

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Green, Kahn, Brandenburg, Marleau and Walker

ENROLLED SENATE BILL No. 895

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 6023 (MCL 600.6023), as amended by 1998 PA 61.

The People of the State of Michigan enact:

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

(a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person and his or her family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(b) All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00.

(c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in a house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.

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

(e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value \$1,000.00.

(f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of the insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits

under the insurance policy or contract, except that the exemption under this subdivision does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

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

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

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

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

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

(j) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986, 26 USC 408 and 408a, and the payments or distributions from the account or annuity. 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 any amounts contributed to the individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

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

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

(iii) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid, 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, 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.

(k) 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. 829. 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 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 in the plan or annuity 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.

(l) Any interest in the following:

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

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

(iii) An account in a qualified tuition program or educational savings trust under section 529 or 530 of the internal revenue code of 1986, 26 USC 529 and 530.

(2) The exemptions provided in this section do not extend to any lien on the exempt property that is excluded from exemption by law.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor