

**Introduced by Senator Wieckowski**February 23, 2015

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An act to amend Section 2983.3 of the Civil Code, and to amend Sections 703.140, 704.010, 704.113, 704.115, 704.720, 704.730, 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

SB 308, as introduced, 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.

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 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 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.

Existing law provides that a specified portion of equity in a homestead, as defined, is exempt from execution to satisfy a judgment debt and prescribes that the amount of the homestead exemption is either \$75,000, \$100,000, or \$175,000, depending on certain characteristics of the homestead’s residents.

This bill would instead provide that the homestead exemption may not exceed \$700,000 unless the homestead is no greater than 320 acres and is used primarily for agricultural purposes, in which case the homestead exemption would be unlimited.

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

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

29 (3) The buyer, any other person liable on the contract, or any  
30 permissive user in possession of the motor vehicle, has committed  
31 or threatens to commit acts of destruction, or has failed to take  
32 care of the motor vehicle in a reasonable manner, so that the motor  
33 vehicle has become substantially impaired in value, or the buyer,  
34 any other person liable on the contract, or any nonoccasional  
35 permissive user in possession of the motor vehicle has failed to  
36 take care of the motor vehicle in a reasonable manner, so that the  
37 motor vehicle may become substantially impaired in value.

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

6 (5) The buyer has knowingly used the motor vehicle, or has  
7 knowingly permitted it to be used, in connection with the  
8 commission of a criminal offense, other than an infraction, as a  
9 consequence of which the motor vehicle has been seized by a  
10 federal, state, or local agency or authority pursuant to federal, state,  
11 or local law.

12 (6) The motor vehicle has been seized by a federal, state, or  
13 local public agency or authority pursuant to (A) Section 1324 of  
14 Title 8 of the United States Code or Part 274 of Title 8 of the Code  
15 of Federal Regulations, (B) Section 881 of Title 21 of the United  
16 States Code or Part 9 of Title 28 of the Code of Federal  
17 Regulations, or (C) other federal, state, or local law, including  
18 regulations, and, pursuant to that other law, the seizing authority,  
19 as a precondition to the return of the motor vehicle to the seller or  
20 holder, prohibits the return of the motor vehicle to the buyer or  
21 other person liable on the contract or any third person claiming  
22 the motor vehicle by or through them or otherwise effects or  
23 requires the termination of the property rights in the motor vehicle  
24 of the buyer or other person liable on the contract or claimants by  
25 or through them.

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

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

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

37 (2) Where the default is the result of the buyer's failure to keep  
38 and maintain the motor vehicle free from all encumbrances and  
39 liens of every kind, the buyer or any other person liable on the  
40 contract shall either satisfy all encumbrances and liens or, in the

1 event the seller or holder satisfies the encumbrances and liens, the  
2 buyer or any other person liable on the contract shall reimburse  
3 the seller or holder for all reasonable costs and expenses incurred  
4 therefor.

5 (3) Where the default is the result of the buyer's failure to keep  
6 and maintain insurance on the motor vehicle, the buyer or any  
7 other person liable on the contract shall either obtain the insurance  
8 or, in the event the seller or holder has obtained the insurance, the  
9 buyer or any other person liable on the contract shall reimburse  
10 the seller or holder for premiums paid and all reasonable costs and  
11 expenses, including, but not limited to, any finance charge in  
12 connection with the premiums permitted by Section 2982.8,  
13 incurred therefor.

14 (4) Where the default is the result of the buyer's failure to  
15 perform any other obligation under the contract, unless the seller  
16 or holder has made a good faith determination that the default is  
17 so substantial as to be incurable, the buyer or any other person  
18 liable on the contract shall either cure the default or, if the seller  
19 or holder has performed the obligation, reimburse the seller or  
20 holder for all reasonable costs and expenses incurred in connection  
21 therewith.

22 (5) Additionally, the buyer or any other person liable on the  
23 contract shall, in all cases, reimburse the seller or holder for all  
24 reasonable and necessary collection and repossession costs and  
25 fees incurred, including attorney's fees and legal expenses  
26 expended in retaking and holding the vehicle.

27 (e) If the seller or holder denies the right to reinstatement under  
28 subdivision (b) or paragraph (4) of subdivision (d), the seller or  
29 holder shall have the burden of proof that the denial was justified  
30 in that it was reasonable and made in good faith. If the seller or  
31 holder fails to sustain the burden of proof, the seller or holder shall  
32 not be entitled to a deficiency, but it shall not be presumed that  
33 the buyer is entitled to damages by reason of the failure of the  
34 seller or holder to sustain the burden of proof.

35 (f) This section shall not apply to a loan made by a lender  
36 licensed under Division 9 (commencing with Section 22000) ~~or~~  
37 ~~Division 10 (commencing with Section 24000)~~ of the Financial  
38 Code.

39 SEC. 2. Section 703.140 of the Code of Civil Procedure is  
40 amended to read:

1 703.140. (a) In a case under Title 11 of the United States Code,  
2 all of the exemptions provided by this chapter, including the  
3 homestead exemption, other than the provisions of subdivision (b)  
4 are applicable regardless of whether there is a money judgment  
5 against the debtor or whether a money judgment is being enforced  
6 by execution sale or any other procedure, but the exemptions  
7 provided by subdivision (b) may be elected in lieu of all other  
8 exemptions provided by this chapter, as follows:

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

13 (2) If the petition is filed individually, and not jointly, for a  
14 husband or a wife, the exemptions provided by this chapter other  
15 than the provisions of subdivision (b) are applicable, except that,  
16 if both the husband and the wife effectively waive in writing the  
17 right to claim, during the period the case commenced by filing the  
18 petition is pending, the exemptions provided by the applicable  
19 exemption provisions of this chapter, other than subdivision (b),  
20 in any case commenced by filing a petition for either of them under  
21 Title 11 of the United States Code, then they may elect to instead  
22 utilize the applicable exemptions set forth in subdivision (b). *A*  
23 *waiver is not required, however, from a debtor who is separated*  
24 *from his or her spouse as of the date the petition commencing the*  
25 *case under Title 11 of the United States Code is filed.*

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

30 (b) The following exemptions may be elected as provided in  
31 subdivision (a):

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

37 (2) The debtor's interest, not to exceed ~~four~~ *six* thousand ~~eight~~  
38 ~~hundred~~ dollars (~~\$4,800~~) (*\$6,000*) in value, in one or more motor  
39 vehicles.



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

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

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

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

19 (7) Any unmatured life insurance contract owned by the debtor,  
20 other than a credit life insurance contract.

21 (8) The debtor's aggregate interest, not to exceed in value twelve  
22 thousand eight hundred sixty dollars (\$12,860), in any accrued  
23 dividend or interest under, or loan value of, any unmatured life  
24 insurance contract owned by the debtor under which the insured  
25 is the debtor or an individual of whom the debtor is a dependent.

26 (9) Professionally prescribed health aids for the debtor or a  
27 dependent of the debtor.

28 (10) The debtor's right to receive any of the following:

29 (A) A social security benefit, unemployment compensation, or  
30 a local public assistance benefit.

31 (B) A veterans' benefit.

32 (C) A disability, illness, or unemployment benefit.

33 (D) Alimony, support, or separate maintenance, to the extent  
34 reasonably necessary for the support of the debtor and any  
35 dependent of the debtor.

36 (E) A payment under a stock bonus, pension, profit-sharing,  
37 annuity, or similar plan or contract on account of illness, disability,  
38 death, age, or length of service, to the extent reasonably necessary  
39 for the support of the debtor and any dependent of the debtor,  
40 unless all of the following apply:

1 (i) That plan or contract was established by or under the auspices  
2 of an insider that employed the debtor at the time the debtor's  
3 rights under the plan or contract arose.

4 (ii) The payment is on account of age or length of service.

5 (iii) That plan or contract does not qualify under Section 401(a),  
6 403(a), 403(b), 408, or 408A of the Internal Revenue Code of  
7 ~~1986~~ 1986, as amended, on a basis other than a technical defect  
8 alone.

9 (F) *Vacation credits or accrued, or unused, vacation pay, sick  
10 leave, or family leave.*

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

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

14 (B) A payment on account of the wrongful death of an individual  
15 of whom the debtor was a *spouse or* dependent, to the extent  
16 reasonably necessary for the support of the debtor and any  
17 dependent of the debtor.

18 (C) A payment under a life insurance contract that insured the  
19 life of an individual of whom the debtor was a *spouse or* dependent  
20 on the date of that individual's death, to the extent reasonably  
21 necessary for the support of the debtor and any dependent of the  
22 debtor.

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

27 (E) A payment in compensation of loss of future earnings of  
28 the debtor or an individual of whom the debtor is or was a *spouse*  
29 *or* dependent, to the extent reasonably necessary for the support  
30 of the debtor and ~~any~~ *a spouse or* dependent of the debtor.

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

35 (B) *An award of damages from or a settlement arising out of*  
36 *or regarding the violation of any law relating to the judgment*  
37 *debtor's employment is exempt to the extent necessary for the*  
38 *support of the judgment debtor and the spouse and dependents of*  
39 *the judgment debtor.*

1 SEC. 3. Section 704.010 of the Code of Civil Procedure is  
2 amended to read:

3 704.010. (a) Any combination of the following is exempt in  
4 the amount of ~~two six thousand three hundred~~ dollars ~~(\$2,300)~~:  
5 ~~(\$6,000)~~:

- 6 (1) The aggregate equity in motor vehicles.
- 7 (2) The proceeds of an execution sale of a motor vehicle.
- 8 (3) The proceeds of insurance or other indemnification for the  
9 loss, damage, or destruction of a motor vehicle.

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

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

17 (d) If the judgment debtor has only one motor vehicle and it is  
18 sold at an execution sale, the proceeds of the execution sale are  
19 exempt in the amount of ~~two six thousand three hundred~~ dollars  
20 ~~(\$2,300)~~ ~~(\$6,000)~~ without making a claim. The levying officer  
21 shall consult and may rely upon the records of the Department of  
22 Motor Vehicles in determining whether the judgment debtor has  
23 only one motor vehicle. In the case covered by this subdivision,  
24 the exemption provided by subdivision (a) is not available.

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

27 704.085. The aggregate interest of a debtor who is engaged in  
28 a business, not to exceed five thousand dollars (\$5,000), in cash  
29 or deposit accounts, accounts receivable, and inventory of the  
30 business is exempt.

31 SEC. 5. Section 704.111 is added to the Code of Civil  
32 Procedure, to read:

33 704.111. Alimony, support, and separate maintenance, to the  
34 extent reasonably necessary for the support of the debtor and any  
35 dependent of the debtor, are exempt.

36 SEC. 6. Section 704.113 of the Code of Civil Procedure is  
37 amended to read:

38 ~~704.113. (a) As used in this section, "vacation credits" means~~  
39 ~~vacation credits accumulated by a state employee pursuant to~~  
40 ~~Section 18050 of the Government Code or by any other public~~

1 employee pursuant to any law for the accumulation of vacation  
2 credits applicable to the employee.

3 ~~(b)~~

4 704.113. (a) All vacation credits ~~are or accrued, or unused,~~  
5 *vacation pay, sick leave, or family leave* is exempt without making  
6 a claim.

7 ~~(e)~~

8 (b) Amounts paid periodically or as a lump sum representing  
9 vacation credits are subject to any earnings withholding order  
10 served under Chapter 5 (commencing with Section 706.010) or  
11 any earnings assignment order for support as defined in Section  
12 706.011 and are exempt to the same extent as earnings of a  
13 judgment debtor.

14 SEC. 7. Section 704.115 of the Code of Civil Procedure is  
15 amended to read:

16 704.115. (a) As used in this section, “private retirement plan”  
17 means:

18 (1) Private retirement plans, including, but not limited to, union  
19 retirement plans.

20 (2) Profit-sharing plans designed and used for retirement  
21 purposes.

22 (3) Self-employed retirement plans and individual retirement  
23 annuities or accounts provided for in the Internal Revenue Code  
24 of 1986, as amended, including individual retirement accounts  
25 qualified under Section 408 or 408A of that ~~code, code and~~  
26 *accounts that do not qualify on the basis of a technical defect*  
27 *alone*, to the extent the amounts held in the plans, annuities, or  
28 accounts do not exceed the maximum amounts exempt from federal  
29 income taxation under that code.

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

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

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

1 (2) If the amount sought to be applied to the satisfaction of the  
2 judgment is payable periodically, the amount payable is subject  
3 to an earnings assignment order for support as defined in Section  
4 706.011 or any other applicable enforcement procedure, but the  
5 amount to be withheld pursuant to the assignment order or other  
6 procedure shall not exceed the amount permitted to be withheld  
7 on an earnings withholding order for support under Section  
8 706.052.

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

12 (e) Notwithstanding subdivisions (b) and (d), except as provided  
13 in subdivision (f), the amounts described in paragraph (3) of  
14 subdivision (a) are exempt only to the extent necessary to provide  
15 for the support of the judgment debtor when the judgment debtor  
16 retires and for the support of the spouse and dependents of the  
17 judgment debtor, taking into account all resources that are likely  
18 to be available for the support of the judgment debtor when the  
19 judgment debtor retires. In determining the amount to be exempt  
20 under this subdivision, the court shall allow the judgment debtor  
21 such additional amount as is necessary to pay any federal and state  
22 income taxes payable as a result of the applying of an amount  
23 described in paragraph (3) of subdivision (a) to the satisfaction of  
24 the money judgment.

25 (f) Where the amounts described in paragraph (3) of subdivision  
26 (a) are payable periodically, the amount of the periodic payment  
27 that may be applied to the satisfaction of a money judgment is the  
28 amount that may be withheld from a like amount of earnings under  
29 Chapter 5 (commencing with Section ~~706.010~~ (~~Wage Garnishment~~  
30 ~~Law~~). 706.010). To the extent a lump-sum distribution from an  
31 individual retirement account is treated differently from a periodic  
32 distribution under this subdivision, any lump-sum distribution  
33 from an account qualified under Section 408A of the Internal  
34 Revenue Code shall be treated the same as a lump-sum distribution  
35 from an account qualified under Section 408 of the Internal  
36 Revenue Code for purposes of determining whether any of that  
37 payment may be applied to the satisfaction of a money judgment.

38 SEC. 8. Section 704.165 is added to the Code of Civil  
39 Procedure, to read:

1 704.165. (a) Except as provided in Article 5 (commencing  
2 with Section 708.410) of Chapter 6, a cause of action arising out  
3 of or regarding the violation of any law relating to the judgment  
4 debtor's employment is exempt without making a claim.

5 (b) An award of damages from or a settlement arising out of or  
6 regarding the violation of any law relating to the judgment debtor's  
7 employment is exempt to the extent necessary for the support of  
8 the judgment debtor and the spouse and dependents of the judgment  
9 debtor.

10 SEC. 9. Section 704.720 of the Code of Civil Procedure is  
11 amended to read:

12 704.720. (a) A homestead is exempt from sale under this  
13 division to the extent provided in Section 704.800.

14 (b) If a homestead is sold under this division or is damaged or  
15 destroyed or is acquired for public use, the proceeds of sale or of  
16 insurance or other indemnification for damage or destruction of  
17 the homestead or the proceeds received as compensation for a  
18 homestead acquired for public use are exempt in the amount of  
19 the homestead exemption provided in Section 704.730. ~~The  
20 proceeds are exempt for a period of six months after the time the  
21 proceeds are actually received by the judgment debtor, except that,  
22 if a homestead exemption is applied to other property of the  
23 judgment debtor or the judgment debtor's spouse during that  
24 period, the proceeds thereafter are not exempt.~~

25 (c) If the judgment debtor and spouse of the judgment debtor  
26 reside in separate homesteads, only the homestead of one of the  
27 spouses is exempt and only the proceeds of the exempt homestead  
28 are exempt.

29 (d) If a judgment debtor is not currently residing in the  
30 homestead, but his or her separated or former spouse continues to  
31 reside in or exercise control over possession of the homestead, that  
32 judgment debtor continues to be entitled to an exemption under  
33 this article until entry of judgment or other legally enforceable  
34 agreement dividing the community property between the judgment  
35 debtor and the separated or former spouse, or until a later time  
36 period as specified by court order. Nothing in this subdivision shall  
37 entitle the judgment debtor to more than one exempt homestead.  
38 Notwithstanding subdivision (d) of Section 704.710, for purposes  
39 of this article, "spouse" may include a separated or former spouse  
40 consistent with this subdivision.

1 SEC. 10. Section 704.730 of the Code of Civil Procedure is  
2 amended to read:

3 704.730. (a) ~~The~~*(1) Except as provided in paragraph (2),*  
4 *the amount of the homestead exemption is one of the following:*  
5 *shall not exceed \$700,000.*

6 ~~(1) Seventy-five thousand dollars (\$75,000) unless the judgment~~  
7 ~~debtor or spouse of the judgment debtor who resides in the~~  
8 ~~homestead is a person described in paragraph (2) or (3).~~

9 ~~(2) One hundred thousand dollars (\$100,000) if the judgment~~  
10 ~~debtor or spouse of the judgment debtor who resides in the~~  
11 ~~homestead is at the time of the attempted sale of the homestead a~~  
12 ~~member of a family unit, and there is at least one member of the~~  
13 ~~family unit who owns no interest in the homestead or whose only~~  
14 ~~interest in the homestead is a community property interest with~~  
15 ~~the judgment debtor.~~

16 ~~(3) One hundred seventy-five thousand dollars (\$175,000) if~~  
17 ~~the judgment debtor or spouse of the judgment debtor who resides~~  
18 ~~in the homestead is at the time of the attempted sale of the~~  
19 ~~homestead any one of the following:~~

20 ~~(A) A person 65 years of age or older.~~

21 ~~(B) A person physically or mentally disabled who as a result of~~  
22 ~~that disability is unable to engage in substantial gainful~~  
23 ~~employment. There is a rebuttable presumption affecting the burden~~  
24 ~~of proof that a person receiving disability insurance benefit~~  
25 ~~payments under Title II or supplemental security income payments~~  
26 ~~under Title XVI of the federal Social Security Act satisfies the~~  
27 ~~requirements of this paragraph as to his or her inability to engage~~  
28 ~~in substantial gainful employment.~~

29 ~~(C) A person 55 years of age or older with a gross annual income~~  
30 ~~of not more than twenty-five thousand dollars (\$25,000) or, if the~~  
31 ~~judgment debtor is married, a gross annual income, including the~~  
32 ~~gross annual income of the judgment debtor's spouse, of not more~~  
33 ~~than thirty-five thousand dollars (\$35,000) and the sale is an~~  
34 ~~involuntary sale.~~

35 ~~(2) If a homestead is no greater than 320 acres and is primarily~~  
36 ~~used for agricultural purposes, the homestead exemption is~~  
37 ~~unlimited.~~

38 (b) Notwithstanding any other provision of this section, the  
39 combined homestead exemptions of spouses on the same judgment  
40 shall not exceed the amount specified in ~~paragraph (2) or (3);~~

1 ~~whichever is applicable,~~ of subdivision (a), regardless of whether  
2 the spouses are jointly obligated on the judgment and regardless  
3 of whether the homestead consists of community or separate  
4 property or both. Notwithstanding any other provision of this  
5 article, if both spouses are entitled to a homestead exemption, the  
6 exemption of proceeds of the homestead shall be apportioned  
7 between the spouses on the basis of their proportionate interests  
8 in the homestead.

9 SEC. 11. Section 704.960 of the Code of Civil Procedure is  
10 amended to read:

11 704.960. ~~(a)~~ If a declared homestead is voluntarily sold, the  
12 proceeds of sale are exempt in the amount provided by Section  
13 ~~704.730 for a period of six months after the date of sale.~~ 704.730.

14 ~~(b) If the proceeds of a declared homestead are invested in a~~  
15 ~~new dwelling within six months after the date of a voluntary sale~~  
16 ~~or within six months after proceeds of an execution sale or of~~  
17 ~~insurance or other indemnification for damage or destruction are~~  
18 ~~received, the new dwelling may be selected as a declared~~  
19 ~~homestead by recording a homestead declaration within the~~  
20 ~~applicable six-month period. In such case, the homestead~~  
21 ~~declaration has the same effect as if it had been recorded at the~~  
22 ~~time the prior homestead declaration was recorded.~~