

BILL ANALYSIS

C.S.H.B. 2706
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Statutory changes are proposed each legislative session by the Real Estate, Probate, and Trust Law (REPTL) section of the State Bar of Texas to align the Property Code with developments in case law and other substantive areas of law, to streamline and simplify trust-related issues, to clarify ambiguities, and to correct technical deficiencies. The REPTL section, in conducting one part of this ongoing review, has identified and proposed updates to the law relating to the value of personal property exempt from seizure by creditors, and it has been noted that these amounts were last adjusted more than 30 years ago. C.S.H.B. 2706 seeks to amend the law to reflect these updates.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2706 amends the Property Code to change the conditions under which certain personal property is exempt from garnishment, attachment, execution, or other seizure by a creditor by increasing from \$60,000 to \$100,000 the maximum aggregate fair market value of such property provided for a family, exclusive of the amount of any liens, security interests, or other charges encumbering the property, and increasing from \$30,000 to \$50,000 the maximum aggregate fair market value of such property owned by a single adult who is not a member of a family, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2706 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 42.001(a), Property Code, is amended to read as follows:

(a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than ~~\$150,000~~ ~~[\$60,000]~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or

(2) the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than ~~\$75,000~~ ~~[\$30,000]~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

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

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 42.001(a), Property Code, is amended to read as follows:

(a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than ~~\$100,000~~ ~~[\$60,000]~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or

(2) the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than ~~\$50,000~~ ~~[\$30,000]~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.