

# HOUSE BILL No. 5031

June 30, 2005, Introduced by Reps. Lipsey, Bieda, Kehrl, Plakas, Leland, Kathleen Law, Tobocman, Whitmer, Gaffney and Stewart and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 6023 and 6027 (MCL 600.6023 and 600.6027), section 6023 as amended by 1998 PA 61.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6023. (1) The following property of ~~the~~ **A** debtor and  
2 the debtor's dependents ~~shall be~~ **IS** exempt from levy and sale  
3 under ~~any~~ **AN** execution:

4           (a) All ~~family pictures, all arms and accouterments required~~  
5 ~~by law to be kept by any person, all wearing apparel of every~~  
6 ~~person or family, and provisions~~ **OF THE FOLLOWING:**

7           (i) **FAMILY PICTURES.**

8           (ii) **ARMS AND ACCOUTREMENTS REQUIRED BY LAW TO BE KEPT BY A**

1 PERSON.

2 (iii) WEARING APPAREL, EXCLUDING FURS.

3 (iv) CEMETERIES, TOMBS, AND RIGHTS OF BURIAL IN USE AS  
4 REPOSITORIES FOR THE DEAD OF THE JUDGMENT DEBTOR'S FAMILY OR KEPT  
5 FOR BURIAL OF THE JUDGMENT DEBTOR.

6 (v) PROFESSIONALLY PRESCRIBED HEALTH AIDS.

7 (B) PROVISIONS and fuel for comfortable subsistence of each  
8 householder and his or her family for 6 months.

9 (C) ~~-(b) All~~ THE INTEREST, NOT TO EXCEED A VALUE OF \$450.00  
10 IN EACH ITEM AND AN AGGREGATE VALUE OF \$3,000.00, IN household  
11 goods, furniture, utensils, books, ~~and~~ appliances, ~~not exceeding~~  
12 ~~in value \$1,000.00~~ AND JEWELRY.

13 (D) ~~-(e) A~~ THE INTEREST, NOT TO EXCEED \$500.00 IN VALUE, IN  
14 A seat, pew, or slip occupied by the judgment debtor or the  
15 judgment debtor's family in ~~any~~ A house or place of public  
16 worship. ~~—, and all cemeteries, tombs, and rights of burial while~~  
17 ~~in use as repositories of the dead of the judgment debtor's family~~  
18 ~~or kept for burial of the judgment debtor.~~

19 ~~—— (d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens,~~  
20 ~~5 roosters, and a sufficient quantity of hay and grain, growing or~~  
21 ~~otherwise, for properly keeping the animals and poultry for 6~~  
22 ~~months.~~

23 (E) THE INTEREST, NOT TO EXCEED \$2,000.00 IN VALUE, IN CROPS,  
24 FARM ANIMALS, AND FEED FOR THE FARM ANIMALS.

25 (F) THE INTEREST, NOT TO EXCEED \$500.00 IN VALUE, IN HOUSEHOLD  
26 PETS.

27 (G) THE INTEREST, NOT TO EXCEED \$2,775.00 IN VALUE, IN 1 MOTOR

1 **VEHICLE.**

2 (H) **THE INTEREST, NOT TO EXCEED \$500.00 IN VALUE, IN 1**  
3 **COMPUTER AND ITS ACCESSORIES.**

4 (I) ~~(e)~~ **THE INTEREST, NOT TO EXCEED \$2,000.00 IN VALUE, IN**  
5 **THE** tools, implements, materials, stock, apparatus, ~~team, vehicle,~~  
6 ~~motor vehicle, horses, harness,~~ or other things to enable a person  
7 to carry on the profession, trade, occupation, or business in which  
8 the person is principally engaged. ~~, not exceeding in value~~  
9 ~~\$1,000.00.~~

10 (J) ~~(f) Any money~~ **MONEY** or other benefits paid, provided,  
11 or allowed to be paid, provided, or allowed, by ~~any~~ **A** stock or  
12 mutual life, ~~or~~ health, or casualty insurance company ~~, on~~  
13 ~~account~~ **BECAUSE** of the disability due to injury or sickness of  
14 ~~any~~ **AN** insured person, whether the debt or liability of ~~such~~ **THE**  
15 insured person or beneficiary was incurred before or after the  
16 accrual of benefits under the insurance policy or contract, except  
17 that ~~the~~ **THIS** exemption does not apply to actions to recover for  
18 necessities contracted for after the accrual of the benefits.

19 (K) ~~(g)~~ **THE INTEREST, NOT EXCEEDING \$1,000.00 IN PAR VALUE,**  
20 **IN** shares held by ~~any~~ **A** member, ~~being~~ **WHO IS** a householder, of  
21 ~~any~~ **AN** association incorporated under ~~the provisions of~~ the  
22 savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202,  
23 ~~to the amount of \$1,000.00 in such shares, at par value,~~ except  
24 that this exemption does not apply to ~~any~~ **A** person who has a  
25 homestead exempted under the general laws of this state.

26 ~~———— (h) A homestead of not exceeding 40 acres of land and the~~  
27 ~~dwelling house and appurtenances on that homestead, and not~~

1 included in any recorded plat, city, or village, or, instead, and  
 2 at the option of the owner, a quantity of land not exceeding in  
 3 amount 1 lot, being within a recorded town plat, city, or village,  
 4 and the dwelling house and appurtenances on that land, owned and  
 5 occupied by any resident of this state, not exceeding in value  
 6 \$3,500.00. This exemption extends to any person owning and  
 7 occupying any house on land not his or her own and which the person  
 8 claims as a homestead. However, this exemption does not apply to  
 9 any mortgage on the homestead, lawfully obtained, except that the  
 10 mortgage is not valid without the signature of a married judgment  
 11 debtor's spouse unless either of the following occurs:

12 ——— (i) The mortgage is given to secure the payment of the purchase  
 13 money or a portion of the purchase money.

14 ——— (ii) The mortgage is recorded in the office of the register of  
 15 deeds of the county in which the property is located, for a period  
 16 of 25 years, and no notice of a claim of invalidity is filed in  
 17 that office during the 25 years following the recording of the  
 18 mortgage.

19 ——— (i) An equity of redemption as described in section 6060.

20 ——— (j) The homestead of a family, after the death of the owner of  
 21 the homestead, from the payment of his or her debts in all cases  
 22 during the minority of his or her children.

23 (l) —(k) An **ALL** individual retirement ~~account~~ **ACCOUNTS**,  
 24 **INCLUDING ROTH IRAS**, or individual retirement ~~annuity~~ **ANNUITIES**  
 25 as defined in section 408 or 408a of the internal revenue code, ~~of~~  
 26 ~~1986~~ **26 USC 408 AND 408A**, and the payments or distributions from  
 27 such an account or annuity **THOSE ACCOUNTS OR ANNUITIES**. This

1 exemption applies to the operation of the federal bankruptcy code  
2 as permitted by section 522(b)(2) of ~~title 11 of the United States~~  
3 ~~Code, 11 U.S.C. 522~~ **THE BANKRUPTCY CODE, 11 USC 522**. This  
4 exemption does not apply to ~~any amounts~~ **THE AMOUNT** contributed to  
5 an individual retirement account or individual retirement annuity  
6 ~~if the contribution occurs~~ within 120 days before the debtor files  
7 for bankruptcy. This exemption does not apply to ~~an individual~~  
8 ~~retirement account or individual retirement annuity to the extent~~  
9 ~~that any of the following occur~~ **ANY OF THE FOLLOWING:**

10 (i) The **PORTION OF AN** individual retirement account or  
11 individual retirement annuity **THAT** is subject to an order of a  
12 court pursuant to a judgment of divorce or separate maintenance.

13 (ii) The **PORTION OF AN** individual retirement account or  
14 individual retirement annuity **THAT** is subject to an order of a  
15 court concerning child support.

16 (iii) ~~Contributions~~ **THE PORTION OF AN INDIVIDUAL RETIREMENT**  
17 **ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY THAT IS ATTRIBUTABLE TO**  
18 **CONTRIBUTIONS** to the individual retirement account or premiums on  
19 the individual retirement annuity, including the earnings or  
20 benefits from those contributions or premiums, ~~exceed~~ **THAT**, in  
21 the tax year made or paid, **EXCEEDED** the deductible amount allowed  
22 under section 408 of the internal revenue code, ~~of 1986~~ **26 USC**  
23 **408**. This limitation on contributions does not apply to a rollover  
24 of a pension, profit-sharing, stock bonus plan, or other plan that  
25 is qualified under section 401 of the internal revenue code, ~~of~~  
26 ~~1986~~ **26 USC 401**, or an annuity contract under section 403(b) of  
27 the internal revenue code, ~~of 1986~~ **26 USC 403**.

1           (M) ~~(I)~~ The right or interest of a person in a pension,  
2 profit-sharing, stock bonus, or other plan that is qualified under  
3 section 401 of the internal revenue code, ~~of 1986~~ **26 USC 401**, or  
4 an annuity contract under section 403(b) of the internal revenue  
5 code, ~~of 1986, which~~ **26 USC 403, IF THE** plan or annuity is  
6 subject to the employee retirement income security act of 1974,  
7 Public Law 93-406, 88 Stat. 829. This exemption applies to the  
8 operation of the federal bankruptcy code, as permitted by section  
9 522(b)(2) of ~~title 11 of the United States Code, 11 U.S.C. 522~~  
10 **THE BANKRUPTCY CODE, 11 USC 522**. This exemption does not apply to  
11 any amount contributed to a pension, profit-sharing, stock bonus,  
12 or other qualified plan or a 403(b) annuity if the contribution  
13 occurs within 120 days before the debtor files for bankruptcy. This  
14 exemption does not apply to the right or interest of a person in a  
15 pension, profit-sharing, stock bonus, or other qualified plan or a  
16 403(b) annuity to the extent that the right or interest ~~in the~~  
17 ~~plan or annuity~~ is subject to ~~any~~ **EITHER** of the following:

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

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

21           (2) ~~The exemptions provided in this section shall not extend~~  
22 ~~to any lien thereon excluded from exemption by law.~~ **THE INTEREST**  
23 **OF A DEBTOR AND THE DEBTOR'S DEPENDENTS, NOT TO EXCEED \$30,000.00**  
24 **IN VALUE OR, IF THE DEBTOR OR A DEPENDENT OF THE DEBTOR IS 65 YEARS**  
25 **OF AGE OR OLDER OR DISABLED, NOT TO EXCEED \$45,000.00 IN VALUE, IN**  
26 **A HOMESTEAD IS EXEMPT FROM LEVY AND SALE UNDER AN EXECUTION.**

27           (3) If the owner of a homestead dies, leaving a surviving

1 spouse but no children, the homestead ~~shall be~~ IS exempt FROM  
2 LEVY AND SALE UNDER AN EXECUTION, and the rents and profits of the  
3 homestead shall accrue to the benefit of the surviving spouse  
4 before his or her remarriage, unless the surviving spouse is the  
5 owner of a homestead in his or her own right.

6 (4) AN EXEMPTION UNDER THIS SECTION DOES NOT APPLY TO A  
7 MORTGAGE, LIEN, OR SECURITY INTEREST IN THE EXEMPT PROPERTY THAT IS  
8 CONSENSUALLY GIVEN OR LAWFULLY OBTAINED UNLESS THE LIEN IS OBTAINED  
9 BY JUDGMENT, ATTACHMENT, LEVY, OR SIMILAR LEGAL PROCESS IN  
10 CONNECTION WITH A COURT ACTION OR PROCEEDING AGAINST THE DEBTOR.

11 (5) IF PROPERTY THAT IS EXEMPT UNDER THIS SECTION IS SOLD,  
12 DAMAGED, DESTROYED, OR ACQUIRED FOR PUBLIC USE, THE RIGHT TO  
13 RECEIVE PROCEEDS OR, IF THE OWNER RECEIVES PROCEEDS AND HOLDS THEM  
14 IN A MANNER THAT MAKES THEM IDENTIFIABLE AS PROCEEDS, THE PROCEEDS  
15 RECEIVED ARE EXEMPT FROM LEVY AND SALE UNDER AN EXECUTION IN THE  
16 SAME MANNER AND AMOUNT AS THE EXEMPT PROPERTY. AN EXEMPTION UNDER  
17 THIS SUBSECTION MAY BE CLAIMED UP TO 1 YEAR AFTER THE RECEIPT OF  
18 THE PROCEEDS BY THE OWNER.

19 (6) ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
20 THIS SUBSECTION, THE STATE TREASURER SHALL ADJUST EACH DOLLAR  
21 AMOUNT IN THIS SECTION SO THAT THE AMOUNT IS EQUAL TO THE  
22 CORRESPONDING AMOUNT IN SECTION 5451. AFTER THAT DATE, THE STATE  
23 TREASURER SHALL ADJUST THE DOLLAR AMOUNTS IN THIS SECTION ON MARCH  
24 1 OF A CALENDAR YEAR IF THE AMOUNTS IN SECTION 5451 ARE ADJUSTED ON  
25 THAT DATE. EACH DOLLAR AMOUNT IN THIS SECTION SHALL BE ADJUSTED SO  
26 THAT IT CONTINUES TO BE EQUAL TO THE CORRESPONDING AMOUNT IN  
27 SECTION 5451.

1 (7) AS USED IN THIS SECTION:

2 (A) "DISABLED" MEANS UNABLE TO ENGAGE IN SUBSTANTIAL GAINFUL  
3 ACTIVITY, AS DEFINED BY 42 USC 1382C(A)(3)(E), AS A RESULT OF A  
4 PHYSICAL OR MENTAL IMPAIRMENT AND RECEIVING SUPPLEMENTAL SECURITY  
5 INCOME BECAUSE THE INDIVIDUAL IS DISABLED AS DESCRIBED IN 42 USC  
6 1382C(A)(3)(A) AND (C).

7 (B) "HOMESTEAD" MEANS 1 OF THE FOLLOWING OWNED OR BEING  
8 PURCHASED UNDER AN EXECUTORY CONTRACT BY THE DEBTOR THAT THE DEBTOR  
9 OR A DEPENDENT OF THE DEBTOR OCCUPIES AS HIS OR HER PRINCIPAL  
10 RESIDENCE:

11 (i) IF THE LAND IS LOCATED OUTSIDE OF A RECORDED PLAT, CITY, OR  
12 VILLAGE, A RESIDENTIAL DWELLING AND APPURTENANCES AND THE LAND ON  
13 WHICH THEY ARE SITUATED, NOT EXCEEDING 40 ACRES.

14 (ii) IF THE LAND IS LOCATED WITHIN A RECORDED PLAT, CITY, OR  
15 VILLAGE, A RESIDENTIAL DWELLING AND APPURTENANCES AND THE LAND ON  
16 WHICH THEY ARE SITUATED, NOT EXCEEDING 1 LOT OR PARCEL.

17 (iii) A RESIDENTIAL DWELLING SITUATED ON LAND NOT OWNED BY THE  
18 DEBTOR.

19 (iv) A CONDOMINIUM UNIT.

20 (v) A UNIT IN A COOPERATIVE.

21 (vi) A MOTOR HOME.

22 (vii) A BOAT OR OTHER WATERCRAFT.

23 (C) "PROCEEDS" MEANS MONEY PAYABLE OR PAID AS A RESULT OF 1 OR  
24 MORE OF THE FOLLOWING:

25 (i) SALE OF THE PROPERTY.

26 (ii) INSURANCE OR OTHER INDEMNIFICATION FOR DAMAGE OR  
27 DESTRUCTION OF THE PROPERTY.



1           (iii) COMPENSATION FOR THE ACQUISITION FOR PUBLIC USE OF THE  
2 PROPERTY.

3           (D) "RESIDENTIAL DWELLING" INCLUDES, BUT IS NOT LIMITED TO, A  
4 HOUSE OR A MANUFACTURED OR MOBILE HOME.

5           Sec. 6027. If the homestead of ~~any~~ A debtor is appraised at  
6 a value ~~of more than \$3,500.00,~~ **THAT EXCEEDS THE AVAILABLE**  
7 **EXEMPTION UNDER SECTION 6023** and cannot be divided, the debtor  
8 ~~shall not for that reason lose the benefit of~~ **MAY STILL CLAIM** the  
9 exemption, ~~;~~ but ~~in such cases~~ the **LEVYING** officer shall  
10 deliver a notice, attached to a copy of the appraisal, to the  
11 debtor or ~~to some of his~~ **A MEMBER OF THE DEBTOR'S** family of  
12 suitable age to understand the ~~nature thereof~~ **NOTICE**, that unless  
13 the debtor ~~pay~~ **PAYS** the officer the ~~surplus over and above the~~  
14 ~~\$3,500.00,~~ **AMOUNT THAT EXCEEDS THE EXEMPTION** or the amount due on  
15 the execution within 60 days ~~thereafter~~ **OF THE NOTICE**, the  
16 premises will be sold.