By:  Zaffirini S.B. No. 644

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain personal property from garnishment, attachment, execution, or other seizure by creditors.

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

SECTION 1.  Section 42.001, Property Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b)  The following personal property is exempt from seizure and is not included in the aggregate limitations prescribed by Subsection (a):

(1)  current wages for personal services, except for the enforcement of court-ordered child support payments;

(2)  professionally prescribed health aids of a debtor or a dependent of a debtor;

(3)  alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; [~~and~~]

(4)  a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property; and

(5)  a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four, except for the enforcement of court-ordered alimony, child support, or spousal maintenance payments.

(f)  Notwithstanding any other law, a judgment debtor is not required to assert an exemption from seizure before accessing the amount described by Subsection (b)(5).

SECTION 2.  Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.0042 to read as follows:

Sec. 22.0042.  RULES REGARDING EXEMPTIONS FROM SEIZURE OF PROPERTY; FORM. (a) The supreme court shall adopt rules that:

(1)  establish a simple and expedited procedure for a judgment debtor to assert an exemption to the seizure of personal property by a judgment creditor or a turnover receiver;

(2)  require a court to stay a proceeding, for a reasonable period, to allow for the assertion of an exemption under Subdivision (1); and

(3)  if a judgment debtor timely asserts an exemption under Subdivision (1), require a court to promptly set a hearing and stay proceedings until a hearing is held.

(b)  Rules adopted under this section shall require the provision of a notice in plain language to a judgment debtor regarding the right to assert one or more exemptions under Subsection (a)(1). The notice must:

(1)  be provided to the judgment debtor not later than the third day after the date that an account owned by the judgment debtor is seized by the judgment creditor;

(2)  be in English with an integrated Spanish translation that can be readily understood by the public and the court;

(3)  include the form promulgated under Subsection (c);

(4)  list all exemptions under state and federal law to the seizure of personal property; and

(5)  provide information for accessing free or low-cost legal assistance.

(c)  Rules adopted under this section shall include the promulgation of a form in plain language for asserting an exemption under Subsection (a)(1). A form promulgated under this subsection must:

(1)  be in English with an integrated Spanish translation that can be readily understood by the public and the court; and

(2)  include instructions for the use of the form.

(d)  A court shall accept a form promulgated under Subsection (c) unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

SECTION 3.  Section 31.002, Civil Practices and Remedies Code is amended by adding Subsection (i) to read as follows:

(i)  For collection of judgments on consumer debt, as defined by Texas Finance Code Section 392.001(2), a court order under this section must exempt a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four from freezing and turnover. This subsection does not apply to the enforcement of court-ordered alimony, child support, or spousal maintenance payments.

SECTION 4.  Chapter 63, Civil Practices and Remedies Code, is amended by adding Section 63.009 to read as follows:

Sec. 63.009  EXEMPTION FOR BASIC NEEDS. For collection of judgments on consumer debt, as defined by Texas Finance Code Section 392.001(2), a total amount on deposit in one or more accounts equal to the monthly equivalent of 250% of the federal poverty guidelines for a family of four is exempt and shall not be frozen or turned over. A writ of garnishment issued under this chapter to collect a consumer debt must instruct the garnishee to exempt this total amount. This section does not apply to the enforcement of court-ordered alimony, child support, or spousal maintenance payments.

SECTION 5.  Not later than May 1, 2022, the Supreme Court of Texas shall adopt rules and promulgate forms under Section 22.0042, Government Code, as added by this Act.

SECTION 6.  This Act takes effect September 1, 2021.