

By: Rodriguez

S.B. No. 649

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the exemption of certain property from seizure by  
3 creditors.

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

5 SECTION 1. Section 1108.052, Insurance Code, is amended to  
6 read as follows:

7 Sec. 1108.052. EXEMPTIONS UNAFFECTED BY BENEFICIARY  
8 DESIGNATION. The exemptions provided by Section 1108.051 apply  
9 regardless of whether:

10 (1) the power to change the beneficiary is reserved to  
11 the insured; or

12 (2) the insured or the insured's estate is a  
13 [~~contingent~~] beneficiary.

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

16 (a) In addition to the exemption prescribed by Section  
17 42.001, a person's right to the assets held in or to receive  
18 payments, whether vested or not, under any stock bonus, pension,  
19 annuity, deferred compensation, profit-sharing, or similar plan,  
20 including a retirement plan for self-employed individuals, or a  
21 simplified employee pension plan, an individual retirement account  
22 or individual retirement annuity, including an inherited  
23 individual retirement account, [or] individual retirement annuity,  
24 Roth IRA, or inherited Roth IRA, or a health savings account, and

1 under any annuity or similar contract purchased with assets  
2 distributed from that type of plan or account, is exempt from  
3 attachment, execution, and seizure for the satisfaction of debts to  
4 the extent the plan, contract, annuity, or account is exempt from  
5 federal income tax, or to the extent federal income tax on the  
6 person's interest is deferred until actual payment of benefits to  
7 the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A,  
8 457(b), or 501(a), Internal Revenue Code of 1986, including a  
9 government plan or church plan described by Section 414(d) or (e),  
10 Internal Revenue Code of 1986. For purposes of this subsection,  
11 the interest of a person in a plan, annuity, account, or contract  
12 acquired by reason of the death of another person, whether as an  
13 owner, participant, beneficiary, survivor, coannuitant, heir, or  
14 legatee, is exempt to the same extent that the interest of the  
15 person from whom the plan, annuity, account, or contract was  
16 acquired was exempt on the date of the person's death. If this  
17 subsection is held invalid or preempted by federal law in whole or  
18 in part or in certain circumstances, the subsection remains in  
19 effect in all other respects to the maximum extent permitted by law.

20 (b) Contributions to an individual retirement account[  
21 ~~other than contributions to a Roth IRA described in Section 408A,~~  
22 ~~Internal Revenue Code of 1986, or an annuity]~~ that exceed the  
23 amounts permitted [~~deductible~~] under the applicable provisions of  
24 the Internal Revenue Code of 1986 and any accrued earnings on such  
25 contributions are not exempt under this section unless otherwise  
26 exempt by law. Amounts qualifying as nontaxable rollover  
27 contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or

1 408(d)(3) of the Internal Revenue Code of 1986 before January 1,  
2 1993, are treated as exempt amounts under Subsection (a). Amounts  
3 treated as qualified rollover contributions under Section 408A,  
4 Internal Revenue Code of 1986, are treated as exempt amounts under  
5 Subsection (a). In addition, amounts qualifying as nontaxable  
6 rollover contributions under Section 402(c), 402(e)(6), 402(f),  
7 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of  
8 the Internal Revenue Code of 1986 on or after January 1, 1993, are  
9 treated as exempt amounts under Subsection (a). Amounts  
10 qualifying as nontaxable rollover contributions under Section  
11 223(f)(5) of the Internal Revenue Code of 1986 on or after January  
12 1, 2004, are treated as exempt amounts under Subsection (a).

13 SECTION 3. The changes in law made by this Act do not apply  
14 to property that is, as of the effective date of this Act, subject  
15 to a voluntary bankruptcy proceeding or to a valid claim of a holder  
16 of a final judgment who has, by levy, garnishment, or other legal  
17 process, obtained rights superior to those that would otherwise be  
18 held by a trustee in bankruptcy if a bankruptcy petition were then  
19 pending against the debtor. That property is subject to the law as  
20 it existed immediately before the effective date of this Act, and  
21 the prior law is continued in effect for that purpose.

22 SECTION 4. This Act takes effect September 1, 2013.