

By: Berman

H.B. No. 330

A BILL TO BE ENTITLED

AN ACT

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

1 qualifying as nontaxable rollover contributions under Section  
2 223(f)(5) of the Internal Revenue Code of 1986 on or after January  
3 1, 2004, are treated as exempt amounts under Subsection (a).

4 SECTION 3. The change in law made by this Act applies to all  
5 contributions made under Section 223, Internal Revenue Code of  
6 1986, before, on, or after the effective date of this Act.

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