

## **BILL ANALYSIS**

H.B. 3234  
By: Smith, Todd  
Pensions & Investments  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently investments made by Texans in Texas' two 529 plans enjoy protection from creditors. The number 529 refers to the section of the Internal Revenue Code that allows funds contributed to such a state plan to grow tax free and to be spent on the child's education without any tax. This protection is in place in order to allow a person's child to attend college even if that person becomes bankrupt. Although this is allowed for Texans investing in Texas' 529 plans, there is no similar protection for Texans investing in 529 plans of other states.

HB 3234 will give creditor protection to funds placed by a Texan into any 529 plan in any state.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Chapter 42, Title 5, Property Code, by adding Section 42.0022, as follows:

Section 42.0022. Additional Exemption for College Savings Plan. (a) Provides that in addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments under any fund or plan established under Chapter 54F, Education Code, any fund or plan established under Chapter 54G, Education Code, or any qualified tuition program of any state meeting the requirements of Section 529 of the Internal Revenue Code of 1986, is exempt from attachment, execution, and seizure for the satisfaction of debts. Provides that if this subsection is held invalid or preempted by federal law in whole or in part or in certain circumstances, the subsection remains in effect in all other respects to the maximum extent permitted by law.

SECTION 2.

- (a) Effective date: September 1, 2003.
- (b) Makes application of this Act prospective.

### **EFFECTIVE DATE**

September 1, 2003.

