

1-1 By: Carona S.B. No. 1810
1-2 (In the Senate - Filed March 11, 2011; March 24, 2011, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 11, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 11, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1810 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the exemption of certain retirement accounts from
1-11 access by creditors.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 42.0021, Property Code, is amended by
1-14 amending Subsection (a) and adding Subsection (g) to read as
1-15 follows:

1-16 (a) In addition to the exemption prescribed by Section
1-17 42.001, a person's right to the assets held in or to receive
1-18 payments, whether vested or not, under any stock bonus, pension,
1-19 profit-sharing, or similar plan, including a retirement plan for
1-20 self-employed individuals, and under any annuity or similar
1-21 contract purchased with assets distributed from that type of plan,
1-22 and under any retirement annuity or account described by Section
1-23 403(b) or 408A of the Internal Revenue Code of 1986, and under any
1-24 individual retirement account or any individual retirement
1-25 annuity, including a simplified employee pension plan, and under
1-26 any health savings account described by Section 223 of the Internal
1-27 Revenue Code of 1986, is exempt from attachment, execution, and
1-28 seizure for the satisfaction of debts unless the plan, contract,
1-29 annuity, or account does not qualify under the applicable
1-30 provisions of the Internal Revenue Code of 1986. For purposes of
1-31 this subsection, the interest of a beneficiary in a plan, contract,
1-32 annuity, or account acquired by reason of the death of any person,
1-33 whether or not the beneficiary's spouse, is considered qualified
1-34 under the applicable provisions of the Internal Revenue Code of
1-35 1986 to the same extent that the interest of the person from whom
1-36 the plan, contract, annuity, or account was acquired was qualified
1-37 on the date of the person's death. A person's right to the assets
1-38 held in or to receive payments, whether vested or not, under a
1-39 government or church plan or contract is also exempt unless the plan
1-40 or contract does not qualify under the definition of a government or
1-41 church plan under the applicable provisions of the federal Employee
1-42 Retirement Income Security Act of 1974. If this subsection is held
1-43 invalid or preempted by federal law in whole or in part or in
1-44 certain circumstances, the subsection remains in effect in all
1-45 other respects to the maximum extent permitted by law.

1-46 (g) Assets and amounts exempted under Subsection (a) are
1-47 exempt regardless of whether the person is an owner, participant,
1-48 or beneficiary of the plan, contract, annuity, or account.

1-49 SECTION 2. This Act takes effect immediately if it receives
1-50 a vote of two-thirds of all the members elected to each house, as
1-51 provided by Section 39, Article III, Texas Constitution. If this
1-52 Act does not receive the vote necessary for immediate effect, this
1-53 Act takes effect September 1, 2011.

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