

1-1 By: Berman, Guillen (Senate Sponsor - Deuell) H.B. No. 330
1-2 (In the Senate - Received from the House April 4, 2005;
1-3 April 6, 2005, read first time and referred to Committee on
1-4 Jurisprudence; April 28, 2005, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; April 28, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to exempting health savings accounts from seizure for
1-9 satisfaction of debts.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Section 42.0021, Property Code,
1-12 is amended to read as follows:

1-13 Sec. 42.0021. ADDITIONAL EXEMPTION FOR CERTAIN SAVINGS
1-14 PLANS [~~RETIREMENT PLAN~~].

1-15 SECTION 2. Sections 42.0021(a) and (b), Property Code, are
1-16 amended to read as follows:

1-17 (a) In addition to the exemption prescribed by Section
1-18 42.001, a person's right to the assets held in or to receive
1-19 payments, whether vested or not, under any stock bonus, pension,
1-20 profit-sharing, or similar plan, including a retirement plan for
1-21 self-employed individuals, and under any annuity or similar
1-22 contract purchased with assets distributed from that type of plan,
1-23 and under any retirement annuity or account described by Section
1-24 403(b) or 408A of the Internal Revenue Code of 1986, and under any
1-25 individual retirement account or any individual retirement
1-26 annuity, including a simplified employee pension plan, and under
1-27 any health savings account described by Section 223 of the Internal
1-28 Revenue Code of 1986, is exempt from attachment, execution, and
1-29 seizure for the satisfaction of debts unless the plan, contract, or
1-30 account does not qualify under the applicable provisions of the
1-31 Internal Revenue Code of 1986. A person's right to the assets held
1-32 in or to receive payments, whether vested or not, under a government
1-33 or church plan or contract is also exempt unless the plan or
1-34 contract does not qualify under the definition of a government or
1-35 church plan under the applicable provisions of the federal Employee
1-36 Retirement Income Security Act of 1974. If this subsection is held
1-37 invalid or preempted by federal law in whole or in part or in
1-38 certain circumstances, the subsection remains in effect in all
1-39 other respects to the maximum extent permitted by law.

1-40 (b) Contributions to an individual retirement account,
1-41 other than contributions to a Roth IRA described in Section 408A,
1-42 Internal Revenue Code of 1986, or an annuity that exceed the amounts
1-43 deductible under the applicable provisions of the Internal Revenue
1-44 Code of 1986 and any accrued earnings on such contributions are not
1-45 exempt under this section unless otherwise exempt by law. Amounts
1-46 qualifying as nontaxable rollover contributions under Section
1-47 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal
1-48 Revenue Code of 1986 before January 1, 1993, are treated as exempt
1-49 amounts under Subsection (a). Amounts treated as qualified
1-50 rollover contributions under Section 408A, Internal Revenue Code of
1-51 1986, are treated as exempt amounts under Subsection (a). In
1-52 addition, amounts qualifying as nontaxable rollover contributions
1-53 under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5),
1-54 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue
1-55 Code of 1986 on or after January 1, 1993, are treated as exempt
1-56 amounts under Subsection (a). Amounts qualifying as nontaxable
1-57 rollover contributions under Section 223(f)(5) of the Internal
1-58 Revenue Code of 1986 on or after January 1, 2004, are treated as
1-59 exempt amounts under Subsection (a).

1-60 SECTION 3. The change in law made by this Act applies to all
1-61 contributions made under Section 223, Internal Revenue Code of
1-62 1986, before, on, or after the effective date of this Act.

1-63 SECTION 4. This Act takes effect immediately if it receives
1-64 a vote of two-thirds of all the members elected to each house, as

2-1 provided by Section 39, Article III, Texas Constitution. If this
2-2 Act does not receive the vote necessary for immediate effect, this
2-3 Act takes effect September 1, 2005.

2-4

* * * * *