

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 198

Introduced by Assembly Member Wieckowski

January 29, 2013

An act to amend *Section 2983.3 of the Civil Code, and to amend Sections 703.140, 704.010, 704.100, 704.113, 704.115, 704.720, 704.730, and 704.960 of, and to add Section Sections 704.085, 704.111, and 704.165 to, the Code of Civil Procedure, relating to exempt property bankruptcy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 198, as amended, Wieckowski. ~~Exempt property. Debtor exemptions.~~

(1) *Existing law provides prohibits the seller or holder of a conditional sale contract for a motor vehicle from accelerating the maturity of any part or all of the amount due under the contract or repossessing the vehicle in the absence of default in the performance of any of the buyer's obligations under the contract.*

This bill would provide that neither the act of filing a bankruptcy petition by the buyer or other individual liable on the contract nor the status of either of those persons as a debtor in bankruptcy constitutes a default in the performance of any of the buyer's obligations under the contract and neither may be used as a basis for accelerating the maturity of any part or all of the amount due under the contract or for repossessing the motor vehicle.

~~Existing~~

(2) *Existing law identifies various types of property of a judgment debtor that are exempt from the enforcement of a money judgment.*

Existing law provides that property described in statute as exempt may be claimed within the time and in the manner prescribed in the applicable enforcement procedure, and property described in statute as exempt without making a claim is not subject to any procedure for enforcement of a money judgment. These general exemptions are available to a debtor in a federal bankruptcy case, whether a money judgment is being enforced by execution sale or other procedure, unless the debtor elects certain alternative exemptions.

Existing law authorizes a husband and wife who jointly file a bankruptcy petition to jointly elect to utilize the general exemptions or the alternative exemptions, but not both. The general exemptions are applicable if a bankruptcy petition is filed individually, and not jointly, for a husband or a wife, except that the husband and wife may jointly waive in writing their right to claim, during the period the case commenced by filing the petition is pending, the general exemptions and instead elect to utilize the alternative exemptions.

This bill would provide that a joint waiver is not required from a debtor who is separated from his or her spouse as of the date the bankruptcy petition is filed.

This bill would require, for purposes of determining the exemptions that are available to the debtor in a federal bankruptcy case, that the value of the debtor's interest in property be determined as of the date the bankruptcy petition is filed. The bill would provide an exemption for the debtor's entire interest in the property, including any appreciation in value of that interest following the date the bankruptcy petition is filed, if the value of the debtor's interest in the property on the date the petition is filed is less than or equal to the amount the debtor is permitted to exempt.

Existing law includes an alternative exemption for the debtor's right to receive a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless all of several specified conditions apply, including that the plan or contract does not qualify under specified provisions of the federal Internal Revenue Code of 1986.

This bill would provide that a plan or contract covered by this alternative exemption would be exempt even if it did not qualify under the specified provisions of the federal Internal Revenue Code of 1986 so long as the sole basis for the failure to qualify is a technical defect.

Existing law includes alternative exemptions for the debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent and a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death.

This bill would make these exemptions applicable, as well, to payments regarding an individual of whom the debtor was a spouse.

Existing law includes an alternative exemption for the debtor's right to receive, or property that is traceable to, a payment up to \$24,060 on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent.

This bill would make this exemption applicable, as well, to a payment on account of personal bodily injury of the spouse of the debtor.

Existing law includes an alternative exemption for the debtor's right to receive, or property that is traceable to, a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent to the extent reasonably necessary for the support of the debtor and a dependent of the debtor.

This bill would make this exemption applicable, as well, to a payment regarding an individual of whom the debtor is or was a spouse, and would provide that the exemption applies to the extent reasonably necessary for the support of the debtor and a spouse or dependent of the debtor.

~~(1) Existing~~

Existing law provides that the benefits from a matured life insurance policy, including an endowment or annuity policy, are exempt to the extent reasonably necessary for the support of the debtor and the spouse and dependents of the debtor.

This bill would expand this exemption to include an aggregate amount of benefits up to ~~\$300,000~~ \$500,000 plus any amount that is reasonably necessary for the support, as defined, of the debtor and his or her spouse and dependents. The bill also would add an alternative exemption for the debtor's interest in these expanded benefits.

~~(2) Existing law includes an alternative exemption for any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.~~

~~This bill would clarify that this alternative exemption applies regardless of the age or physical health of the debtor.~~

~~(3) Existing~~

Existing law provides that vacation credits, as defined, are exempt from enforcement of a money judgment without making a claim.

This bill would delete the definition of “vacation credits” set forth in these provisions and expand this general exemption to also include accrued or unused vacation pay. The bill also would add an alternative exemption for the debtor’s right to receive these expanded assets.

~~(4) Existing~~

Existing law provides that up to \$2,300 of any combination of aggregate equity in motor vehicles, the proceeds of an execution sale of a motor vehicle, and the proceeds of insurance or other indemnification for the loss, damage, or destruction of a motor vehicle, is exempt. Existing law includes an alternative exemption for up to \$4,800 of the debtor’s interest in one or more motor vehicles.

This bill would increase the amount of the general exemption for motor vehicle equity to \$4,800, matching the maximum amount of the alternative exemption for motor vehicles, and make conforming changes.

This bill would provide that the aggregate interest of a debtor who is engaged in business, not to exceed five thousand dollars (\$5,000), in cash or deposit accounts, accounts receivable, and inventory of the business is exempt.

~~(5) Existing~~

Existing law includes an alternative exemption for the debtor’s right to receive alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

This bill would provide that these assets are exempt, thereby adding a general exemption matching the existing alternative exemption.

Existing law provides that all amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt. Existing law defines “private retirement plan” to include self-employed retirement plans and individual retirement annuities or accounts provided for in the federal Internal Revenue Code of 1986, including individual retirement accounts qualified under specified provisions of that code.

This bill would expand this exemption to also include individual retirement accounts that do not qualify under those specified provisions on the basis of a technical defect alone.

Existing law provides that various causes of action and awards of damages or settlements arising out of those actions are exempt to various extents, as specified.

This bill would provide that a cause of action arising out of or regarding the violation of any law relating to the judgment debtor's employment is exempt without making a claim, except as provided in specified statutory provisions, and an award of damages or a settlement arising out of or regarding the violation of any law relating to the judgment debtor's employment is exempt to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. The bill also would add identical alternative exemptions in this regard.

This bill would increase the homestead exemptions described above to \$200,000, \$300,000, and \$400,000, respectively. The bill would revise the age-defined eligibility criteria for the \$400,000 exemption to include any judgment debtor or spouse of a judgment debtor residing in the homestead who is 55 years of age or older at the time of the sale, regardless of his or her income.

~~(6) Existing~~

Existing law provides that the proceeds of sale or of insurance or other indemnification for damage or destruction of a homestead, the proceeds received as compensation for a homestead acquired for public use, or the proceeds from a voluntary sale of a declared homestead, are exempt in the amount of the homestead exemption provided in a specified statute for a period of six months after the time the proceeds are actually received by the judgment debtor, except as provided.

This bill would delete the six-month limitation on these exemptions, thereby making these proceeds exempt indefinitely, and make conforming changes.

Existing law provides that a specified portion of equity in a homestead, as defined, is exempt from execution to satisfy a judgment debt. Existing law provides a base exemption of \$75,000, an exemption of \$100,000 if the judgment debtor or his or her spouse who resides in the homestead is, at the time of the sale, a member of a family unit, and one member of the family unit is without an interest, or with only a limited interest, as specified, in the homestead, and an exemption of \$175,000 if the judgment debtor or the spouse of the judgment debtor who resides in the homestead is, at the time of the sale, 65 years of age or older, disabled, or 55 years of age or older with a limited income, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2983.3 of the Civil Code is amended to
2 read:

3 2983.3. (a) (1) In the absence of default in the performance
4 of any of the buyer’s obligations under the contract, the seller or
5 holder may not accelerate the maturity of any part or all of the
6 amount due thereunder or repossess the motor vehicle.

7 (2) Neither the act of filing a petition commencing a case for
8 bankruptcy under Title 11 of the United States Code by the buyer
9 or other individual liable on the contract nor the status of either
10 of those persons as a debtor in bankruptcy constitutes a default in
11 the performance of any of the buyer’s obligations under the
12 contract, and neither may be used as a basis for accelerating the
13 maturity of any part or all of the amount due under the contract
14 or for repossessing the motor vehicle.

15 (b) If after default by the buyer, the seller or holder repossesses
16 or voluntarily accepts surrender of the motor vehicle, any person
17 liable on the contract shall have a right to reinstate the contract
18 and the seller or holder shall not accelerate the maturity of any
19 part or all of the contract prior to expiration of the right to reinstate,
20 unless the seller or holder reasonably and in good faith determines
21 that any of the following has occurred:

22 (1) The buyer or any other person liable on the contract by
23 omission or commission intentionally provided false or misleading
24 information of material importance on his or her credit application.

25 (2) The buyer, any other person liable on the contract, or any
26 permissive user in possession of the motor vehicle, in order to
27 avoid repossession has concealed the motor vehicle or removed it
28 from the state.

29 (3) The buyer, any other person liable on the contract, or any
30 permissive user in possession of the motor vehicle, has committed
31 or threatens to commit acts of destruction, or has failed to take
32 care of the motor vehicle in a reasonable manner, so that the motor
33 vehicle has become substantially impaired in value, or the buyer,
34 any other person liable on the contract, or any nonoccasional
35 permissive user in possession of the motor vehicle has failed to

1 take care of the motor vehicle in a reasonable manner, so that the
2 motor vehicle may become substantially impaired in value.

3 (4) The buyer or any other person liable on the contract has
4 committed, attempted to commit, or threatened to commit criminal
5 acts of violence or bodily harm against an agent, employee, or
6 officer of the seller or holder in connection with the seller's or
7 holder's repossession of or attempt to repossess the motor vehicle.

8 (5) The buyer has knowingly used the motor vehicle, or has
9 knowingly permitted it to be used, in connection with the
10 commission of a criminal offense, other than an infraction, as a
11 consequence of which the motor vehicle has been seized by a
12 federal, state, or local agency or authority pursuant to federal, state,
13 or local law.

14 (6) The motor vehicle has been seized by a federal, state, or
15 local public agency or authority pursuant to (A) Section 1324 of
16 Title 8 of the United States Code or Part 274 of Title 8 of the Code
17 of Federal Regulations, (B) Section 881 of Title 21 of the United
18 States Code or Part 9 of Title 28 of the Code of Federal
19 Regulations, or (C) other federal, state, or local law, including
20 regulations, and, pursuant to that other law, the seizing authority,
21 as a precondition to the return of the motor vehicle to the seller or
22 holder, prohibits the return of the motor vehicle to the buyer or
23 other person liable on the contract or any third person claiming
24 the motor vehicle by or through them or otherwise effects or
25 requires the termination of the property rights in the motor vehicle
26 of the buyer or other person liable on the contract or claimants by
27 or through them.

28 (c) Exercise of the right to reinstate the contract shall be limited
29 to once in any 12-month period and twice during the term of the
30 contract.

31 (d) The provisions of this subdivision cover the method by
32 which a contract shall be reinstated with respect to curing events
33 of default which were a ground for repossession or occurred
34 subsequent to repossession:

35 (1) Where the default is the result of the buyer's failure to make
36 any payment due under the contract, the buyer or any other person
37 liable on the contract shall make the defaulted payments and pay
38 any applicable delinquency charges.

39 (2) Where the default is the result of the buyer's failure to keep
40 and maintain the motor vehicle free from all encumbrances and

1 liens of every kind, the buyer or any other person liable on the
2 contract shall either satisfy all encumbrances and liens or, in the
3 event the seller or holder satisfies the encumbrances and liens, the
4 buyer or any other person liable on the contract shall reimburse
5 the seller or holder for all reasonable costs and expenses incurred
6 therefor.

7 (3) Where the default is the result of the buyer's failure to keep
8 and maintain insurance on the motor vehicle, the buyer or any
9 other person liable on the contract shall either obtain the insurance
10 or, in the event the seller or holder has obtained the insurance, the
11 buyer or any other person liable on the contract shall reimburse
12 the seller or holder for premiums paid and all reasonable costs and
13 expenses, including, but not limited to, any finance charge in
14 connection with the premiums permitted by Section 2982.8,
15 incurred therefor.

16 (4) Where the default is the result of the buyer's failure to
17 perform any other obligation under the contract, unless the seller
18 or holder has made a good faith determination that the default is
19 so substantial as to be incurable, the buyer or any other person
20 liable on the contract shall either cure the default or, if the seller
21 or holder has performed the obligation, reimburse the seller or
22 holder for all reasonable costs and expenses incurred in connection
23 therewith.

24 (5) Additionally, the buyer or any other person liable on the
25 contract shall, in all cases, reimburse the seller or holder for all
26 reasonable and necessary collection and repossession costs and
27 fees incurred, including attorney's fees and legal expenses
28 expended in retaking and holding the vehicle.

29 (e) If the seller or holder denies the right to reinstatement under
30 subdivision (b) or paragraph (4) of subdivision (d), the seller or
31 holder shall have the burden of proof that the denial was justified
32 in that it was reasonable and made in good faith. If the seller or
33 holder fails to sustain the burden of proof, the seller or holder shall
34 not be entitled to a deficiency, but it shall not be presumed that
35 the buyer is entitled to damages by reason of the failure of the
36 seller or holder to sustain the burden of proof.

37 (f) This section shall not apply to a loan made by a lender
38 licensed under Division 9 (commencing with Section 22000) ~~or~~
39 ~~Division 10 (commencing with Section 24000)~~ of the Financial
40 Code.

1 SECTION 1.

2 SEC. 2. Section 703.140 of the Code of Civil Procedure is
3 amended to read:

4 703.140. (a) In a case under Title 11 of the United States Code,
5 all of the exemptions provided by this chapter, including the
6 homestead exemption, other than the provisions of subdivision (b)
7 are applicable regardless of whether there is a money judgment
8 against the debtor or whether a money judgment is being enforced
9 by execution sale or any other procedure, but the exemptions
10 provided by subdivision (b) may be elected in lieu of all other
11 exemptions provided by this chapter, as follows:

12 (1) If a husband and wife are joined in the petition, they jointly
13 may elect to utilize the applicable exemption provisions of this
14 chapter other than the provisions of subdivision (b), or to utilize
15 the applicable exemptions set forth in subdivision (b), but not both.

16 (2) If the petition is filed individually, and not jointly, for a
17 husband or a wife, the exemptions provided by this chapter other
18 than the provisions of subdivision (b) are applicable, except that,
19 if both the husband and the wife effectively waive in writing the
20 right to claim, during the period the case commenced by filing the
21 petition is pending, the exemptions provided by the applicable
22 exemption provisions of this chapter, other than subdivision (b),
23 in any case commenced by filing a petition for either of them under
24 Title 11 of the United States Code, then they may elect to instead
25 utilize the applicable exemptions set forth in subdivision (b). *A*
26 *waiver is not required, however, from a debtor who is separated*
27 *from his or her spouse as of the date of the petition commencing*
28 *the case under Title 11 of the United States Code is filed.*

29 (3) If the petition is filed for an unmarried person, that person
30 may elect to utilize the applicable exemption provisions of this
31 chapter other than subdivision (b), or to utilize the applicable
32 exemptions set forth in subdivision (b), but not both.

33 (4) *For purposes of determining the exemptions available to*
34 *the debtor in a case under Title 11 of the United States Code, the*
35 *value of the debtor's interest in property shall be determined as*
36 *of the date the petition commencing the case was filed. If the value*
37 *of the debtor's interest in the property on that date is less than or*
38 *equal to the amount the debtor is permitted to exempt, the debtor's*
39 *entire interest in the property, including any appreciation in value*
40 *of that interest following the date of the petition, is exempt.*

1 (b) The following exemptions may be elected as provided in
2 subdivision (a):

3 (1) The debtor's aggregate interest, not to exceed twenty-four
4 thousand sixty dollars (\$24,060) in value, in real property or
5 personal property that the debtor or a dependent of the debtor uses
6 as a residence, in a cooperative that owns property that the debtor
7 or a dependent of the debtor uses as a residence.

8 (2) The debtor's interest, not to exceed four thousand eight
9 hundred dollars (\$4,800) in value, in one or more motor vehicles.

10 (3) The debtor's interest, not to exceed six hundred dollars
11 (\$600) in value in any particular item, in household furnishings,
12 household goods, wearing apparel, appliances, books, animals,
13 crops, or musical instruments, that are held primarily for the
14 personal, family, or household use of the debtor or a dependent of
15 the debtor.

16 (4) The debtor's aggregate interest, not to exceed one thousand
17 four hundred twenty-five dollars (\$1,425) in value, in jewelry held
18 primarily for the personal, family, or household use of the debtor
19 or a dependent of the debtor.

20 (5) The debtor's aggregate interest, not to exceed in value one
21 thousand two hundred eighty dollars (\$1,280) plus any unused
22 amount of the exemption provided under paragraph (1), in any
23 property.

24 (6) The debtor's aggregate interest, not to exceed seven thousand
25 one hundred seventy-five dollars (\$7,175) in value, in any
26 implements, professional books, or tools of the trade of the debtor
27 or the trade of a dependent of the debtor.

28 (7) Any unmaturred life insurance contract owned by the debtor,
29 other than a credit life insurance contract, ~~regardless of the debtor's~~
30 ~~age or physical health.~~

31 (8) The debtor's aggregate interest, not to exceed in value twelve
32 thousand eight hundred sixty dollars (\$12,860), in any accrued
33 dividend or interest under, or loan value of, any unmaturred life
34 insurance contract owned by the debtor under which the insured
35 is the debtor or an individual of whom the debtor is a dependent.

36 (9) The debtor's *aggregate* interest, not to exceed ~~three five~~
37 ~~hundred thousand dollars (\$300,000)~~ (\$500,000) plus any amount
38 that is reasonably necessary for the support of the judgment debtor
39 and his or her spouse and dependents, in benefits from a maturred
40 life insurance policy, including an endowment or annuity policy.

1 As used in this paragraph, “reasonably necessary for the support”
2 means required to meet present and future needs, as determined
3 by the court after consideration of the debtor’s responsibilities and
4 all the present and anticipated property and income of the debtor,
5 including exempt property.

6 (10) Professionally prescribed health aids for the debtor or a
7 dependent of the debtor.

8 (11) The debtor’s right to receive any of the following:

9 (A) A social security benefit, unemployment compensation, or
10 a local public assistance benefit.

11 (B) A veterans’ benefit.

12 (C) A disability, illness, or unemployment benefit.

13 (D) Alimony, support, or separate maintenance, to the extent
14 reasonably necessary for the support of the debtor and any
15 dependent of the debtor.

16 (E) A payment under a stock bonus, pension, profit-sharing,
17 annuity, or similar plan or contract on account of illness, disability,
18 death, age, or length of service, to the extent reasonably necessary
19 for the support of the debtor and any dependent of the debtor,
20 unless all of the following apply:

21 (i) That plan or contract was established by or under the auspices
22 of an insider that employed the debtor at the time the debtor’s
23 rights under the plan or contract arose.

24 (ii) The payment is on account of age or length of service.

25 (iii) That plan or contract does not qualify under Section 401(a),
26 403(a), 403(b), 408, or 408A of the Internal Revenue Code of 1986
27 *on a basis other than a technical defect alone.*

28 (F) Vacation credits or accrued or unused vacation pay.

29 (12) The debtor’s right to receive, or property that is traceable
30 to, any of the following:

31 (A) An award under a crime victim’s reparation law.

32 (B) A payment on account of the wrongful death of an individual
33 of whom the debtor was a *spouse or* dependent, to the extent
34 reasonably necessary for the support of the debtor and any
35 dependent of the debtor.

36 (C) A payment under a life insurance contract that insured the
37 life of an individual of whom the debtor was a *spouse or* dependent
38 on the date of that individual’s death, to the extent reasonably
39 necessary for the support of the debtor and any dependent of the
40 debtor.

1 (D) A payment, not to exceed twenty-four thousand sixty dollars
 2 (\$24,060), on account of personal bodily injury of the debtor, *the*
 3 *spouse of the debtor*, or an individual of whom the debtor is a
 4 dependent.

5 (E) A payment in compensation of loss of future earnings of
 6 the debtor or an individual of whom the debtor is or was a *spouse*
 7 dependent, to the extent reasonably necessary for the support of
 8 the debtor and ~~any~~ *a spouse or dependent of the debtor.*

9 (13) (A) *Except as provided in Article 5 (commencing with*
 10 *Section 708.410) of Chapter 6, a cause of action arising out of or*
 11 *regarding the violation of any law relating to the judgment debtor's*
 12 *employment is exempt without making a claim.*

13 (B) *An award of damages from or a settlement arising out of*
 14 *or regarding the violation of any law relating to the judgment*
 15 *debtor's employment is exempt to the extent necessary for the*
 16 *support of the judgment debtor and the spouse and dependents of*
 17 *the judgment debtor.*

18 ~~SEC. 2.~~

19 SEC. 3. Section 704.010 of the Code of Civil Procedure is
 20 amended to read:

21 704.010. (a) Any combination of the following is exempt in
 22 the amount of four thousand eight hundred dollars (\$4,800):

- 23 (1) The aggregate equity in motor vehicles.
- 24 (2) The proceeds of an execution sale of a motor vehicle.
- 25 (3) The proceeds of insurance or other indemnification for the
 26 loss, damage, or destruction of a motor vehicle.

27 (b) Proceeds exempt under subdivision (a) are exempt for a
 28 period of 90 days after the time the proceeds are actually received
 29 by the judgment debtor.

30 (c) For the purpose of determining the equity, the fair market
 31 value of a motor vehicle shall be determined by reference to used
 32 car price guides customarily used by California automobile dealers
 33 unless the motor vehicle is not listed in such price guides.

34 (d) If the judgment debtor has only one motor vehicle and it is
 35 sold at an execution sale, the proceeds of the execution sale are
 36 exempt in the amount of four thousand eight hundred dollars
 37 (\$4,800) without making a claim. The levying officer shall consult
 38 and may rely upon the records of the Department of Motor Vehicles
 39 in determining whether the judgment debtor has only one motor

1 vehicle. In the case covered by this subdivision, the exemption
2 provided by subdivision (a) is not available.

3 *SEC. 4. Section 704.085 is added to the Code of Civil*
4 *Procedure, to read:*

5 *704.085. The aggregate interest of a debtor who is engaged*
6 *in business, not to exceed five thousand dollars (\$5,000), in cash*
7 *or deposit accounts, accounts receivable, and inventory of the*
8 *business is exempt.*

9 ~~SEC. 3.~~

10 *SEC. 5. Section 704.100 of the Code of Civil Procedure is*
11 *amended to read:*

12 *704.100. (a) ~~An unmatured~~ Unmatured life insurance ~~policy~~*
13 *policies, including ~~an~~ endowment or annuity ~~policy~~ policies,*
14 *excluding the loan value of the ~~policy, is~~ policies, are exempt*
15 *without making a claim.*

16 *(b) The aggregate loan value of ~~an~~ unmatured life insurance*
17 *~~policy~~ policies, including ~~an~~ endowment or annuity ~~policy, is~~*
18 *policies, are subject to the enforcement of a money judgment but*
19 *is are exempt in the amount of nine thousand seven hundred dollars*
20 *(\$9,700). If the judgment debtor is married, each spouse is entitled*
21 *to a separate exemption under this subdivision, and the exemptions*
22 *of the spouses may be combined, regardless of whether the ~~policy~~*
23 *policies belongs to either or both spouses and regardless of whether*
24 *the spouse of the judgment debtor is also a judgment debtor under*
25 *the judgment. The exemption provided by this subdivision shall*
26 *be first applied to policies other than the policy before the court*
27 *and then, if the exemption is not exhausted, to the policy before*
28 *the court.*

29 *(c) Benefits from ~~a~~ matured life insurance ~~policy~~ policies,*
30 *including ~~an~~ endowment ~~or~~ annuity ~~policy~~ and annuity policies,*
31 *are exempt in an aggregate amount not to exceed ~~three~~ five hundred*
32 *thousand dollars ~~(\$300,000)~~ (\$500,000) plus any amount*
33 *reasonably necessary for the support of the judgment debtor and*
34 *the spouse and dependents of the judgment debtor. ~~As used in this~~*
35 *paragraph, “reasonably necessary for the support” means an amount*
36 *required to meet present and future needs, as determined by the*
37 *court after consideration of the debtor’s responsibilities and all the*
38 *present and anticipated property and income of the debtor,*
39 *including exempt property.*

1 ~~SEC. 4.~~

2 *SEC. 6.* Section 704.111 is added to the Code of Civil
3 Procedure, to read:

4 704.111. Alimony, support, and separate maintenance, to the
5 extent reasonably necessary for the support of the debtor and any
6 dependent of the debtor, are exempt.

7 ~~SEC. 5.~~

8 *SEC. 7.* Section 704.113 of the Code of Civil Procedure is
9 amended to read:

10 704.113. (a) All vacation credits or accrued or unused vacation
11 pay is exempt without making a claim.

12 (b) Amounts paid periodically or as a lump sum representing
13 vacation credits are subject to any earnings withholding order
14 served under Chapter 5 (commencing with Section 706.010) or
15 any earnings assignment order for support as defined in Section
16 706.011 and are exempt to the same extent as earnings of a
17 judgment debtor.

18 *SEC. 8. Section 704.115 of the Code of Civil Procedure is*
19 *amended to read:*

20 704.115. (a) As used in this section, “private retirement plan”
21 means:

22 (1) Private retirement plans, including, but not limited to, union
23 retirement plans.

24 (2) Profit-sharing plans designed and used for retirement
25 purposes.

26 (3) Self-employed retirement plans and individual retirement
27 annuities or accounts provided for in the Internal Revenue Code
28 of 1986, as amended, including individual retirement accounts
29 qualified under Section 408 or 408A of that code *and accounts*
30 *that do not qualify on the basis of a technical defect alone*, to the
31 extent the amounts held in the plans, annuities, or accounts do not
32 exceed the maximum amounts exempt from federal income taxation
33 under that code.

34 (b) All amounts held, controlled, or in process of distribution
35 by a private retirement plan, for the payment of benefits as an
36 annuity, pension, retirement allowance, disability payment, or
37 death benefit from a private retirement plan are exempt.

38 (c) Notwithstanding subdivision (b), where an amount described
39 in subdivision (b) becomes payable to a person and is sought to

1 be applied to the satisfaction of a judgment for child, family, or
2 spousal support against that person:

3 (1) Except as provided in paragraph (2), the amount is exempt
4 only to the extent that the court determines under subdivision (c)
5 of Section 703.070.

6 (2) If the amount sought to be applied to the satisfaction of the
7 judgment is payable periodically, the amount payable is subject
8 to an earnings assignment order for support as defined in Section
9 706.011 or any other applicable enforcement procedure, but the
10 amount to be withheld pursuant to the assignment order or other
11 procedure shall not exceed the amount permitted to be withheld
12 on an earnings withholding order for support under Section
13 706.052.

14 (d) After payment, the amounts described in subdivision (b)
15 and all contributions and interest thereon returned to any member
16 of a private retirement plan are exempt.

17 (e) Notwithstanding subdivisions (b) and (d), except as provided
18 in subdivision (f), the amounts described in paragraph (3) of
19 subdivision (a) are exempt only to the extent necessary to provide
20 for the support of the judgment debtor when the judgment debtor
21 retires and for the support of the spouse and dependents of the
22 judgment debtor, taking into account all resources that are likely
23 to be available for the support of the judgment debtor when the
24 judgment debtor retires. In determining the amount to be exempt
25 under this subdivision, the court shall allow the judgment debtor
26 such additional amount as is necessary to pay any federal and state
27 income taxes payable as a result of the applying of an amount
28 described in paragraph (3) of subdivision (a) to the satisfaction of
29 the money judgment.

30 (f) Where the amounts described in paragraph (3) of subdivision
31 (a) are payable periodically, the amount of the periodic payment
32 that may be applied to the satisfaction of a money judgment is the
33 amount that may be withheld from a like amount of earnings under
34 Chapter 5 (commencing with Section 706.010) (Wage Garnishment
35 Law). To the extent a lump-sum distribution from an individual
36 retirement account is treated differently from a periodic distribution
37 under this subdivision, any lump-sum distribution from an account
38 qualified under Section 408A of the Internal Revenue Code shall
39 be treated the same as a lump-sum distribution from an account
40 qualified under Section 408 of the Internal Revenue Code for

1 purposes of determining whether any of that payment may be
2 applied to the satisfaction of a money judgment.

3 *SEC. 9. Section 704.165 is added to the Code of Civil
4 Procedure, to read:*

5 *704.165. (a) Except as provided in Article 5 (commencing
6 with Section 708.410) of Chapter 6, a cause of action arising out
7 of or regarding the violation of any law relating to the judgment
8 debtor's employment is exempt without making a claim.*

9 *(b) An award of damages from or a settlement arising out of or
10 regarding the violation of any law relating to the judgment debtor's
11 employment is exempt to the extent necessary for the support of
12 the judgment debtor and the spouse and dependents of the judgment
13 debtor.*

14 ~~SEC. 6.~~

15 *SEC. 10. Section 704.720 of the Code of Civil Procedure is
16 amended to read:*

17 *704.720. (a) A homestead is exempt from sale under this
18 division to the extent provided in Section 704.800.*

19 *(b) If a homestead is sold under this division or is damaged or
20 destroyed or is acquired for public use, the proceeds of sale or of
21 insurance or other indemnification for damage or destruction of
22 the homestead or the proceeds received as compensation for a
23 homestead acquired for public use are exempt in the amount of
24 the homestead exemption provided in Section 704.730.*

25 *(c) If the judgment debtor and spouse of the judgment debtor
26 reside in separate homesteads, only the homestead of one of the
27 spouses is exempt and only the proceeds of the exempt homestead
28 are exempt.*

29 *(d) If a judgment debtor is not currently residing in the
30 homestead, but his or her separated or former spouse continues to
31 reside in or exercise control over possession of the homestead, that
32 judgment debtor continues to be entitled to an exemption under
33 this article until entry of judgment or other legally enforceable
34 agreement dividing the community property between the judgment
35 debtor and the separated or former spouse, or until a later time
36 period as specified by court order. Nothing in this subdivision shall
37 entitle the judgment debtor to more than one exempt homestead.
38 Notwithstanding subdivision (d) of Section 704.710, for purposes
39 of this article, "spouse" may include a separated or former spouse
40 consistent with this subdivision.*

1 *SEC. 11. Section 704.730 of the Code of Civil Procedure is*
2 *amended to read:*

3 704.730. (a) The amount of the homestead exemption is one
4 of the following:

5 (1) ~~Seventy-five~~ *Two hundred* thousand dollars ~~(\$75,000)~~
6 *(\$200,000)* unless the judgment debtor or spouse of the judgment
7 debtor who resides in the homestead is a person described in
8 paragraph (2) or (3).

9 (2) ~~One~~ *Three* hundred thousand dollars ~~(\$100,000)~~ *(\$300,000)*
10 if the judgment debtor or spouse of the judgment debtor who
11 resides in the homestead is at the time of the attempted sale of the
12 homestead a member of a family unit, and there is at least one
13 member of the family unit who owns no interest in the homestead
14 or whose only interest in the homestead is a community property
15 interest with the judgment debtor.

16 (3) ~~One~~ *Four* hundred ~~seventy-five~~ thousand dollars ~~(\$175,000)~~
17 *(\$400,000)* if the judgment debtor or spouse of the judgment debtor
18 who resides in the homestead is at the time of the attempted sale
19 of the homestead any one of the following:

20 (A) A person ~~65~~ *55* years of age or older.

21 (B) A person physically or mentally disabled who as a result of
22 that disability is unable to engage in substantial gainful
23 employment. There is a rebuttable presumption affecting the burden
24 of proof that a person receiving disability insurance benefit
25 payments under Title II or supplemental security income payments
26 under Title XVI of the federal Social Security Act satisfies the
27 requirements of this paragraph as to his or her inability to engage
28 in substantial gainful employment.

29 ~~(C) A person 55 years of age or older with a gross annual income~~
30 ~~of not more than twenty-five thousand dollars (\$25,000) or, if the~~
31 ~~judgment debtor is married, a gross annual income, including the~~
32 ~~gross annual income of the judgment debtor's spouse, of not more~~
33 ~~than thirty-five thousand dollars (\$35,000) and the sale is an~~
34 ~~involuntary sale.~~

35 (b) Notwithstanding any other provision of this section, the
36 combined homestead exemptions of spouses on the same judgment
37 shall not exceed the amount specified in paragraph (2) or (3),
38 whichever is applicable, of subdivision (a), regardless of whether
39 the spouses are jointly obligated on the judgment and regardless
40 of whether the homestead consists of community or separate

1 property or both. Notwithstanding any other provision of this
2 article, if both spouses are entitled to a homestead exemption, the
3 exemption of proceeds of the homestead shall be apportioned
4 between the spouses on the basis of their proportionate interests
5 in the homestead.

6 ~~SEC. 7.~~

7 *SEC. 12.* Section 704.960 of the Code of Civil Procedure is
8 amended to read:

9 704.960. If a declared homestead is voluntarily sold, the
10 proceeds of sale are exempt in the amount provided by Section
11 704.730.

O