credit does
16 not occur before October 31 of the year during which a writ of
17 garnishment for a state tax refund or credit is to be processed,
18 both of the following apply:

19 (a) The state treasurer is not required to provide to the
20 defendant or file with the court a disclosure.

21 (b) The state treasurer is not required to provide to the
22 plaintiff a disclosure unless the plaintiff provides the state
23 treasurer with a written request for a disclosure between November
24 1 and December 31 of the tax year following the tax year for which
25 ~~a~~**the** writ of garnishment of a state tax refund or credit was
26 filed.

27 (4) A disclosure described in subsection (1) is not required
28 to be made under oath.

29 (5) ~~The~~**Subject to subsection (6), this** state's liability to

1 the plaintiff under a writ of garnishment issued under this section
 2 is limited to the amount of the tax refund or credit due to the
 3 defendant for the period the writ is in effect, less any setoff,
 4 counterclaim, or other demand of the state against the defendant.
 5 As used in this subsection, "state" includes the state treasurer.

6 **(6) If the writ of garnishment is issued on a judgment entered**
 7 **to recover a consumer debt as that term is defined in section**
 8 **6023g, the state treasurer shall not intercept under subsection**
 9 **(1), and shall reduce the amount of the tax refund or credit due**
 10 **under subsection (5) by, any amount that is payment of a tax credit**
 11 **under section 272 of the income tax act of 1967, 1967 PA 281, MCL**
 12 **206.272.**

13 **(7) ~~(6)~~—**If all or a portion of an intercepted state tax refund
 14 or credit is deposited with the clerk of the court under subsection
 15 (1), the court shall convey the deposited amount to the plaintiff's
 16 attorney of record in the garnishment action or, if the plaintiff
 17 is not represented by counsel, to the plaintiff.

18 **(8) ~~(7)~~—**Michigan court rules that do not conflict with this
 19 section or section 4061 govern a garnishment in which the state is
 20 a garnishee.

21 **(9) ~~(8)~~—**As used in this section, "state treasurer" includes an
 22 employee designated by the state treasurer to act on ~~his or her~~ **the**
 23 **state treasurer's** behalf.

24 **Sec. 6001a. As used in this chapter:**

25 **(a) "Dependent" means an individual who relies in whole or in**
 26 **significant part on a debtor for support and maintenance.**

27 **(b) "Earnings" means compensation paid or payable for personal**
 28 **services, whether denominated as wages, salary, commission, bonus,**
 29 **payment for skilled, personal, or professional services, or**

1 otherwise, whether earned as an employee or as an independent
2 contractor, and includes alimony.

3 (c) "Executing officer" means the official, creditor, or other
4 individual who issues or implements an execution.

5 (d) "Execution" includes an attachment, levy, garnishment, or
6 other disablement, freeze, or seizure of property, whether pre- or
7 post-judgment, to satisfy a debt. Except for purposes of section
8 6023g, execution includes a creditor's exercise of a right of
9 setoff to collect a debt. Execution does not include self-help
10 repossession of collateral.

11 (e) "Exempt" means, unless otherwise specified, not subject to
12 execution, levy, attachment, garnishment, setoff, self-help,
13 seizure, or any other form of process, court order, creditor, or
14 other action for the purpose of debt collection or restitution or
15 other equitable claim. Money that is exempt remains exempt when it
16 is paid or transferred to the debtor, the debtor's spouse, partner,
17 beneficiary, or dependent or to an account for the benefit of the
18 debtor, the debtor's spouse, partner, beneficiary, or dependent.

19 (f) "Garnishment" means that term as defined in section 4001a.

20 (g) "Homestead" means 1 of the following owned or being
21 purchased under an executory contract by the debtor that the debtor
22 or a dependent of the debtor occupies as the debtor's or the
23 dependent's principal residence:

24 (i) If the land is located outside of a recorded plat, city, or
25 village, a residence and appurtenances and the land on which they
26 are situated, not exceeding 40 acres.

27 (ii) If the land is located within a recorded plat, city, or
28 village, a residence and appurtenances and the land on which they
29 are situated, not exceeding 1 lot or parcel.

1 (iii) A residence situated on land not owned by the debtor.

2 (iv) A condominium unit.

3 (v) A unit in a cooperative.

4 (vi) A motor home.

5 (vii) A boat or other watercraft.

6 (h) "Necessary property" or "necessary provisions" means
7 property that is or provisions that are reasonably essential to or
8 needed for everyday living, including, but not limited to, any
9 special needs because of health or physical or mental infirmity.

10 (i) "Payroll card account" means an account that is directly
11 or indirectly established through an employer or another person
12 that pays earnings and to which electronic fund transfers of the
13 employee's wages, salary, employee compensation, including
14 commissions, or other earnings are made on a recurring basis,
15 whether the account is operated or managed by the employer or other
16 person that pays earnings, a third-party payroll processor, a
17 depository institution, or any other person. Payroll card account
18 includes any other payroll card account as defined in regulations
19 issued under the electronic fund transfer act, 15 USC 1693 to
20 1693r.

21 (j) "Prepaid account" means a prepaid account as that term is
22 defined under regulations issued under the electronic fund transfer
23 act, 15 USC 1693 to 1693r, and includes all of the following:

24 (i) An account for distributing needs-tested benefits.

25 (ii) A loyalty, award, or promotional gift card if used to pay
26 or receive earnings.

27 (iii) A general-use prepaid card, payment code, or other device
28 as that term is defined in the electronic fund transfer act, 15 USC
29 16931-1, and regulations promulgated under that section, if the

1 card, code, or device is not labeled as a gift card.

2 (iv) A health savings account, flexible spending account, or
3 medical savings account, or a health reimbursement arrangement.

4 (k) "Residence" includes real or personal property, including
5 a share in a residential cooperative, a beneficial interest in a
6 trust applying to the property, or a manufactured home, that is
7 owned individually or in any form of joint ownership by the debtor
8 or the debtor's dependent, spouse, or domestic partner.

9 (l) "Resident" means a person living in this state temporarily
10 or permanently.

11 (m) "Value" means current fair market value of accounts,
12 goods, or property less the amount of any liens or security
13 interests in the accounts, goods, or property, based on the price
14 that would be paid, assuming a willing buyer and a willing seller,
15 for accounts, goods, or property of similar age and condition. A
16 debtor's testimony as to the value of property the debtor owns or
17 as to the advertised value of property similar to that claimed as
18 exempt is admissible as evidence of an item's value.

19 Sec. 6023. (1) The following property of a judgment debtor and
20 the judgment debtor's dependents is exempt from levy and sale under
21 an execution:

22 (a) All family pictures, all arms and accouterments required
23 by law to be kept by any ~~person, individual~~, all wearing apparel of
24 every ~~person individual~~ and ~~his or her~~ **the individual's** family,
25 **excluding furs, all household pets, companion animals, and service**
26 **animals**, and provisions and fuel for comfortable subsistence of
27 each householder and ~~his or her~~ **the householder's** family for 6
28 months.

29 (b) ~~All~~ **The debtor's aggregate interest in household goods,**

1 furniture, utensils, books, and appliances, not exceeding in value
2 ~~\$1,000.00.~~ **\$5,000.00.**

3 **(c) The debtor's interest in a motor vehicle up to \$15,000.00**
4 **in value.**

5 **(d)** ~~(e)~~—A seat, pew, or slip occupied by the judgment debtor
6 or the judgment debtor's family in a house or place of public
7 worship, and all cemeteries, **cemetery lots**, tombs, and rights of
8 burial while in use as repositories of the dead of the judgment
9 debtor's family or kept for burial of the judgment debtor.

10 **(e)** ~~(d)~~—To each householder, 10 sheep, 2 cows, 5 swine, 100
11 hens, 5 roosters, and a sufficient quantity of hay and grain,
12 growing or otherwise, for properly keeping the animals and poultry
13 for 6 months, **or in the alternative and at the election of the**
14 **debtor, the debtor's aggregate interest, not to exceed \$10,000.00**
15 **in value, in crops, farm animals, and feed for the farm animals.**

16 **(f)** ~~(e)~~—The **debtor's aggregate interest in** tools, implements,
17 materials, stock, apparatus, team, vehicle, motor vehicle, horses,
18 harness, or other things to enable ~~a person~~ **the debtor** to carry on
19 the profession, trade, occupation, or business in which the ~~person~~
20 **debtor** is principally engaged, not exceeding in value
21 ~~\$1,000.00.~~ **\$10,000.00.**

22 **(g) The debtor's aggregate interest in computers, including,**
23 **but not limited to, mobile computing devices, mobile phones, and**
24 **computer accessories, not to exceed \$5,000.00.**

25 **(h) All professionally prescribed health aids.**

26 **(i)** ~~(f)~~—Any money or other benefits paid, provided, or allowed
27 to be paid ~~, or provided, or allowed,~~ by any stock or mutual life
28 or health or casualty insurance company, ~~on account~~ **because** of the
29 disability ~~due to~~ **resulting from the** injury or sickness of the

1 insured person, whether the debt or liability of ~~such~~**the** insured
 2 person or beneficiary was incurred before or after the accrual of
 3 benefits under the insurance policy or contract, except that the
 4 exemption under this subdivision does not apply to actions to
 5 recover for necessities contracted for after the accrual of the
 6 benefits.

7 ~~(j) (g)~~A homestead ~~of not more than 40 acres of land and the~~
 8 ~~dwelling house and appurtenances on that homestead that is not~~
 9 ~~included in a recorded plat, city, or village, or, at the option of~~
 10 ~~the owner, a quantity of land that consists of not more than 1 lot~~
 11 ~~that is within a recorded town plat, city, or village, and the~~
 12 ~~dwelling house and appurtenances on that land, owned and occupied~~
 13 ~~by any resident of this state, not exceeding in value \$3,500.00.~~
 14 ~~This exemption applies to any house that is owned, occupied, and~~
 15 ~~claimed as a homestead by a person but that is on land not owned by~~
 16 ~~the person. However, this exemption does not apply to a mortgage on~~
 17 ~~the homestead that is lawfully obtained. A mortgage is not valid~~
 18 ~~for purposes of this subdivision without the signature of a married~~
 19 ~~judgment debtor's spouse unless either of the following occurs:~~

20 ~~(i) The mortgage is given to secure the payment of the purchase~~
 21 ~~money or a portion of the purchase money.~~

22 ~~(ii) The mortgage is recorded in the office of the register of~~
 23 ~~deeds of the county in which the property is located, for a period~~
 24 ~~of 25 years, and no notice of a claim of invalidity is filed in~~
 25 ~~that office during the 25 years following the recording of the~~
 26 ~~mortgage.~~**\$250,000.00 or, if the debtor or a dependent of the debtor**
 27 **at the time of the filing of the bankruptcy petition is 65 years of**
 28 **age or older or disabled, not exceeding \$350,000.00 in value.**

29 ~~(k) (h)~~An equity of redemption as described in section 6060.

1 (l) ~~(i)~~—The homestead of a family, after the death of the owner
 2 of the homestead, from the payment of ~~his or her~~ **the owner's** debts
 3 in all cases during the minority of ~~his or her~~ **the owner's**
 4 children.

5 (m) ~~(j)~~—An individual retirement account or individual
 6 retirement annuity as defined in section 408 or 408a of the
 7 internal revenue code of 1986, 26 USC 408 and 408a, and the
 8 payments or distributions from the account or annuity. This
 9 exemption applies to the operation of the federal bankruptcy code
 10 as permitted by section 522(b)(2) of the bankruptcy code, 11 USC
 11 522. This exemption does not apply to any amounts contributed to
 12 the individual retirement account or individual retirement annuity
 13 if the contribution occurs within 120 days before the debtor files
 14 for bankruptcy. This exemption does not apply to an individual
 15 retirement account or individual retirement annuity to the extent
 16 that any of the following occur:

17 (i) The individual retirement account or individual retirement
 18 annuity is subject to an order of a court ~~pursuant to~~ **under** a
 19 judgment of divorce or separate maintenance.

20 (ii) The individual retirement account or individual retirement
 21 annuity is subject to an order of a court concerning child support.

22 (iii) Contributions to the individual retirement account or
 23 premiums on the individual retirement annuity, including the
 24 earnings or benefits from those contributions or premiums, exceed,
 25 in the tax year made or paid, the deductible amount allowed under
 26 section 408 of the internal revenue code of 1986, 26 USC 408. This
 27 limitation on contributions does not apply to a rollover of a
 28 pension, profit-sharing, stock bonus, or other plan that is
 29 qualified under section 401 of the internal revenue code of 1986,

1 26 USC 401, or an annuity contract under section 403(b) of the
2 internal revenue code of 1986, 26 USC 403.

3 **(n)** ~~(k)~~—The right or interest of a person in a pension,
4 profit-sharing, stock bonus, or other plan that is qualified under
5 section 401 of the internal revenue code of 1986, 26 USC 401, or an
6 annuity contract under section 403(b) of the internal revenue code
7 of 1986, 26 USC 403, if the plan or annuity is subject to the
8 employee retirement income security act of 1974, Public Law 93-406,
9 88 Stat —829, **and the payments or distributions from the plan or**
10 **annuity.** This exemption applies to the operation of the federal
11 bankruptcy code, as permitted by section 522(b)(2) of the
12 bankruptcy code, 11 USC 522. This exemption does not apply to any
13 amount contributed to a pension, profit-sharing, stock bonus, or
14 other qualified plan or a 403(b) annuity if the contribution occurs
15 within 120 days before the debtor files for bankruptcy. This
16 exemption does not apply to the right or interest of a person in a
17 pension, profit-sharing, stock bonus, or other qualified plan or a
18 403(b) annuity to the extent that the right or interest in the plan
19 or annuity is subject to either of the following:

20 (i) An order of a court ~~pursuant to~~ **under** a judgment of divorce
21 or separate maintenance.

22 (ii) An order of a court concerning child support.

23 **(o)** ~~(l)~~—Any interest in the following:

24 (i) A trust, fund, or advance tuition payment contract
25 established under the Michigan education trust act, 1986 PA 316,
26 MCL 390.1421 to 390.1442.

27 (ii) An account established under the Michigan education
28 savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

29 (iii) An account in a qualified tuition program or educational

1 savings trust under section 529 or 530 of the internal revenue code
2 of 1986, 26 USC 529 and 530.

3 (p) Any money paid or to be paid because the debtor or a
4 dependent of the debtor was a crime victim.

5 (q) In addition to the exemptions provided in subdivisions (a)
6 to (p), the debtor's aggregate interest in any property, not to
7 exceed in value \$2,000.00 plus up to \$15,000.00 of any unused
8 amount of the exemption provided under subdivision (j).

9 (2) The exemptions provided in this section do not extend to
10 any mortgage of, lien on, or security interest in the exempt
11 property that is excluded from exemption by law, or that is
12 consensually given or lawfully obtained unless the lien is obtained
13 by judgment, attachment, levy, or similar legal process in
14 connection with a court action or proceeding against the debtor.

15 (3) If the owner of a homestead dies, leaving a surviving
16 spouse but no children, the homestead is exempt, and the rents and
17 profits of the homestead ~~shall~~ accrue to the benefit of the
18 surviving spouse before ~~his or her~~ the surviving spouse's
19 remarriage, unless the surviving spouse is the owner of a homestead
20 in ~~his or her~~ the surviving spouse's own right.

21 Sec. 6023b. (1) The exemptions provided under this chapter are
22 available to a resident and apply regardless of where the property
23 is located.

24 (2) In an action to collect a debt against an individual who
25 is not a resident, the court shall apply the exempt property laws
26 of the state with which the individual has the most significant
27 contacts.

28 Sec. 6023c. Only the judgment debtor's interest in property is
29 subject to execution or another creditor's remedy. If a judgment

1 creditor is on notice, or is placed on notice by an objection, that
2 another person claims an interest in property with or instead of
3 the debtor, the judgment creditor must establish through a hearing
4 as described in section 6023g that the debtor's share exceeds the
5 amount protected by this section. The name in which the property is
6 titled or maintained is not dispositive as to ownership or
7 interests in the property. A debtor's interest in a joint bank or
8 similar account is based on the debtor's contributions to the
9 account, as determined by the tracing rules in section 6023e, in
10 order to protect the interest of the person that is not the debtor.
11 Each person with an interest in property may claim the person's
12 full exemption amount applicable to that type of property.

13 Sec. 6023d. The exemptions provided by this chapter do not
14 apply to an order for the support of a child or dependent of the
15 debtor or a judgment regarding the division of property between
16 spouses or former spouses or domestic partners entered by a court
17 in accordance with an administrative or civil procedure that is
18 established by state or federal law, that affords substantial due
19 process, and that is subject to judicial review.

20 Sec. 6023e. (1) Money received from the sale or transfer of
21 property that is exempt under this chapter or other law remains
22 exempt for 18 months while in the debtor's possession, in a
23 checking or similar account, in a savings account, in a certificate
24 of deposit with a term that does not extend past the 18 months, or
25 otherwise held in a way that the money is regularly available to
26 the debtor and is traceable and may be converted into another type
27 of exempt property.

28 (2) If property, or a part of property, that could have been
29 claimed as exempt has been sold or taken by condemnation, or has

1 been lost, damaged, or destroyed and the owner has been indemnified
2 for the property, the traceable proceeds of the property are exempt
3 for 18 months after the proceeds are received, and may be converted
4 into another type of exempt property.

5 (3) Money or other property and proceeds that are exempt under
6 this chapter or other law of this state are traceable under this
7 section by application of the first-in, first-out rule.

8 Sec. 6023f. (1) The dollar amounts in this chapter and in
9 section 4032 must be adjusted, as provided in this section,
10 according to and to the extent of changes in the Consumer Price
11 Index for Urban Wage Earners and Clerical Workers: U.S. City
12 Average, All Items, compiled by the Bureau of Labor Statistics,
13 United States Department of Labor. The index for the December
14 preceding the effective date of the amendatory act that added this
15 section is the reference base index.

16 (2) The dollar amounts described in subsection (1) must be
17 adjusted on July 1 of each even-numbered year if the percentage of
18 change, calculated to the nearest whole percentage point, between
19 the index for December of the preceding year and the reference base
20 index is 10% or more. All of the following apply to the adjustment
21 described in this subsection:

22 (a) The portion of the percentage change in the index in
23 excess of a multiple of 10% is disregarded and the dollar amounts
24 must be adjusted only in multiples of 10% of the amounts provided
25 in this act before any adjustment.

26 (b) The dollar amounts must not be adjusted if the amounts
27 required by this subsection are those currently in effect as a
28 result of an earlier application of this subsection.

29 (c) Changes in dollar amounts must be rounded to the nearest

1 whole dollar.

2 (3) If the index described in subsection (1) is revised, the
3 percentage of change must be calculated on the basis of the revised
4 index. If a revision of the index changes the reference base index,
5 a revised reference base index must be determined by multiplying
6 the reference base index applicable by the rebasing factor
7 furnished by the United States Department of Labor Bureau of Labor
8 Statistics. If the index is superseded, the index referred to in
9 this section is the one represented by the United States Department
10 of Labor Bureau of Labor Statistics as reflecting most accurately
11 changes in the purchasing power of the dollar for consumers.

12 (4) The state treasurer shall perform the calculations
13 required by this section and publish both of the following:

14 (a) On or before April 30 of each year in which dollar amounts
15 are to change, the changes in dollar amounts required by subsection
16 (2).

17 (b) Promptly after the changes occur, changes in the index
18 required by subsection (3), including, if applicable, the numerical
19 equivalent of the reference base index under a revised reference
20 base index and the designation or title of any index superseding
21 the index.

22 (5) All printed and online versions of this chapter or section
23 4032 published or distributed by any agency or department of this
24 state must be updated to include the new amounts not later than
25 their effective date.

26 Sec. 6023g. (1) A judgment creditor, court officer, sheriff,
27 or other person shall not levy execution, garnish, attach, or
28 otherwise seize property that may be exempt without a court order
29 reasonably identifying the property and the manner of levy.

1 (2) On entry of a judgment in an action to collect a consumer
2 debt, the clerk of the court shall mail a notice to the last known
3 address of each judgment debtor stating that the judgment debtor is
4 responsible for paying the judgment but that the court will not
5 require it to be paid with exempt income, assets, or property. The
6 clerk shall note the address to which the notice is mailed in the
7 record. If the notice is returned undelivered, the clerk shall also
8 note that in the record.

9 (3) When a judgment creditor obtains a writ of execution, the
10 clerk of the court, court officer, sheriff, or other person shall
11 give a notice to the judgment debtor, to any person in possession
12 of the property involved, and to any person known to the judgment
13 creditor after reasonable inquiry to have an ownership claim to the
14 property involved. The notice must state the person's right to a
15 hearing to claim exemptions that are not self-executing, to contest
16 the seizure of exempt or necessary property, or to seek to set
17 aside the judgment, and the steps the person may take to assert
18 these rights. If documents are served on the person in connection
19 with the execution, this notice must be included with the
20 documents, but otherwise it must be given by first-class mail.

21 (4) At the time a judgment creditor subpoenas an individual
22 for an examination under section 6110, the judgment creditor shall
23 also provide a notice that the debtor is responsible for paying the
24 judgment, that the court will not require the judgment to be paid
25 with exempt income, assets, or property, and that the individual
26 has the right to a hearing to claim exemptions, to contest the
27 seizure of exempt or necessary property, or to seek to set aside
28 the judgment.

29 (5) The notices required by this section must list the most

1 common federal and state exemptions, give examples of income,
2 assets, and property that are commonly exempt, and list sources of
3 additional related information, such as this state's law libraries
4 or the court's website. The notice must also state that the
5 judgment debtor may file a motion to set aside the judgment and
6 must list the most common grounds for such a motion, including
7 improper service or active duty military service at the time of the
8 suit.

9 (6) If an item of property falls into a category that is fully
10 exempt under this chapter or for which the exemption depends on its
11 value, or if an exemption depends on the judgment debtor's
12 designation of the property to which the exemption will apply but
13 the exemption appears to the executing officer to be sufficient to
14 exempt all of the judgment debtor's property, the executing officer
15 shall report that fact to the court and the judgment creditor and
16 shall not execute on the property. The property is presumed to be
17 fully exempt unless the judgment creditor requests and obtains a
18 hearing and establishes that the property does not fall into a
19 fully exempt category or includes significant value in excess of
20 the amount exempt, or that the exemption is not sufficient to
21 exempt all of the judgment debtor's property. The judgment creditor
22 must request the hearing not later than 7 days after the executing
23 officer's report. Notice of the hearing must be mailed to the
24 debtor and describe the steps the debtor may take to contest the
25 judgment creditor's claim as to the value of the property. The
26 debtor may contest the judgment creditor's claim by appearing in
27 person or through a representative at the hearing, or by filing a
28 written response stating the debtor's belief of the amount that the
29 property is worth and certifying the existence and amount of any

1 liens or security interests against the property. The court shall
2 consider such a statement as evidence.

3 (7) If an exemption under this chapter depends on the judgment
4 debtor's designation of the property to which the exemption will
5 apply, and the exemption does not appear to the executing officer
6 to be sufficient to exempt all of the judgment debtor's property,
7 the executing officer shall provide the judgment debtor a form and
8 written instructions for designating the property to which the
9 exemption will apply. If the debtor does not file the designation
10 with the court within 7 days after receiving the form, the
11 executing officer shall designate the items that will be exempt. If
12 the debtor files a designation, the clerk of the court shall notify
13 the judgment creditor. The items designated by the judgment debtor
14 are presumed to be exempt unless the judgment creditor requests a
15 hearing not later than 7 days after the clerk's notice and
16 establishes at the hearing that the value of the property exceeds
17 the exemption. The hearing must be conducted as set forth in
18 subsection (6).

19 (8) The state court administrative office, acting under the
20 direction of the supreme court, shall develop and make publicly
21 available notices to garnishees that describe the exemptions
22 applicable to particular types of garnishment. The forms shall
23 instruct the garnishee not to turn over money or other property
24 that the garnishee can reasonably identify as exempt, but instead
25 to report back that the money or property is exempt.

26 (9) If a judgment creditor obtains an execution against a
27 person, the person is entitled to a prompt hearing to claim
28 exemptions, to contest the seizure of exempt property, or to seek
29 to set aside the judgment.

1 (10) If a judgment creditor obtains an execution against
2 property of a person, the person is entitled to a prompt hearing to
3 claim that property levied on, while not exempt, is of such value
4 to the financial rehabilitation or future support of the debtor or
5 the debtor's dependents that it should be declared exempt by the
6 court. The court may also order a greater exemption if other
7 exceptional circumstances such as illness, injury, unemployment,
8 death of a family member, disability, or old age make a greater
9 exemption equitable.

10 (11) Costs incurred in making, or proposing to make, a levy on
11 property must be paid out of the proceeds of a sale of the property
12 if a sale occurs. If the proceeds of a sale of the property are
13 insufficient to cover the costs incurred in the levy, garnishment,
14 or attachment, the judgment creditor shall pay the costs and may
15 not recover them from the debtor or the garnishee, notwithstanding
16 any agreement of the parties to the contrary.

17 (12) As used in this section, "consumer debt" means an
18 obligation or alleged obligation of a consumer to pay money arising
19 out of a transaction in which the money, property, insurance, or
20 services that are the subject of the transaction are primarily for
21 personal, family, or household purposes, whether or not the
22 obligation has been reduced to judgment.

23 Sec. 6023h. (1) If property is seized that is exempt from
24 seizure under this chapter, the debtor and the debtor's dependents
25 may recover all of the following in a civil action:

- 26 (a) Actual damages, including emotional distress damages.
27 (b) Statutory damages up to \$2,000.00 per exempt item seized.
28 (c) Reasonable attorney fees in connection with establishing
29 the exemption and the damages of the debtor.

1 (2) It is a defense to liability under this section that the
2 seizure was not intentional and resulted from a bona fide error of
3 fact notwithstanding the maintenance of procedures reasonably
4 adapted to avoid the error.

5 Sec. 6027. If the homestead of any debtor is appraised at a
6 value of more than ~~\$3,500.00~~, **the exemption available under this**
7 **chapter** and cannot be divided, the debtor ~~shall~~**does** not for that
8 reason lose the benefit of the exemption. ~~; but in such cases the~~
9 **The officer who levies the execution** shall deliver a notice,
10 attached to a copy of the appraisal, to the debtor or to ~~some of~~
11 ~~his~~**a member of the debtor's** family of suitable age to understand
12 the nature ~~thereof~~, **of the notice** that unless the debtor ~~pay~~**pays**
13 the officer the surplus over and above the ~~\$3,500.00~~, **exemption**
14 **available under this chapter** or the amount due on the execution
15 within 60 days ~~thereafter~~, **after delivery of the notice**, the
16 premises will be sold.

17 Sec. 6059. (1) ~~In case~~**If** the surplus, or the amount due on
18 the execution or judgment, is not paid according to ~~the provisions~~
19 ~~of section 6027, of this chapter, it shall be lawful for the~~
20 officer ~~to~~**may** advertise and sell the ~~said~~ premises, and ~~pay to the~~
21 **debtor** out of the proceeds of ~~said~~**the** sale ~~to pay such debtor the~~
22 ~~sum of \$3,500.00, which shall be exempt from execution for 1 year~~
23 ~~thereafter~~, **amount of the exemption available under this chapter**,
24 and apply the balance on ~~said~~**the** execution.

25 (2) ~~No~~**A** sale may be made ~~in the case last mentioned~~, **under**
26 **this section** unless ~~a~~**an amount** greater ~~sum~~ than ~~\$3,500.00~~ **the**
27 **exemption available under this chapter** is bid ~~therefor~~, **for the**
28 **property**, in which case the officer may return ~~said~~**the** execution
29 ~~for want of property~~, **unsatisfied** or report the facts to the court

1 ~~in which said that entered the judgment was rendered, as the case~~
 2 ~~may require as required.~~

3 (3) An amount paid to the debtor under this section is exempt
 4 from execution for 1 year after the payment.

5 Sec. 6104. (1) After judgment for money has been ~~rendered~~
 6 **entered** in an action in ~~any a~~ court of this state, the judge may,
 7 on motion in ~~that the~~ action or in a subsequent proceeding, **do any**
 8 **of the following:**

9 (a) ~~(1) Compel a discovery of any property or things in action~~
 10 belonging to a judgment debtor, and of any property, money, or
 11 things in action due to ~~him,~~ or held in trust for ~~him;~~ **the judgment**
 12 **debtor.**

13 (b) ~~(2) Prevent the transfer, payment, or delivery of any~~
 14 property, money, or things in action ~~, or the payment or delivery~~
 15 ~~thereof to the judgment debtor. †~~

16 (c) ~~(3) Order the satisfaction of the judgment out of~~
 17 property, money, or other things in action, liquidated or
 18 unliquidated, **that are** not exempt from execution. †

19 (d) ~~(4) Appoint a receiver of any property the judgment debtor~~
 20 has or may ~~thereafter~~ acquire. † ~~and~~

21 (e) ~~(5) Make any order as within his that in the judge's~~
 22 discretion seems appropriate ~~in regard to carrying~~ **carry** out the
 23 full intent and purpose of ~~these provisions~~ **this chapter** to subject
 24 any nonexempt assets of ~~any a~~ judgment debtor to the satisfaction
 25 of ~~any a~~ judgment against the judgment debtor.

26 (2) The court may permit the proceedings under this chapter to
 27 be taken although execution may not issue and **although** other
 28 proceedings may not be taken for the enforcement of the judgment.
 29 **However, the court may not permit proceedings under this chapter if**

1 the result would be to allow the enforcement of the judgment in a
2 manner that is otherwise expressly prohibited under this act or
3 that would result in the evasion of express prohibitions under this
4 act.

5 (3) It is not necessary that execution be returned unsatisfied
6 before proceedings under this chapter are commenced.