



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5480

by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/12-1001

from Ch. 110, par. 12-1001

Amends the Code of Civil Procedure. Provides that the debtor's interest, not to exceed \$10,000 (instead of \$2,400) in value, in any one motor vehicle is exempt from judgment, attachment, or distress for rent. Provides that the debtor's equity interest, not to exceed \$7,500 (instead of \$1,500) in value, in any implements, professional books, or tools of the trade of the debtor is exempt from judgment, attachment, or distress for rent. Provides that the debtor's equity interest, not to exceed \$50,000 (instead of \$4,000) in value, in any other property is exempt from judgment, attachment, or distress for rent. Provides that in each checking or savings account held by the debtor, an amount not to exceed \$4,000, until: (1) a hearing has been held; and (2) the debtor has been given a reasonable opportunity to indicate to which personal property he or she seeks to apply the exemption for other property, at which time the debtor may protect up to \$4,000 of equity in any personal property, and the funds in a checking or savings account will either remain protected or be subject to garnishment. Provides that upon receiving a citation to discover assets, a financial institution shall not freeze the debtor's access or turn over to the judgment creditor the amount in the debtor's account that is \$4,000 or less, but shall inform the court and the judgment creditor of the exempt amount. Effective immediately.

LRB100 20526 HEP 35911 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 12-1001 as follows:

6 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

7 Sec. 12-1001. Personal property exempt. The following  
8 personal property, owned by the debtor, is exempt from  
9 judgment, attachment, or distress for rent:

10 (a) The necessary wearing apparel, bible, school  
11 books, and family pictures of the debtor and the debtor's  
12 dependents;

13 (b) The debtor's equity interest, not to exceed \$50,000  
14 ~~\$4,000~~ in value, in any other property;

15 (c) The debtor's interest, not to exceed \$10,000 ~~\$2,400~~  
16 in value, in any one motor vehicle;

17 (d) The debtor's equity interest, not to exceed \$7,500  
18 ~~\$1,500~~ in value, in any implements, professional books, or  
19 tools of the trade of the debtor;

20 (e) Professionally prescribed health aids for the  
21 debtor or a dependent of the debtor;

22 (f) All proceeds payable because of the death of the  
23 insured and the aggregate net cash value of any or all life

1 insurance and endowment policies and annuity contracts  
2 payable to a wife or husband of the insured, or to a child,  
3 parent, or other person dependent upon the insured, or to a  
4 revocable or irrevocable trust which names the wife or  
5 husband of the insured or which names a child, parent, or  
6 other person dependent upon the insured as the primary  
7 beneficiary of the trust, whether the power to change the  
8 beneficiary is reserved to the insured or not and whether  
9 the insured or the insured's estate is a contingent  
10 beneficiary or not;

11 (g) The debtor's right to receive:

12 (1) a social security benefit, unemployment  
13 compensation, or public assistance benefit;

14 (2) a veteran's benefit;

15 (3) a disability, illness, or unemployment  
16 benefit; and

17 (4) alimony, support, or separate maintenance, to  
18 the extent reasonably necessary for the support of the  
19 debtor and any dependent of the debtor.

20 (h) The debtor's right to receive, or property that is  
21 traceable to:

22 (1) an award under a crime victim's reparation law;

23 (2) a payment on account of the wrongful death of  
24 an individual of whom the debtor was a dependent, to  
25 the extent reasonably necessary for the support of the  
26 debtor;

1           (3) a payment under a life insurance contract that  
2           insured the life of an individual of whom the debtor  
3           was a dependent, to the extent reasonably necessary for  
4           the support of the debtor or a dependent of the debtor;

5           (4) a payment, not to exceed \$15,000 in value, on  
6           account of personal bodily injury of the debtor or an  
7           individual of whom the debtor was a dependent; and

8           (5) any restitution payments made to persons  
9           pursuant to the federal Civil Liberties Act of 1988 and  
10          the Aleutian and Pribilof Island Restitution Act, P.L.  
11          100-383.

12          For purposes of this subsection (h), a debtor's right  
13          to receive an award or payment shall be exempt for a  
14          maximum of 2 years after the debtor's right to receive the  
15          award or payment accrues; property traceable to an award or  
16          payment shall be exempt for a maximum of 5 years after the  
17          award or payment accrues; and an award or payment and  
18          property traceable to an award or payment shall be exempt  
19          only to the extent of the amount of the award or payment,  
20          without interest or appreciation from the date of the award  
21          or payment.

22          (i) The debtor's right to receive an award under Part  
23          20 of Article II of this Code relating to crime victims'  
24          awards.

25          (j) Moneys held in an account invested in the Illinois  
26          College Savings Pool of which the debtor is a participant

1 or donor, except the following non-exempt contributions:

2 (1) any contribution to such account by the debtor  
3 as participant or donor that is made with the actual  
4 intent to hinder, delay, or defraud any creditor of the  
5 debtor;

6 (2) any contributions to such account by the debtor  
7 as participant during the 365 day period prior to the  
8 date of filing of the debtor's petition for bankruptcy  
9 that, in the aggregate during such period, exceed the  
10 amount of the annual gift tax exclusion under Section  
11 2503(b) of the Internal Revenue Code of 1986, as  
12 amended, in effect at the time of contribution; or

13 (3) any contributions to such account by the debtor  
14 as participant during the period commencing 730 days  
15 prior to and ending 366 days prior to the date of  
16 filing of the debtor's petition for bankruptcy that, in  
17 the aggregate during such period, exceed the amount of  
18 the annual gift tax exclusion under Section 2503(b) of  
19 the Internal Revenue Code of 1986, as amended, in  
20 effect at the time of contribution.

21 For purposes of this subsection (j), "account"  
22 includes all accounts for a particular designated  
23 beneficiary, of which the debtor is a participant or donor.

24 (k) In each checking or savings account held by the  
25 debtor, an amount not to exceed \$4,000, until:

26 (1) a hearing has been held; and

1           (2) the debtor has been given a reasonable  
2           opportunity to indicate to which personal property he  
3           or she seeks to apply the exemption in subsection (b),  
4           at which time the debtor may protect up to \$4,000 of  
5           equity in any personal property, and the funds in a  
6           checking or savings account will either remain  
7           protected or be subject to garnishment.

8           Upon receiving a citation to discover assets, a  
9           financial institution shall not freeze the debtor's access  
10           or turn over to the judgment creditor the amount in the  
11           debtor's account that is \$4,000 or less, but shall inform  
12           the court and the judgment creditor of the exempt amount.

13           Money due the debtor from the sale of any personal property  
14           that was exempt from judgment, attachment, or distress for rent  
15           at the time of the sale is exempt from attachment and  
16           garnishment to the same extent that the property would be  
17           exempt had the same not been sold by the debtor.

18           If a debtor owns property exempt under this Section and he  
19           or she purchased that property with the intent of converting  
20           nonexempt property into exempt property or in fraud of his or  
21           her creditors, that property shall not be exempt from judgment,  
22           attachment, or distress for rent. Property acquired within 6  
23           months of the filing of the petition for bankruptcy shall be  
24           presumed to have been acquired in contemplation of bankruptcy.

25           The personal property exemptions set forth in this Section  
26           shall apply only to individuals and only to personal property

1 that is used for personal rather than business purposes. The  
2 personal property exemptions set forth in this Section shall  
3 not apply to or be allowed against any money, salary, or wages  
4 due or to become due to the debtor that are required to be  
5 withheld in a wage deduction proceeding under Part 8 of this  
6 Article XII.

7 (Source: P.A. 97-1030, eff. 8-17-12.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.