

SB1246



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1246

Introduced 2/7/2017, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

735 ILCS 5/12-1001

from Ch. 110, par. 12-1001

Amends the Code of Civil Procedure. Adds, to the list of personal property that is exempt from judgment, attachment, or distress for rent, moneys held in educational expense accounts and similar types of educational savings accounts, including, but not limited to, funds invested in an ABLE Account as defined by Section 529 of the Internal Revenue Code and funds invested in a 529 Plan as defined by Section 529 of the Internal Revenue Code.

LRB100 08879 HEP 19022 b

A BILL FOR

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 \$4,000
14 in value, in any other property;

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

17 (d) The debtor's equity interest, not to exceed \$1,500
18 in value, in any implements, professional books, or tools
19 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 educational expense accounts and
26 similar types of educational savings accounts, including,

1 but not limited to, an account invested in the Illinois
2 College Savings Pool of which the debtor is a participant
3 or donor, funds invested in an ABLE Account as defined by
4 Section 529 of the Internal Revenue Code, and funds
5 invested in a 529 Plan as defined by Section 529 of the
6 Internal Revenue Code, except the following non-exempt
7 contributions:

8 (1) any contribution to such account by the debtor
9 as participant or donor that is made with the actual
10 intent to hinder, delay, or defraud any creditor of the
11 debtor;

12 (2) any contributions to such account by the debtor
13 as participant during the 365 day period prior to the
14 date of filing of the debtor's petition for bankruptcy
15 that, in the aggregate during such period, exceed the
16 amount of the annual gift tax exclusion under Section
17 2503(b) of the Internal Revenue Code of 1986, as
18 amended, in effect at the time of contribution; or

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

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

4 Money due the debtor from the sale of any personal property
5 that was exempt from judgment, attachment, or distress for rent
6 at the time of the sale is exempt from attachment and
7 garnishment to the same extent that the property would be
8 exempt had the same not been sold by the debtor.

9 If a debtor owns property exempt under this Section and he
10 or she purchased that property with the intent of converting
11 nonexempt property into exempt property or in fraud of his or
12 her creditors, that property shall not be exempt from judgment,
13 attachment, or distress for rent. Property acquired within 6
14 months of the filing of the petition for bankruptcy shall be
15 presumed to have been acquired in contemplation of bankruptcy.

16 The personal property exemptions set forth in this Section
17 shall apply only to individuals and only to personal property
18 that is used for personal rather than business purposes. The
19 personal property exemptions set forth in this Section shall
20 not apply to or be allowed against any money, salary, or wages
21 due or to become due to the debtor that are required to be
22 withheld in a wage deduction proceeding under Part 8 of this
23 Article XII.

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