

HOUSE BILL No. 5612

February 25, 1998, Introduced by Reps. Thomas, Gubow, Wojno, Baade, DeHart, Kelly, Bogardus, Rison, Murphy, Curtis, Brewer, Frank, Vaughn, Scott, Cherry, Wetters, Tesanovich, Callahan, Brown, Hanley and Quarles and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 6023 (MCL 600.6023), as amended by 1989
PA 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6023. (1) The following property of the debtor and the
2 debtor's dependents shall be exempt from levy and sale under any
3 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 and fuel for comfortable subsis-
7 tence of each householder and his or her family for 6 months.

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

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

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

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

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

24 (g) The shares held by any member, being a householder, of
25 any association incorporated under the provisions of the savings
26 and loan act of 1980, ~~Act No. 307 of the Public Acts of 1980,~~
27 ~~being sections 491.102 to 491.1202 of the Michigan Compiled Laws~~

1 1980 PA 307, MCL 491.102 TO 491.1202, to the amount of \$1,000.00
2 in such shares, at par value, except that this exemption does not
3 apply to any person who has a homestead exempted under the gen-
4 eral laws of this state.

5 (h) A homestead of not exceeding 40 acres of land and the
6 dwelling house and appurtenances on that homestead, and not
7 included in any recorded plat, city, or village, or, instead, and
8 at the option of the owner, a quantity of land not exceeding in
9 amount 1 lot, being within a recorded town plat, city, or vil-
10 lage, and the dwelling house and appurtenances on that land,
11 owned and occupied by any resident of this state, not exceeding
12 in value \$3,500.00. This exemption extends to any person owning
13 and occupying any house on land not his or her own and which the
14 person claims as a homestead. However, this exemption does not
15 apply to any mortgage on the homestead, lawfully obtained, except
16 that the mortgage is not valid 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 pur-
19 chase money or a portion of the purchase money.

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

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

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

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

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

19 (ii) The individual retirement account or individual retire-
20 ment annuity is subject to an order of a court concerning child
21 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,
25 exceed, in the tax year made or paid, the deductible amount
26 allowed under section 408 of the internal revenue code OF 1986.
27 This limitation on contributions ~~shall~~ DOES not apply to a

1 rollover of a pension, profit-sharing, stock bonus plan or other
2 plan that is qualified under section 401 of the internal revenue
3 code OF 1986, or an annuity contract under section 403(b) of the
4 internal revenue code OF 1986.

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

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

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

25 (2) The exemptions provided in this section shall not extend
26 to any lien thereon excluded from exemption by law.

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