

By: Carona

S.B. No. 1810

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain retirement accounts from access by creditors.

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

SECTION 1. Section 42.0021, Property Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, profit-sharing, or similar plan, including a retirement plan for self-employed individuals, and under any annuity or similar contract purchased with assets distributed from that type of plan, and under any retirement annuity or account described by Section 403(b) or 408A of the Internal Revenue Code of 1986, and under any individual retirement account or any individual retirement annuity, including a simplified employee pension plan, and under any health savings account described by Section 223 of the Internal Revenue Code of 1986, is exempt from attachment, execution, and seizure for the satisfaction of debts unless the plan, contract, annuity, or account does not qualify under the applicable provisions of the Internal Revenue Code of 1986. For purposes of this subsection, the interest of a beneficiary in a plan, contract, annuity, or account acquired by reason of the death of any person,

1 whether or not the beneficiary's spouse, is considered qualified  
2 under the applicable provisions of the Internal Revenue Code of  
3 1986 to the same extent that the interest of the person from whom  
4 the plan, contract, annuity, or account was acquired was qualified  
5 on the date of the person's death. A person's right to the assets  
6 held in or to receive payments, whether vested or not, under a  
7 government or church plan or contract is also exempt unless the plan  
8 or contract does not qualify under the definition of a government or  
9 church plan under the applicable provisions of the federal Employee  
10 Retirement Income Security Act of 1974. If this subsection is held  
11 invalid or preempted by federal law in whole or in part or in  
12 certain circumstances, the subsection remains in effect in all  
13 other respects to the maximum extent permitted by law.

14 (g) Assets and amounts exempted under Subsection (a) are  
15 exempt regardless of whether the person is an owner, participant,  
16 or beneficiary of the plan, contract, annuity, or account.

17 SECTION 2. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2011.