

1-1 By: Rodriguez S.B. No. 649  
 1-2 (In the Senate - Filed February 19, 2013; February 25, 2013,  
 1-3 read first time and referred to Committee on Business and Commerce;  
 1-4 March 13, 2013, reported favorably by the following vote: Yeas 8,  
 1-5 Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the exemption of certain property from seizure by  
 1-20 creditors.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 1108.052, Insurance Code, is amended to  
 1-23 read as follows:

1-24 Sec. 1108.052. EXEMPTIONS UNAFFECTED BY BENEFICIARY  
 1-25 DESIGNATION. The exemptions provided by Section 1108.051 apply  
 1-26 regardless of whether:

1-27 (1) the power to change the beneficiary is reserved to  
 1-28 the insured; or

1-29 (2) the insured or the insured's estate is a  
 1-30 ~~[contingent]~~ beneficiary.

1-31 SECTION 2. Subsections (a) and (b), Section 42.0021,  
 1-32 Property Code, are amended to read as follows:

1-33 (a) In addition to the exemption prescribed by Section  
 1-34 42.001, a person's right to the assets held in or to receive  
 1-35 payments, whether vested or not, under any stock bonus, pension,  
 1-36 annuity, deferred compensation, profit-sharing, or similar plan,  
 1-37 including a retirement plan for self-employed individuals, or a  
 1-38 simplified employee pension plan, an individual retirement account  
 1-39 or individual retirement annuity, including an inherited  
 1-40 individual retirement account, ~~[or]~~ individual retirement annuity,  
 1-41 Roth IRA, or inherited Roth IRA, or a health savings account, and  
 1-42 under any annuity or similar contract purchased with assets  
 1-43 distributed from that type of plan or account, is exempt from  
 1-44 attachment, execution, and seizure for the satisfaction of debts to  
 1-45 the extent the plan, contract, annuity, or account is exempt from  
 1-46 federal income tax, or to the extent federal income tax on the  
 1-47 person's interest is deferred until actual payment of benefits to  
 1-48 the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A,  
 1-49 457(b), or 501(a), Internal Revenue Code of 1986, including a  
 1-50 government plan or church plan described by Section 414(d) or (e),  
 1-51 Internal Revenue Code of 1986. For purposes of this subsection, the  
 1-52 interest of a person in a plan, annuity, account, or contract  
 1-53 acquired by reason of the death of another person, whether as an  
 1-54 owner, participant, beneficiary, survivor, coannuitant, heir, or  
 1-55 legatee, is exempt to the same extent that the interest of the  
 1-56 person from whom the plan, annuity, account, or contract was  
 1-57 acquired was exempt on the date of the person's death. If this  
 1-58 subsection is held invalid or preempted by federal law in whole or  
 1-59 in part or in certain circumstances, the subsection remains in  
 1-60 effect in all other respects to the maximum extent permitted by law.

1-61 (b) Contributions to an individual retirement account[

2-1 ~~other than contributions to a Roth IRA described in Section 408A,~~  
2-2 ~~Internal Revenue Code of 1986, or an annuity]~~ that exceed the  
2-3 amounts permitted [~~deductible~~] under the applicable provisions of  
2-4 the Internal Revenue Code of 1986 and any accrued earnings on such  
2-5 contributions are not exempt under this section unless otherwise  
2-6 exempt by law. Amounts qualifying as nontaxable rollover  
2-7 contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or  
2-8 408(d)(3) of the Internal Revenue Code of 1986 before January 1,  
2-9 1993, are treated as exempt amounts under Subsection (a). Amounts  
2-10 treated as qualified rollover contributions under Section 408A,  
2-11 Internal Revenue Code of 1986, are treated as exempt amounts under  
2-12 Subsection (a). In addition, amounts qualifying as nontaxable  
2-13 rollover contributions under Section 402(c), 402(e)(6), 402(f),  
2-14 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of  
2-15 the Internal Revenue Code of 1986 on or after January 1, 1993, are  
2-16 treated as exempt amounts under Subsection (a). Amounts qualifying  
2-17 as nontaxable rollover contributions under Section 223(f)(5) of the  
2-18 Internal Revenue Code of 1986 on or after January 1, 2004, are  
2-19 treated as exempt amounts under Subsection (a).

2-20 SECTION 3. The changes in law made by this Act do not apply  
2-21 to property that is, as of the effective date of this Act, subject  
2-22 to a voluntary bankruptcy proceeding or to a valid claim of a holder  
2-23 of a final judgment who has, by levy, garnishment, or other legal  
2-24 process, obtained rights superior to those that would otherwise be  
2-25 held by a trustee in bankruptcy if a bankruptcy petition were then  
2-26 pending against the debtor. That property is subject to the law as  
2-27 it existed immediately before the effective date of this Act, and  
2-28 the prior law is continued in effect for that purpose.

2-29 SECTION 4. This Act takes effect September 1, 2013.

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