

SENATE BILL No. 895

January 18, 2012, Introduced by Senators GREEN, KAHN, BRANDENBURG, MARLEAU and WALKER and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6023. (1) The following property of ~~the~~ **A JUDGMENT** debtor
2 and the **JUDGMENT** debtor's dependents ~~shall be~~ **IS** exempt from levy
3 and sale 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~~ **AND HIS OR HER** family, and provisions and fuel for
7 comfortable subsistence of each householder and his or her family
8 for 6 months.

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

11 (c) A seat, pew, or slip occupied by the judgment debtor or

1 the judgment debtor's family in ~~any~~**A** house or place of public
 2 worship, and all cemeteries, tombs, and rights of burial while in
 3 use as repositories of the dead of the judgment debtor's family or
 4 kept for burial of the judgment debtor.

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

9 (e) The tools, implements, materials, stock, apparatus, team,
 10 vehicle, motor vehicle, horses, harness, or other things to enable
 11 a person to carry on the profession, trade, occupation, or business
 12 in which the person is principally engaged, not exceeding in value
 13 \$1,000.00.

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

23 (g) The shares held by ~~any member, being~~ a householder ~~, WHO~~
 24 **IS A MEMBER** of ~~any~~**AN** association incorporated under ~~the provisions~~
 25 ~~of~~ the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to
 26 491.1202, to the amount of \$1,000.00 in ~~such~~ shares, at par value,
 27 except that this exemption does not apply to any person who has a

1 homestead exempted under the general laws of this state.

2 (h) A homestead of not ~~exceeding~~ **MORE THAN** 40 acres of land
3 and the dwelling house and appurtenances on that homestead ~~, and~~
4 **THAT IS** not included in ~~any~~ **A** recorded plat, city, or village, or,
5 ~~instead, and~~ at the option of the owner, a quantity of land **THAT**
6 **CONSISTS OF** not ~~exceeding in amount~~ **MORE THAN** 1 lot ~~, being~~ **THAT IS**
7 within a recorded town plat, city, or village, and the dwelling
8 house and appurtenances on that land, owned and occupied by any
9 resident of this state, not exceeding in value \$3,500.00. This
10 exemption ~~extends to any person owning and occupying~~ **APPLIES TO** any
11 house **THAT IS OWNED, OCCUPIED, AND CLAIMED AS A HOMESTEAD BY A**
12 **PERSON BUT THAT IS** on land not ~~his or her own and which the person~~
13 ~~claims as a homestead~~ **OWNED BY THE PERSON**. However, this exemption
14 does not apply to ~~any~~ **A** mortgage on the homestead ~~, THAT IS~~
15 lawfully obtained. ~~, except that the~~ **A** mortgage is not valid **FOR**
16 **PURPOSES OF THIS SUBDIVISION** without the signature of a married
17 judgment debtor's spouse unless either of the following occurs:

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

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

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

26 (j) The homestead of a family, after the death of the owner of
27 the homestead, from the payment of his or her debts in all cases

1 during the minority of his or her children.

2 (k) An individual retirement account or individual retirement
3 annuity as defined in section 408 or 408a of the internal revenue
4 code of 1986, **26 USC 408 AND 408A**, and the payments or
5 distributions from ~~such an~~ **THE** account or annuity. This exemption
6 applies to the operation of the federal bankruptcy code as
7 permitted by section 522(b)(2) of ~~title 11 of the United States~~
8 ~~Code, 11 U.S.C.~~ **THE BANKRUPTCY CODE, 11 USC** 522. This exemption
9 does not apply to any amounts contributed to ~~an~~ **THE** individual
10 retirement account or individual retirement annuity if the
11 contribution occurs within 120 days before the debtor files for
12 bankruptcy. This exemption does not apply to an individual
13 retirement account or individual retirement annuity to the extent
14 that any of the following occur:

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

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

20 (iii) Contributions to the individual retirement account or
21 premiums on the individual retirement annuity, including the
22 earnings or benefits from those contributions or premiums, exceed,
23 in the tax year made or paid, the deductible amount allowed under
24 section 408 of the internal revenue code of 1986, **26 USC 408**. This
25 limitation on contributions does not apply to a rollover of a
26 pension, profit-sharing, stock bonus, ~~plan~~ or other plan that is
27 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 (l) The right or interest of a person in a pension, profit-
 4 sharing, stock bonus, or other plan that is qualified under section
 5 401 of the internal revenue code of 1986, **26 USC 401**, or an annuity
 6 contract under section 403(b) of the internal revenue code of 1986,
 7 **26 USC 403**, ~~which~~ **IF THE** plan or annuity is subject to the employee
 8 retirement income security act of 1974, Public Law 93-406, 88 Stat.
 9 829. This exemption applies to the operation of the federal
 10 bankruptcy code, as permitted by section 522(b)(2) of ~~title 11 of~~
 11 ~~the United States Code, 11 U.S.C.~~ **THE BANKRUPTCY CODE, 11 USC 522**.
 12 This exemption does not apply to any amount contributed to a
 13 pension, profit-sharing, stock bonus, or other qualified plan or a
 14 403(b) annuity if the contribution occurs within 120 days before
 15 the debtor files for bankruptcy. This exemption does not apply to
 16 the right or interest of a person in a pension, profit-sharing,
 17 stock bonus, or other qualified plan or a 403(b) annuity to the
 18 extent that the right or interest in the plan or annuity is subject
 19 to ~~any~~ **EITHER** of the following:

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

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

23 (M) **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**

1 SAVINGS PROGRAM ACT, 2000 PA 161, MCL 390.1471 TO 390.1486.

2 (iii) AN ACCOUNT IN A QUALIFIED TUITION PROGRAM OR EDUCATIONAL
3 SAVINGS TRUST UNDER SECTION 529 OR 530 OF THE INTERNAL REVENUE CODE
4 OF 1986, 26 USC 529 AND 530.

5 (2) The exemptions provided in this section ~~shall~~ DO not
6 extend to any lien ~~thereon~~ ON THE EXEMPT PROPERTY THAT IS excluded
7 from exemption by law.

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