

AMENDED IN ASSEMBLY MAY 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1853

Introduced by Assembly Member Wieckowski

February 19, 2014

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, and 704.960 of, and to add Sections 704.085, 704.111, and 704.165 to, the Code of Civil Procedure, relating to bankruptcy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as amended, Wieckowski. Debtor exemptions.

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 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.

~~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 \$500,000 plus any amount that is reasonably necessary for the support 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.~~

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, *sick leave*, and *family leave*. The bill also would add an alternative exemption for the debtor's right to receive these expanded assets.

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 and alternative exemption for motor vehicle equity to \$6,000, 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.

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~~ *varying extent*, 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.

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.

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 of
10 those persons as a debtor in bankruptcy constitutes a default in the
11 performance of any of the buyer's obligations under the contract,
12 and neither may be used as a basis for accelerating the maturity
13 of any part or all of the amount due under the contract or for
14 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.

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

5 (3) The buyer, any other person liable on the contract, or any
6 permissive user in possession of the motor vehicle, has committed
7 or threatens to commit acts of destruction, or has failed to take
8 care of the motor vehicle in a reasonable manner, so that the motor
9 vehicle has become substantially impaired in value, or the buyer,
10 any other person liable on the contract, or any nonoccasional
11 permissive user in possession of the motor vehicle has failed to
12 take care of the motor vehicle in a reasonable manner, so that the
13 motor vehicle may become substantially impaired in value.

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

19 (5) The buyer has knowingly used the motor vehicle, or has
20 knowingly permitted it to be used, in connection with the
21 commission of a criminal offense, other than an infraction, as a
22 consequence of which the motor vehicle has been seized by a
23 federal, state, or local agency or authority pursuant to federal, state,
24 or local law.

25 (6) The motor vehicle has been seized by a federal, state, or
26 local public agency or authority pursuant to (A) Section 1324 of
27 Title 8 of the United States Code or Part 274 of Title 8 of the Code
28 of Federal Regulations, (B) Section 881 of Title 21 of the United
29 States Code or Part 9 of Title 28 of the Code of Federal
30 Regulations, or (C) other federal, state, or local law, including
31 regulations, and, pursuant to that other law, the seizing authority,
32 as a precondition to the return of the motor vehicle to the seller or
33 holder, prohibits the return of the motor vehicle to the buyer or
34 other person liable on the contract or any third person claiming
35 the motor vehicle by or through them or otherwise effects or
36 requires the termination of the property rights in the motor vehicle
37 of the buyer or other person liable on the contract or claimants by
38 or through them.

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

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

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

12 (2) Where the default is the result of the buyer's failure to keep
13 and maintain the motor vehicle free from all encumbrances and
14 liens of every kind, the buyer or any other person liable on the
15 contract shall either satisfy all encumbrances and liens or, in the
16 event the seller or holder satisfies the encumbrances and liens, the
17 buyer or any other person liable on the contract shall reimburse
18 the seller or holder for all reasonable costs and expenses incurred
19 therefor.

20 (3) Where the default is the result of the buyer's failure to keep
21 and maintain insurance on the motor vehicle, the buyer or any
22 other person liable on the contract shall either obtain the insurance
23 or, in the event the seller or holder has obtained the insurance, the
24 buyer or any other person liable on the contract shall reimburse
25 the seller or holder for premiums paid and all reasonable costs and
26 expenses, including, but not limited to, any finance charge in
27 connection with the premiums permitted by Section 2982.8,
28 incurred therefor.

29 (4) Where the default is the result of the buyer's failure to
30 perform any other obligation under the contract, unless the seller
31 or holder has made a good faith determination that the default is
32 so substantial as to be incurable, the buyer or any other person
33 liable on the contract shall either cure the default or, if the seller
34 or holder has performed the obligation, reimburse the seller or
35 holder for all reasonable costs and expenses incurred in connection
36 therewith.

37 (5) Additionally, the buyer or any other person liable on the
38 contract shall, in all cases, reimburse the seller or holder for all
39 reasonable and necessary collection and repossession costs and

1 fees incurred, including attorney’s fees and legal expenses
2 expended in retaking and holding the vehicle.

3 (e) If the seller or holder denies the right to reinstatement under
4 subdivision (b) or paragraph (4) of subdivision (d), the seller or
5 holder shall have the burden of proof that the denial was justified
6 in that it was reasonable and made in good faith. If the seller or
7 holder fails to sustain the burden of proof, the seller or holder shall
8 not be entitled to a deficiency, but it shall not be presumed that
9 the buyer is entitled to damages by reason of the failure of the
10 seller or holder to sustain the burden of proof.

11 (f) This section shall not apply to a loan made by a lender
12 licensed under Division 9 (commencing with Section 22000) of
13 the Financial Code.

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

16 703.140. (a) In a case under Title 11 of the United States Code,
17 all of the exemptions provided by this chapter, including the
18 homestead exemption, other than the provisions of subdivision (b)
19 are applicable regardless of whether there is a money judgment
20 against the debtor or whether a money judgment is being enforced
21 by execution sale or any other procedure, but the exemptions
22 provided by subdivision (b) may be elected in lieu of all other
23 exemptions provided by this chapter, as follows:

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

28 (2) If the petition is filed individually, and not jointly, for a
29 husband or a wife, the exemptions provided by this chapter other
30 than the provisions of subdivision (b) are applicable, except that,
31 if both the husband and the wife effectively waive in writing the
32 right to claim, during the period the case commenced by filing the
33 petition is pending, the exemptions provided by the applicable
34 exemption provisions of this chapter, other than subdivision (b),
35 in any case commenced by filing a petition for either of them under
36 Title 11 of the United States Code, then they may elect to instead
37 utilize the applicable exemptions set forth in subdivision (b). A
38 waiver is not required, however, from a debtor who is separated
39 from his or her spouse as of the date the petition commencing the
40 case under Title 11 of the United States Code is filed.

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

5 ~~(4) For purposes of determining the exemptions available to the~~
6 ~~debtor in a case under Title 11 of the United States Code, the value~~
7 ~~of the debtor's interest in property shall be determined as of the~~
8 ~~date the petition commencing the case is filed. If the value of the~~
9 ~~debtor's interest in the property on that date is less than or equal~~
10 ~~to the amount the debtor is permitted to exempt, the debtor's entire~~
11 ~~interest in the property, including any appreciation in value of that~~
12 ~~interest following the date of the petition, is exempt.~~

13 (b) The following exemptions may be elected as provided in
14 subdivision (a):

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

20 (2) The debtor's interest, not to exceed six thousand dollars
21 (\$6,000) in value, in one or more motor vehicles.

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

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

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

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

- 1 (7) Any unmatured life insurance contract owned by the debtor,
- 2 other than a credit life insurance contract.
- 3 (8) The debtor’s aggregate interest, not to exceed in value twelve
- 4 thousand eight hundred sixty dollars (\$12,860), in any accrued
- 5 dividend or interest under, or loan value of, any unmatured life
- 6 insurance contract owned by the debtor under which the insured
- 7 is the debtor or an individual of whom the debtor is a dependent.
- 8 ~~(9) The debtor’s aggregate interest, not to exceed five hundred~~
- 9 ~~thousand dollars (\$500,000) plus any amount that is reasonably~~
- 10 ~~necessary for the support of the judgment debtor and his or her~~
- 11 ~~spouse and dependents, in benefits from a matured life insurance~~
- 12 ~~policy, including an endowment or annuity policy.~~
- 13 ~~(10)~~
- 14 (9) Professionally prescribed health aids for the debtor or a
- 15 dependent of the debtor.
- 16 ~~(11)~~
- 17 (10) The debtor’s right to receive any of the following:
- 18 (A) A social security benefit, unemployment compensation, or
- 19 a local public assistance benefit.
- 20 (B) A veterans’ benefit.
- 21 (C) A disability, illness, or unemployment benefit.
- 22 (D) Alimony, support, or separate maintenance, to the extent
- 23 reasonably necessary for the support of the debtor and any
- 24 dependent of the debtor.
- 25 (E) A payment under a stock bonus, pension, profit-sharing,
- 26 annuity, or similar plan or contract on account of illness, disability,
- 27 death, age, or length of service, to the extent reasonably necessary
- 28 for the support of the debtor and any dependent of the debtor,
- 29 unless all of the following apply:
- 30 (i) That plan or contract was established by or under the auspices
- 31 of an insider that employed the debtor at the time the debtor’s
- 32 rights under the plan or contract arose.
- 33 (ii) The payment is on account of age or length of service.
- 34 (iii) That plan or contract does not qualify under Section 401(a),
- 35 403(a), 403(b), 408, or 408A of the Internal Revenue Code of
- 36 1986, *as amended*, on a basis other than a technical defect alone.
- 37 (F) Vacation credits or accrued, or unused, vacation pay, *sick*
- 38 *leave, or family leave.*
- 39 ~~(12)~~

1 (11) The debtor's right to receive, or property that is traceable
2 to, any of the following:

3 (A) An award under a crime victim's reparation law.

4 (B) A payment on account of the wrongful death of an individual
5 of whom the debtor was a spouse or dependent, to the extent
6 reasonably necessary for the support of the debtor and any
7 dependent of the debtor.

8 (C) A payment under a life insurance contract that insured the
9 life of an individual of whom the debtor was a spouse or dependent
10 on the date of that individual's death, to the extent reasonably
11 necessary for the support of the debtor and any dependent of the
12 debtor.

13 (D) A payment, not to exceed twenty-four thousand sixty dollars
14 (\$24,060), on account of personal bodily injury of the debtor, the
15 spouse of the debtor, or an individual of whom the debtor is a
16 dependent.

17 (E) A payment in compensation of loss of future earnings of
18 the debtor or an individual of whom the debtor is or was a spouse
19 or dependent, to the extent reasonably necessary for the support
20 of the debtor and a spouse or dependent of the debtor.

21 ~~(13)~~

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

26 (B) An award of damages from or a settlement arising out of or
27 regarding the violation of any law relating to the judgment debtor's
28 employment is exempt to the extent necessary for the support of
29 the judgment debtor and the spouse and dependents of the judgment
30 debtor.

31 SEC. 3. Section 704.010 of the Code of Civil Procedure is
32 amended to read:

33 704.010. (a) Any combination of the following is exempt in
34 the amount of six thousand dollars (\$6,000):

35 (1) The aggregate equity in motor vehicles.

36 (2) The proceeds of an execution sale of a motor vehicle.

37 (3) The proceeds of insurance or other indemnification for the
38 loss, damage, or destruction of a motor vehicle.

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

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

8 (d) If the judgment debtor has only one motor vehicle and it is
 9 sold at an execution sale, the proceeds of the execution sale are
 10 exempt in the amount of six thousand dollars (\$6,000) without
 11 making a claim. The levying officer shall consult and may rely
 12 upon the records of the Department of Motor Vehicles in
 13 determining whether the judgment debtor has only one motor
 14 vehicle. In the case covered by this subdivision, the exemption
 15 provided by subdivision (a) is not available.

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

18 704.085. The aggregate interest of a debtor who is engaged in
 19 business, not to exceed five thousand dollars (\$5,000), in cash or
 20 deposit accounts, accounts receivable, and inventory of the business
 21 is exempt.

22 ~~SEC. 5. Section 704.100 of the Code of Civil Procedure is~~
 23 ~~amended to read:~~

24 ~~704.100. (a) Unmatured life insurance policies, including~~
 25 ~~endowment or annuity policies, excluding the loan value of the~~
 26 ~~policies, are exempt without making a claim.~~

27 ~~(b) The aggregate loan value of unmaturred life insurance~~
 28 ~~policies, including endowment or annuity policies, is subject to~~
 29 ~~the enforcement of a money judgment but is exempt in the amount~~
 30 ~~of nine thousand seven hundred dollars (\$9,700). If the judgment~~
 31 ~~debtor is married, each spouse is entitled to a separate exemption~~
 32 ~~under this subdivision, and the exemptions of the spouses may be~~
 33 ~~combined, regardless of whether the policies belong to either or~~
 34 ~~both spouses and regardless of whether the spouse of the judgment~~
 35 ~~debtor is also a judgment debtor under the judgment. The~~
 36 ~~exemption provided by this subdivision shall be first applied to~~
 37 ~~policies other than the policy before the court and then, if the~~
 38 ~~exemption is not exhausted, to the policy before the court.~~

39 ~~(c) Benefits from matured life insurance policies, including~~
 40 ~~endowment and annuity policies, are exempt in an aggregate~~

1 ~~amount not to exceed five hundred thousand dollars (\$500,000)~~
2 ~~plus any amount reasonably necessary for the support of the~~
3 ~~judgment debtor and the spouse and dependents of the judgment~~
4 ~~debtor.~~

5 ~~SEC. 6.~~

6 *SEC. 5.* Section 704.111 is added to the Code of Civil
7 Procedure, to read:

8 704.111. Alimony, support, and separate maintenance, to the
9 extent reasonably necessary for the support of the debtor and any
10 dependent of the debtor, are exempt.

11 ~~SEC. 7.~~

12 *SEC. 6.* Section 704.113 of the Code of Civil Procedure is
13 amended to read:

14 704.113. (a) All vacation credits or accrued, or unused,
15 vacation pay, *sick leave, or family leave* is exempt without making
16 a claim.

17 (b) Amounts paid periodically or as a lump sum representing
18 vacation credits are subject to any earnings withholding order
19 served under Chapter 5 (commencing with Section 706.010) or
20 any earnings assignment order for support as defined in Section
21 706.011 and are exempt to the same extent as earnings of a
22 judgment debtor.

23 ~~SEC. 8.~~

24 *SEC. 7.* Section 704.115 of the Code of Civil Procedure is
25 amended to read:

26 704.115. (a) As used in this section, “private retirement plan”
27 means:

28 (1) Private retirement plans, including, but not limited to, union
29 retirement plans.

30 (2) Profit-sharing plans designed and used for retirement
31 purposes.

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

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

5 (c) Notwithstanding subdivision (b), where an amount described
6 in subdivision (b) becomes payable to a person and is sought to
7 be applied to the satisfaction of a judgment for child, family, or
8 spousal support against that person:

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

12 (2) If the amount sought to be applied to the satisfaction of the
13 judgment is payable periodically, the amount payable is subject
14 to an earnings assignment order for support as defined in Section
15 706.011 or any other applicable enforcement procedure, but the
16 amount to be withheld pursuant to the assignment order or other
17 procedure shall not exceed the amount permitted to be withheld
18 on an earnings withholding order for support under Section
19 706.052.

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

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

36 (f) Where the amounts described in paragraph (3) of subdivision
37 (a) are payable periodically, the amount of the periodic payment
38 that may be applied to the satisfaction of a money judgment is the
39 amount that may be withheld from a like amount of earnings under
40 Chapter 5 (commencing with Section 706.010) ~~(Wage Garnishment~~

1 ~~Law~~). To the extent a lump-sum distribution from an individual
2 retirement account is treated differently from a periodic distribution
3 under this subdivision, any lump-sum distribution from an account
4 qualified under Section 408A of the Internal Revenue Code shall
5 be treated the same as a lump-sum distribution from an account
6 qualified under Section 408 of the Internal Revenue Code for
7 purposes of determining whether any of that payment may be
8 applied to the satisfaction of a money judgment.

9 ~~SEC. 9.~~

10 *SEC. 8.* Section 704.165 is added to the Code of Civil
11 Procedure, to read:

12 704.165. (a) Except as provided in Article 5 (commencing
13 with Section 708.410) of Chapter 6, a cause of action arising out
14 of or regarding the violation of any law relating to the judgment
15 debtor's employment is exempt without making a claim.

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

21 ~~SEC. 10.~~

22 *SEC. 9.* Section 704.720 of the Code of Civil Procedure is
23 amended to read:

24 704.720. (a) A homestead is exempt from sale under this
25 division to the extent provided in Section 704.800.

26 (b) If a homestead is sold under this division or is damaged or
27 destroyed or is acquired for public use, the proceeds of sale or of
28 insurance or other indemnification for damage or destruction of
29 the homestead or the proceeds received as compensation for a
30 homestead acquired for public use are exempt in the amount of
31 the homestead exemption provided in Section 704.730.

32 (c) If the judgment debtor and spouse of the judgment debtor
33 reside in separate homesteads, only the homestead of one of the
34 spouses is exempt and only the proceeds of the exempt homestead
35 are exempt.

36 (d) If a judgment debtor is not currently residing in the
37 homestead, but his or her separated or former spouse continues to
38 reside in or exercise control over possession of the homestead, that
39 judgment debtor continues to be entitled to an exemption under
40 this article until entry of judgment or other legally enforceable

1 agreement dividing the community property between the judgment
2 debtor and the separated or former spouse, or until a later time
3 period as specified by court order. Nothing in this subdivision shall
4 entitle the judgment debtor to more than one exempt homestead.
5 Notwithstanding subdivision (d) of Section 704.710, for purposes
6 of this article, “spouse” may include a separated or former spouse
7 consistent with this subdivision.

8 ~~SEC. 11.~~

9 *SEC. 10.* Section 704.960 of the Code of Civil Procedure is
10 amended to read:

11 704.960. If a declared homestead is voluntarily sold, the
12 proceeds of sale are exempt in the amount provided by Section
13 704.730.

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