



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2291

Introduced 1/12/2006, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

735 ILCS 5/12-1001

from Ch. 110, par. 12-1001

Amends the Code of Civil Procedure. Provides that moneys held in an account invested in the Illinois College Savings Pool of which the debtor is a participant or donor is personal property that is exempt from judgment, attachment, or distress from rent except for: (i) contributions to the account made with the intent to hinder, delay, or defraud any creditor, (ii) certain contributions to the account made during the 365 day period prior to the date of the debtor filing for bankruptcy in excess of the annual gift tax exclusion; or (iii) certain contributions to the account made during the the 730 to 366 day period prior to the date of the debtor filing for bankruptcy in excess of the annual gift tax exclusion.

LRB094 16334 RSP 51585 b

1 AN ACT concerning civil procedure.

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
24 insurance and endowment policies and annuity contracts
25 payable to a wife or husband of the insured, or to a child,
26 parent, or other person dependent upon the insured, whether
27 the power to change the beneficiary is reserved to the
28 insured or not and whether the insured or the insured's
29 estate is a contingent beneficiary or not;

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

31 (1) a social security benefit, unemployment
32 compensation, or public assistance benefit;

1 (2) a veteran's benefit;

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

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

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

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

10 (2) a payment on account of the wrongful death of
11 an individual of whom the debtor was a dependent, to
12 the extent reasonably necessary for the support of the
13 debtor;

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

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

21 (5) any restitution payments made to persons
22 pursuant to the federal Civil Liberties Act of 1988 and
23 the Aleutian and Pribilof Island Restitution Act, P.L.
24 100-383.

25 For purposes of this subsection (h), a debtor's right
26 to receive an award or payment shall be exempt for a
27 maximum of 2 years after the debtor's right to receive the
28 award or payment accrues; property traceable to an award or
29 payment shall be exempt for a maximum of 5 years after the
30 award or payment accrues; and an award or payment and
31 property traceable to an award or payment shall be exempt
32 only to the extent of the amount of the award or payment,
33 without interest or appreciation from the date of the award
34 or payment.

35 (i) The debtor's right to receive an award under Part
36 20 of Article II of this Code relating to crime victims'

1 awards.

2 (j) Moneys held in an account invested in the Illinois
3 College Savings Pool of which the debtor is a participant
4 or donor, except the following non-exempt contributions:

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

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

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

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

27 Money due the debtor from the sale of any personal property
28 that was exempt from judgment, attachment, or distress for rent
29 at the time of the sale is exempt from attachment and
30 garnishment to the same extent that the property would be
31 exempt had the same not been sold by the debtor.

32 If a debtor owns property exempt under this Section and he
33 or she purchased that property with the intent of converting
34 nonexempt property into exempt property or in fraud of his or
35 her creditors, that property shall not be exempt from judgment,
36 attachment, or distress for rent. Property acquired within 6

1 months of the filing of the petition for bankruptcy shall be
2 presumed to have been acquired in contemplation of bankruptcy.

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

11 (Source: P.A. 94-293, eff. 1-1-06.)