By: McGee H.B. No. 1267

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from seizure of certain funds held in a deposit account of an individual to satisfy a judgment on a consumer debt and to the protection of the proceeds of current wages.

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 Subsections (f), (g), (h), and (i) 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) funds of a natural person on deposit in one or more deposit accounts held by a financial institution, in an aggregate amount not to exceed the protected amount described by Subsection (f), from seizure to satisfy a judgment on a consumer debt, as defined by Section 392.001(2), Finance Code, except for the enforcement of court-ordered child support, alimony, or spousal maintenance.

(f) The protected amount for purposes of Subsection (b)(5) is $3,000, as adjusted under Subsection (g). The exemption provided by Subsection (b)(5):

(1) applies to a writ of garnishment, writ of attachment, writ of execution, turnover order, order appointing a receiver, notice of freeze, notice of levy, and any other claim against a customer, as defined by Section 59.001, Finance Code;

(2) applies without regard to the source of the funds and is in addition to any other exemption provided by state or federal law, except that funds protected under 31 C.F.R. Part 212 count toward the protected amount; and

(3) does not require the judgment debtor to claim or assert the exemption.

(g) Not later than December 1 of each even-numbered year, beginning in 2028, the consumer credit commissioner shall adjust the protected amount by the percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, over the preceding two calendar years, round the adjusted amount to the nearest multiple of $50, and publish the adjusted amount in the

Texas Register. The adjusted amount takes effect January 1 of the following year. The protected amount may not be reduced below $3,000.

(h) A natural person is entitled to one protected amount for a claim against the person. If the funds protected under Subsection (b)(5) at more than one financial institution exceed, in total, the protected amount, the court that rendered the judgment, on motion of the judgment creditor and after notice and a hearing, may order the release of the excess. A financial institution shall apply the protected amount until it receives a certified copy of the order.

(i) A waiver of the exemption provided by Subsection (b)(5) is void and unenforceable, including a waiver required as a condition of a payment plan, settlement, or release of a freeze on an account.

SECTION 2. Section 31.002, Civil Practice and Remedies Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) For purposes of Subsection (f), in a proceeding to collect a judgment on a consumer debt, as defined by Section 392.001(2), Finance Code, the proceeds of current wages include current wages that have been paid to the judgment debtor and deposited in an account held by a financial institution. Funds in the account are presumed to be proceeds of current wages to the extent of the total amount of current wages deposited in the account during the 60 days preceding the date the claim is served on the financial institution. The judgment creditor or receiver has the burden to rebut the presumption by clear and convincing evidence.

(j) Subsection (f) and Section 42.001(b)(5), Property Code, apply to a receiver appointed under this section, including to any freeze, levy, seizure, or other demand for property made by the receiver or by a judgment creditor acting under an order entered under this section.

SECTION 3. Subchapter A, Chapter 59, Finance Code, is amended by adding Section 59.0081 to read as follows:

Sec. 59.0081. PROTECTED AMOUNT IN ACCOUNTS OF NATURAL PERSONS. (a) In this section, "protected amount" means the amount described by Section 42.001(f), Property Code.

(b) On receipt of a claim against a customer who is a natural person, other than a claim that includes a certification described by Subsection (h), a financial institution, before taking any action to freeze, hold, or remit funds, shall determine the balance of each account of the customer held by the institution and shall ensure that the customer has full and customary access to funds equal to the lesser of the protected amount or the total balance of the accounts.

(c) If the claim remains in effect after it is served and applies to funds deposited after service, the financial institution shall continue to ensure that the customer has full and customary access to the amount required by Subsection (b) at all times while the claim remains in effect.

(d) The financial institution shall apply the protected amount first to a demand deposit account and then to other accounts, in order of the amount of funds available, from greatest to least. If funds in the customer's accounts are protected under 31 C.F.R.

Part 212, the institution shall ensure that the customer has access to the greater of the amount protected under that part or the amount required by Subsection (b).

(e) A financial institution may not charge a garnishment, levy, or processing fee against the protected amount.

(f) A financial institution is not required to determine the source of funds in an account in applying this section. A financial institution that complies in good faith with this section is not liable to the judgment creditor, receiver, or customer for that compliance.

(g) This section does not apply to a claim against a customer for the enforcement of court-ordered child support, alimony, or spousal maintenance, or to a financial institution's exercise of a contractual right of setoff.

(h) A claim against a customer who is a natural person that seeks to collect a judgment that is not on a consumer debt, as defined by Section 392.001(2), must include a certification by the judgment creditor or receiver, in the form prescribed by the supreme court, stating that the judgment is not on a consumer debt. A claim that does not include the certification is presumed to seek collection of a judgment on a consumer debt, and the financial institution shall apply this section to the claim. A financial institution may rely on the certification without further inquiry.

(i) A judgment creditor or receiver who makes a false certification under Subsection (h) is liable to the customer for actual damages, a civil penalty of $1,000, and reasonable attorney's fees and court costs.

SECTION 4. (a) Not later than December 1, 2027, the Supreme Court of Texas shall adopt rules and forms that:

(1) require each writ of garnishment, writ of attachment, writ of execution, turnover order, and order appointing a receiver to collect a judgment against a natural person on a consumer debt, as defined by Section 392.001(2), Finance Code, to be accompanied by a plain-language notice, in English and Spanish, of the exemptions available to the person under state and federal law, including the exemption provided by Section 42.001(b)(5), Property Code, as added by this Act;

(2) prescribe a standard form that a financial institution may rely on to apply Section 59.0081, Finance Code, as added by this Act, including the certification form described by Section 59.0081(h), Finance Code, as added by this Act; and

(3) conform the order appointing receiver and the rules governing receivers in justice courts to the changes in law made by this Act.

(b) This section takes effect September 1, 2027.

SECTION 5. This Act may be cited as the Basic Needs Protection Act.

SECTION 6. The changes in law made by this Act apply to a writ, order, notice, or other claim against a customer that is issued, entered, served, or enforced on or after the effective date of this Act, regardless of the date on which the underlying judgment was rendered.

SECTION 7. Except as otherwise provided by this Act, this Act takes effect January 1, 2028.