

By: Berman, Guillen

H.B. No. 330

A BILL TO BE ENTITLED

1 AN ACT

2 relating to exempting health savings accounts from seizure for
3 satisfaction of debts.

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

5 SECTION 1. The heading to Section 42.0021, Property Code,
6 is amended to read as follows:

7 Sec. 42.0021. ADDITIONAL EXEMPTION FOR CERTAIN SAVINGS
8 PLANS [~~RETIREMENT PLAN~~].

9 SECTION 2. Sections 42.0021(a) and (b), Property Code, are
10 amended to read as follows:

11 (a) In addition to the exemption prescribed by Section
12 42.001, a person's right to the assets held in or to receive
13 payments, whether vested or not, under any stock bonus, pension,
14 profit-sharing, or similar plan, including a retirement plan for
15 self-employed individuals, and under any annuity or similar
16 contract purchased with assets distributed from that type of plan,
17 and under any retirement annuity or account described by Section
18 403(b) or 408A of the Internal Revenue Code of 1986, and under any
19 individual retirement account or any individual retirement
20 annuity, including a simplified employee pension plan, and under
21 any health savings account described by Section 223 of the Internal
22 Revenue Code of 1986, is exempt from attachment, execution, and
23 seizure for the satisfaction of debts unless the plan, contract, or
24 account does not qualify under the applicable provisions of the

1 Internal Revenue Code of 1986. A person's right to the assets held
2 in or to receive payments, whether vested or not, under a government
3 or church plan or contract is also exempt unless the plan or
4 contract does not qualify under the definition of a government or
5 church plan under the applicable provisions of the federal Employee
6 Retirement Income Security Act of 1974. If this subsection is held
7 invalid or preempted by federal law in whole or in part or in
8 certain circumstances, the subsection remains in effect in all
9 other respects to the maximum extent permitted by law.

10 (b) Contributions to an individual retirement account,
11 other than contributions to a Roth IRA described in Section 408A,
12 Internal Revenue Code of 1986, or an annuity that exceed the amounts
13 deductible under the applicable provisions of the Internal Revenue
14 Code of 1986 and any accrued earnings on such contributions are not
15 exempt under this section unless otherwise exempt by law. Amounts
16 qualifying as nontaxable rollover contributions under Section
17 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal
18 Revenue Code of 1986 before January 1, 1993, are treated as exempt
19 amounts under Subsection (a). Amounts treated as qualified
20 rollover contributions under Section 408A, Internal Revenue Code of
21 1986, are treated as exempt amounts under Subsection (a). In
22 addition, amounts qualifying as nontaxable rollover contributions
23 under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5),
24 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue
25 Code of 1986 on or after January 1, 1993, are treated as exempt
26 amounts under Subsection (a). Amounts qualifying as nontaxable
27 rollover contributions under Section 223(f)(5) of the Internal

1 Revenue Code of 1986 on or after January 1, 2004, are treated as
2 exempt amounts under Subsection (a).

3 SECTION 3. The change in law made by this Act applies to all
4 contributions made under Section 223, Internal Revenue Code of
5 1986, before, on, or after the effective date of this Act.

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2005.