



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2771

Introduced 2/19/2021, by Rep. Kelly M. Cassidy

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 is exempt from judgment, attachment, or distress for rent 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 the 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.

LRB102 15991 LNS 21361 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
14 \$50,000 ~~\$4,000~~ in value, in any other property;

15 (c) The debtor's interest, not to exceed \$10,000
16 ~~\$2,400~~ 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
4 a 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
23 law;

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

1 debtor;

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

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

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

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

24 (i) The debtor's right to receive an award under Part
25 20 of Article II of this Code relating to crime victims'
26 awards.

1 (j) Moneys held in an account invested in the Illinois
2 College Savings Pool of which the debtor is a participant
3 or donor and funds invested in an ABLE Account as defined
4 by Section 529 of the Internal Revenue Code, except the
5 following non-exempt contributions:

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

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

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

26 For purposes of this subsection (j), "account"

1 includes all accounts for a particular designated
2 beneficiary, of which the debtor is a participant or
3 donor.

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

6 (1) a hearing has been held; and

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

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

19 Money due the debtor from the sale of any personal
20 property that was exempt from judgment, attachment, or
21 distress for rent at the time of the sale is exempt from
22 attachment and garnishment to the same extent that the
23 property would be exempt had the same not been sold by the
24 debtor.

25 If a debtor owns property exempt under this Section and he
26 or she purchased that property with the intent of converting

1 nonexempt property into exempt property or in fraud of his or
2 her creditors, that property shall not be exempt from
3 judgment, attachment, or distress for rent. Property acquired
4 within 6 months of the filing of the petition for bankruptcy
5 shall be presumed to have been acquired in contemplation of
6 bankruptcy.

7 The personal property exemptions set forth in this Section
8 shall apply only to individuals and only to personal property
9 that is used for personal rather than business purposes. The
10 personal property exemptions set forth in this Section shall
11 not apply to or be allowed against any money, salary, or wages
12 due or to become due to the debtor that are required to be
13 withheld in a wage deduction proceeding under Part 8 of this
14 Article XII.

15 (Source: P.A. 100-922, eff. 1-1-19.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.