SUBSTITUTE FOR

HOUSE BILL NO. 4901

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending section 5451 (MCL 600.5451), as amended by 2012 PA 451.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 5451. (1) A debtor in bankruptcy under the bankruptcy code, 11 USC 101 to 1532, may exempt from property of the estate property that is exempt under federal law or, under 11 USC 522(b)(2), the following property:

(a) All of the following:

(*i*) Family pictures.

(*ii*) Arms and accoutrements required by law to be kept by a person.

(*iii*) Wearing apparel, excluding furs.

(*iv*) Cemeteries, tombs, and rights of burial in use as repositories for the dead of the debtor's family or kept for burial of the debtor.

(*v*) Professionally prescribed health aids.

(b) Provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(c) The interest, not to exceed a value of $450.00 in each item and an aggregate value of ~~$3,000.00,~~ **$5,000.00**, in household goods, furniture, utensils, books, appliances, and jewelry.

(d) The interest ~~, not to exceed $500.00 in value,~~ in a seat, pew, or slip occupied by the debtor or the debtor's family in a house or place of public worship.

(e) The interest, not to exceed ~~$2,000.00~~ **$10,000.00** in value, in crops, farm animals, and feed for the farm animals.

(f) The interest ~~, not to exceed $500.00 in value,~~ in household pets**, companion animals, and service animals**.

(g) The interest, not to exceed ~~$2,775.00~~ **$15,000.00** in value, in 1 motor vehicle.

(h) The interest, not to exceed ~~$500.00~~ **$5,000.00** in value, in ~~1 computer~~ **computers** and ~~its~~ **computer** accessories, **including, but not limited to, mobile computing devices, and mobile phones**.

(i) The interest, not to exceed ~~$2,000.00~~ **$10,000.00** in value, in the tools, implements, materials, stock, apparatus, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged.

(j) Money or other benefits paid, provided, allowed to be paid or provided, or allowed, by a stock or mutual life, health, or casualty insurance company because of the disability due to injury or sickness of an insured person, whether the debt or liability of the insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that this exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(k) All individual retirement accounts, including Roth IRAs, or individual retirement annuities as defined in section 408 or ~~408a~~ **408A** of the internal revenue code **of 1986**, 26 USC 408 and ~~408a,~~ **408A**, and the payments or distributions from those accounts or annuities. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to the amount contributed to an individual retirement account or individual retirement annuity within 120 days before the debtor files for bankruptcy. This exemption does not apply to any of the following:

(*i*) The portion of an individual retirement account or individual retirement annuity that is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

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

(*iii*) The portion of an individual retirement account or individual retirement annuity that is attributable to contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, that, in the tax year made or paid, exceeded the deductible amount allowed under section 408 of the internal revenue code **of 1986**, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan, or other plan that is qualified under section 401 of the internal revenue code **of 1986**, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code **of 1986**, 26 USC 403.

(*l*) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code **of 1986**, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code **of 1986**, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 ~~Stat.~~ **Stat** 829, **and the payments or distributions from the plan or annuity**. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest is subject to either of the following:

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

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

(m) The interest of the debtor, the codebtor, if any, and the debtor's dependents, not to exceed ~~$30,000.00~~ **$125,000.00** in value or, if the debtor or a dependent of the debtor at the time of the filing of the bankruptcy petition is 65 years of age or older or disabled, not to exceed ~~$45,000.00~~ **$200,000.00** in value, in a homestead.

(n) Property described in section 1 of 1927 PA 212, MCL

557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety, except that this exemption does not apply with regard to a claim based on a joint debt of the husband and wife.

(o) If the owner of a homestead dies, leaving a surviving spouse but no children, the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right, may exempt the homestead and the rents and profits of the homestead.

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

(q) The debtor's interest in or money held in a bank account that the debtor received within the previous 18 months as payment of any means-tested public assistance benefits, unemployment compensation benefits, federal earned income tax credit under section 32 of the internal revenue code of 1986, 26 USC 32, state tax credit under section 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272, or a similar credit under a program of this state or a local unit of government providing an earned income tax credit, disability benefits, or worker's compensation benefits. The source of money held in a bank account under this subdivision must be determined by applying a first-in, first-out assumption.

(r) In addition to the exemptions provided in subdivisions (a) to (q), the debtor's aggregate interest in any property, not to exceed in value $1,475.00 plus up to $13,950.00 of any unused amount of the exemption provided under subdivision (m).

(2) In a joint bankruptcy case, the exemptions in subsection (1) apply fully for each debtor.

(3) The exemptions in subsection (1) apply to all property

held in a revocable trust of which the debtor is the settlor to the same extent the property would be exempt if it were not held in trust.

(4) The value of property to which an exemption is applied under subsection (1) and the adjusted value of the exemption must be determined on the date the bankruptcy petition is filed.

(5) If the interest of the debtor in a homestead does not exceed the applicable exemption amount under subsection (1)(m) on the date the bankruptcy petition is filed, any increase in the value of the debtor's interest in the homestead during the pendency of the case is exempt.

(6) ~~(2)~~ An exemption under this section does not apply to a mortgage, lien, or security interest in the exempt property that is consensually given or lawfully obtained unless the lien is obtained by judgment, attachment, levy, or similar legal process in connection with a court action or proceeding against the debtor.

(7) ~~(3)~~ If property that is exempt under this section is sold, damaged, destroyed, or acquired for public use, the right to receive proceeds or, if the owner receives proceeds and holds them in a manner that makes them identifiable as proceeds, the proceeds received are exempt from the property of a federal bankruptcy estate in the same manner and amount as the exempt property. An exemption under this subsection may be claimed up to 1 year after the receipt of the proceeds by the owner.

(8) ~~(4) On March 1, 2005 and at the end of each 3-year period after 2005,~~ **Except as provided in subsection (9), on an adjustment date**, the state treasurer shall adjust each dollar amount in this section or, for each adjustment after ~~March 1, 2005, each~~ **the first adjustment date, the most recent** adjusted amount, by an amount determined by the state treasurer to reflect the cumulative change in the ~~consumer price index~~ **Consumer Price Index** for the ~~3-year~~ **adjustment** period ~~ending on the December 31 preceding the adjustment date~~ and rounded to the nearest $25.00. The state treasurer shall publish the adjusted amounts. The adjusted amounts apply to cases filed ~~on or~~ after ~~April 1~~ **March 31** following the adjustment date.

(9) On an adjustment date, or as soon as practicable based on the availability of the home price index, the state treasurer shall adjust the dollar amounts in subsection (1)(m) or, for each adjustment after the first adjustment date, the most recent adjusted amounts, by amounts determined by the state treasurer to reflect the cumulative change in the home price index for the adjustment period and rounded to the nearest $25.00. The state treasurer shall publish the adjusted amounts. The adjusted amounts apply to cases filed after March 31 following the adjustment date.

(10) ~~(5)~~ As used in this section:

(a) "Adjustment date" means March 1 of every third year after the year in which the amendatory act that added this definition takes effect.

(b) "Adjustment period" means the 3-year period ending on December 31 preceding the adjustment date.

(c) ~~(a)~~ "Consumer ~~price index"~~ **Price Index**" means the ~~consumer price index~~ **Consumer Price Index** for all urban consumers in the area of ~~Detroit-Ann Arbor-Flint,~~ **Detroit-Warren-Dearborn**, Michigan, published by the United States ~~department of labor~~ **Department of Labor** or, if the United States ~~department of labor~~ **Department of Labor** ceases publishing that index, the most similar index available.

(d) ~~(b)~~ "Disabled" means unable to engage in substantial gainful activity, as defined by 42 USC 1382c(a)(3)(E), as a result of a physical or mental impairment and receiving supplemental security income under 42 USC 1382c(a)(3)(A) and (C).

(e) "Home price index" means the FHFA Expanded-Data House Price Index for the United States, calculated and published by the Federal Housing Finance Agency, or, if that index is no longer calculated and published, the most similar index available.

(f) ~~(c)~~ "Proceeds" means money payable or paid as a result of 1 or more of the following:

(*i*) Sale of the property.

(*ii*) Insurance or other indemnification for damage or destruction of the property.

(*iii*) Compensation for the acquisition for public use of the property.

(g) ~~(d)~~ "Homestead" means 1 of the following owned or being purchased under an executory contract by the debtor that the debtor or a dependent of the debtor occupies as his or her principal residence:

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

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

(*iii*) A residential dwelling situated on land not owned by the debtor.

(*iv*) A condominium unit.

(*v*) A unit in a cooperative.

(*vi*) A motor home.

(*vii*) A boat or other watercraft.

(h) ~~(e)~~ "Residential dwelling" includes, but is not limited to, a house or a manufactured or mobile home.

Enacting section 1. This amendatory act applies only to bankruptcy cases filed on or after the effective date of this amendatory act.