

By: Leach

H.B. No. 3613

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain personal property from garnishment, attachment, execution, or other seizure by creditors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 42.001, Property Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The following personal property is exempt from seizure and is not included in the aggregate limitations prescribed by Subsection (a):

(1) current wages for personal services, except for the enforcement of court-ordered child support payments;

(2) professionally prescribed health aids of a debtor or a dependent of a debtor;

(3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; ~~and~~

(4) a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property; and

(5) a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty

1 guidelines for a family of four, except for the enforcement of
2 court-ordered alimony, child support, or spousal maintenance
3 payments.

4 (f) Notwithstanding any other law, a judgment debtor is not
5 required to assert an exemption from seizure before accessing the
6 amount described by Subsection (b)(5).

7 SECTION 2. Subchapter A, Chapter 22, Government Code, is
8 amended by adding Section 22.0042 to read as follows:

9 Sec. 22.0042. RULES REGARDING EXEMPTIONS FROM SEIZURE OF
10 PROPERTY; FORM. (a) The supreme court shall adopt rules that:

11 (1) establish a simple and expedited procedure for a
12 judgment debtor to assert an exemption to the seizure of personal
13 property by a judgment creditor or a turnover receiver;

14 (2) require a court to stay a proceeding, for a
15 reasonable period, to allow for the assertion of an exemption under
16 Subdivision (1); and

17 (3) if a judgment debtor timely asserts an exemption
18 under Subdivision (1), require a court to promptly set a hearing and
19 stay proceedings until a hearing is held.

20 (b) Rules adopted under this section shall require the
21 provision of a notice in plain language to a judgment debtor
22 regarding the right to assert one or more exemptions under
23 Subsection (a)(1). The notice must:

24 (1) be provided to the judgment debtor not later than
25 the third day after the date that an account owned by the judgment
26 debtor is seized by the judgment creditor;

27 (2) be in English with an integrated Spanish

1 translation that can be readily understood by the public and the
2 court;

3 (3) include the form promulgated under Subsection (c);

4 (4) list all exemptions under state and federal law to
5 the seizure of personal property; and

6 (5) provide information for accessing free or low-cost
7 legal assistance.

8 (c) Rules adopted under this section shall include the
9 promulgation of a form in plain language for asserting an exemption
10 under Subsection (a)(1). A form promulgated under this subsection
11 must:

12 (1) be in English with an integrated Spanish
13 translation that can be readily understood by the public and the
14 court; and

15 (2) include instructions for the use of the form.

16 (d) A court shall accept a form promulgated under Subsection
17 (c) unless the form has been completed in a manner that causes a
18 substantive defect that cannot be cured.

19 SECTION 3. Section 31.002, Civil Practices and Remedies
20 Code is amended by adding Subsection (i) to read as follows:

21 (i) For collection of judgments on consumer debt, as defined
22 by Texas Finance Code Section 392.001(2), a court order under this
23 section must exempt a total amount on deposit in one or more
24 accounts equal to the monthly equivalent of 250% of the federal
25 poverty guidelines for a family of four from freezing and turnover.
26 This subsection does not apply to the enforcement of court-ordered
27 alimony, child support, or spousal maintenance payments.

1 SECTION 4. Chapter 63, Civil Practices and Remedies Code,
2 is amended by adding Section 63.009 to read as follows:

3 Sec. 63.009 EXEMPTION FOR BASIC NEEDS. For collection of
4 judgments on consumer debt, as defined by Texas Finance Code
5 Section 392.001(2), a total amount on deposit in one or more
6 accounts equal to the monthly equivalent of 250% of the federal
7 poverty guidelines for a family of four is exempt and shall not be
8 frozen or turned over. A writ of garnishment issued under this
9 chapter to collect a consumer debt must instruct the garnishee to
10 exempt this total amount. This section does not apply to the
11 enforcement of court-ordered alimony, child support, or spousal
12 maintenance payments.

13 SECTION 5. Not later than May 1, 2022, the Supreme Court of
14 Texas shall adopt rules and promulgate forms under Section 22.0042,
15 Government Code, as added by this Act.

16 SECTION 6. This Act takes effect September 1, 2021.