

AMENDED IN ASSEMBLY JULY 6, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 308**

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**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 amended, Wieckowski. Debtor exemptions.

Existing law 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 requires the Judicial Council to, every 3 years, adjust the amount of the exemptions applicable to exempt property based on the change in the annual California Consumer Price Index for All Urban Consumers, and to prepare conforming forms for those adjustments.

This bill would increase the statutory amounts of various exemptions to reflect the amounts of the exemptions as adjusted by the Judicial Council effective April 1, 2013.

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 on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent. Existing law sets this amount as \$25,575, as adjusted by the Judicial Council.

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 exempts 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. Existing law sets this amount of this exemption, as adjusted by the Judicial Council, at \$2,900. Existing law includes an alternative exemption for up to \$5,100, as adjusted by the Judicial Council, 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 \$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 6 months after the time the proceeds are actually received by the judgment debtor, except as provided.

This bill would delete the 6-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 \$300,000.~~ *increase these exemptions to \$175,000, \$250,000, or \$300,000, respectively.*

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

7 (1) The debtor's aggregate interest, not to exceed twenty-five  
8 thousand five hundred seventy-five dollars (\$25,575) in value, in  
9 real property or personal property that the debtor or a dependent  
10 of the debtor uses as a residence, in a cooperative that owns  
11 property that the debtor or a dependent of the debtor uses as a  
12 residence.

13 (2) The debtor's interest, not to exceed six thousand dollars  
14 (\$6,000) in value, in one or more motor vehicles.

15 (3) The debtor's interest, not to exceed six hundred fifty dollars  
16 (\$650) in value in any particular item, in household furnishings,  
17 household goods, wearing apparel, appliances, books, animals,  
18 crops, or musical instruments, that are held primarily for the  
19 personal, family, or household use of the debtor or a dependent of  
20 the debtor.

21 (4) The debtor's aggregate interest, not to exceed one thousand  
22 five hundred twenty-five dollars (\$1,525) in value, in jewelry held  
23 primarily for the personal, family, or household use of the debtor  
24 or a dependent of the debtor.

25 (5) The debtor's aggregate interest, not to exceed in value one  
26 thousand three hundred fifty dollars (\$1,350) plus any unused  
27 amount of the exemption provided under paragraph (1), in any  
28 property.

29 (6) The debtor's aggregate interest, not to exceed seven thousand  
30 six hundred twenty-five dollars (\$7,625) in value, in any  
31 implements, professional books, or tools of the trade of the debtor  
32 or the trade of a dependent of the debtor.

33 (7) Any unmaturred life insurance contract owned by the debtor,  
34 other than a credit life insurance contract.

35 (8) The debtor's aggregate interest, not to exceed in value  
36 thirteen thousand six hundred seventy-five dollars (\$13,675), in  
37 any accrued dividend or interest under, or loan value of, any  
38 unmaturred life insurance contract owned by the debtor under which  
39 the insured is the debtor or an individual of whom the debtor is a  
40 dependent.

- 1 (9) Professionally prescribed health aids for the debtor or a  
2 dependent of the debtor.
- 3 (10) The debtor's right to receive any of the following:
- 4 (A) A social security benefit, unemployment compensation, or  
5 a local public assistance benefit.
- 6 (B) A veterans' benefit.
- 7 (C) A disability, illness, or unemployment benefit.
- 8 (D) Alimony, support, or separate maintenance, to the extent  
9 reasonably necessary for the support of the debtor and any  
10 dependent of the debtor.
- 11 (E) A payment under a stock bonus, pension, profit-sharing,  
12 annuity, or similar plan or contract on account of illness, disability,  
13 death, age, or length of service, to the extent reasonably necessary  
14 for the support of the debtor and any dependent of the debtor,  
15 unless all of the following apply:
- 16 (i) That plan or contract was established by or under the auspices  
17 of an insider that employed the debtor at the time the debtor's  
18 rights under the plan or contract arose.
- 19 (ii) The payment is on account of age or length of service.
- 20 (iii) That plan or contract does not qualify under Section 401(a),  
21 403(a), 403(b), 408, or 408A of the Internal Revenue Code of  
22 1986, as amended, on a basis other than a technical defect alone.
- 23 (F) Vacation credits or accrued, or unused, vacation pay, sick  
24 leave, or family leave.
- 25 (11) The debtor's right to receive, or property that is traceable  
26 to, any of the following:
- 27 (A) An award under a crime victim's reparation law.
- 28 (B) A payment on account of the wrongful death of an individual  
29 of whom the debtor was a spouse or dependent, to the extent  
30 reasonably necessary for the support of the debtor and any  
31 dependent of the debtor.
- 32 (C) A payment under a life insurance contract that insured the  
33 life of an individual of whom the debtor was a spouse or dependent  
34 on the date of that individual's death, to the extent reasonably  
35 necessary for the support of the debtor and any dependent of the  
36 debtor.
- 37 (D) A payment, not to exceed twenty-five thousand five hundred  
38 seventy-five dollars (\$25,575), on account of personal bodily injury  
39 of the debtor, the spouse of the debtor, or an individual of whom  
40 the debtor is a dependent.

1 (E) A payment in compensation of loss of future earnings of  
2 the debtor or an individual of whom the debtor is or was a spouse  
3 or dependent, to the extent reasonably necessary for the support  
4 of the debtor and a spouse or dependent of the debtor.

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

9 (B) An award of damages from or a settlement arising out of or  
10 regarding the violation of any law relating to the judgment debtor's  
11 employment is exempt to the extent necessary for the support of  
12 the judgment debtor and the spouse and dependents of the judgment  
13 debtor.

14 SEC. 3. Section 704.010 of the Code of Civil Procedure is  
15 amended to read:

16 704.010. (a) Any combination of the following is exempt in  
17 the amount of six thousand dollars (\$6,000):

18 (1) The aggregate equity in motor vehicles.

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

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

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

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

29 (d) If the judgment debtor has only one motor vehicle and it is  
30 sold at an execution sale, the proceeds of the execution sale are  
31 exempt in the amount of six thousand dollars (\$6,000) without  
32 making a claim. The levying officer shall consult and may rely  
33 upon the records of the Department of Motor Vehicles in  
34 determining whether the judgment debtor has only one motor  
35 vehicle. In the case covered by this subdivision, the exemption  
36 provided by subdivision (a) is not available.

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

39 704.085. The aggregate interest of a debtor who is engaged in  
40 a business, not to exceed five thousand dollars (\$5,000), in cash

1 or deposit accounts, accounts receivable, and inventory of the  
2 business is exempt.

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

5 704.111. Alimony, support, and separate maintenance, to the  
6 extent reasonably necessary for the support of the debtor and any  
7 dependent of the debtor, are exempt.

8 SEC. 6. Section 704.113 of the Code of Civil Procedure is  
9 amended to read:

10 704.113. (a) All vacation credits or accrued, or unused,  
11 vacation pay, sick leave, or family leave is exempt without making  
12 a claim.

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

19 SEC. 7. Section 704.115 of the Code of Civil Procedure is  
20 amended to read:

21 704.115. (a) As used in this section, “private retirement plan”  
22 means:

23 (1) Private retirement plans, including, but not limited to, union  
24 retirement plans.

25 (2) Profit-sharing plans designed and used for retirement  
26 purposes.

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

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

39 (c) Notwithstanding subdivision (b), where an amount described  
40 in subdivision (b) becomes payable to a person and is sought to

1 be applied to the satisfaction of a judgment for child, family, or  
2 spousal support against that person:

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

6 (2) If the amount sought to be applied to the satisfaction of the  
7 judgment is payable periodically, the amount payable is subject  
8 to an earnings assignment order for support as defined in Section  
9 706.011 or any other applicable enforcement procedure, but the  
10 amount to be withheld pursuant to the assignment order or other  
11 procedure shall not exceed the amount permitted to be withheld  
12 on an earnings withholding order for support under Section  
13 706.052.

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

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

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

1 determining whether any of that payment may be applied to the  
2 satisfaction of a money judgment.

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

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

9 (b) An award of damages from or a settlement arising out of or  
10 regarding the violation of any law relating to the judgment debtor’s  
11 employment is exempt to the extent necessary for the support of  
12 the judgment debtor and the spouse and dependents of the judgment  
13 debtor.

14 SEC. 9. Section 704.720 of the Code of Civil Procedure is  
15 amended to read:

16 704.720. (a) A homestead is exempt from sale under this  
17 division to the extent provided in Section 704.800.

18 (b) If a homestead is sold under this division or is damaged or  
19 destroyed or is acquired for public use, the proceeds of sale or of  
20 insurance or other indemnification for damage or destruction of  
21 the homestead or the proceeds received as compensation for a  
22 homestead acquired for public use are exempt in the amount of  
23 the homestead exemption provided in Section 704.730.

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

28 (d) If a judgment debtor is not currently residing in the  
29 homestead, but his or her separated or former spouse continues to  
30 reside in or exercise control over possession of the homestead, that  
31 judgment debtor continues to be entitled to an exemption under  
32 this article until entry of judgment or other legally enforceable  
33 agreement dividing the community property between the judgment  
34 debtor and the separated or former spouse, or until a later time  
35 period as specified by court order. Nothing in this subdivision shall  
36 entitle the judgment debtor to more than one exempt homestead.  
37 Notwithstanding subdivision (d) of Section 704.710, for purposes  
38 of this article, “spouse” may include a separated or former spouse  
39 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 amount of the homestead exemption ~~shall~~  
4 ~~not exceed three hundred thousand dollars (\$300,000).~~ *is one of*  
5 *the following:*

6 (1) *One hundred seventy-five thousand dollars (\$175,000) unless*  
7 *the judgment debtor or spouse of the judgment debtor who resides*  
8 *in the homestead is a person described in paragraph (2) or (3).*

9 (2) *Two hundred fifty thousand dollars (\$250,000) if the*  
10 *judgment debtor or spouse of the judgment debtor who resides in*  
11 *the homestead is at the time of the attempted sale of the homestead*  
12 *a 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) *Three hundred thousand dollars (\$300,000) if the judgment*  
17 *debtor or spouse of the judgment debtor who resides in the*  
18 *homestead is at the time of the attempted sale of the homestead*  
19 *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*  
30 *income of not more than twenty-five thousand dollars (\$25,000)*  
31 *or, if the judgment debtor is married, a gross annual income,*  
32 *including the gross annual income of the judgment debtor's spouse,*  
33 *of not more than thirty-five thousand dollars (\$35,000) and the*  
34 *sale is an involuntary sale.*

35 (b) *Notwithstanding any other provision of this section, the*  
36 *combined homestead exemptions of spouses on the same judgment*  
37 *shall not exceed the amount specified in paragraph (2) or (3) of*  
38 *subdivision (a), regardless of whether the spouses are jointly*  
39 *obligated on the judgment and regardless of whether the homestead*  
40 *consists of community or separate property or both.*

1 Notwithstanding any other provision of this article, if both spouses  
2 are entitled to a homestead exemption, the exemption of proceeds  
3 of the homestead shall be apportioned between the spouses on the  
4 basis of their proportionate interests in the homestead.

5 SEC. 11. Section 704.960 of the Code of Civil Procedure is  
6 amended to read:

7 704.960. If a declared homestead is voluntarily sold, the  
8 proceeds of sale are exempt in the amount provided by Section  
9 704.730.

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