

HOUSE BILL No. 4010

January 11, 1989, Introduced by Reps. Griffin, Richard A. Young, Niederstadt, Varga, Gilmer, Johnson, Mathieu, Wartner, Jaye, Hickner, Sofio, Power and Ostling and referred to the Committee on Judiciary.

A bill to amend section 6023 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 83 of the Public Acts of 1984, being section 600.6023 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 6023 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 83 of the Public Acts of 1984,
3 being section 600.6023 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 6023. (1) ~~(a)~~ The following property OF THE DEBTOR
6 AND THE DEBTOR'S DEPENDENTS shall be exempt from levy and sale
7 under any execution:

8 (A) ~~(+)~~ All family pictures, all arms and accouterments
9 required by law to be kept by any person, all wearing apparel of

1 every person or family, and provisions and fuel for comfortable
2 subsistence of each householder and his or her family for 6
3 months. ~~—~~

4 (B) ~~(2)~~ All household goods, furniture, utensils, books,
5 and appliances, not exceeding in value \$1,000.00. ~~—~~

6 (C) ~~(3)~~ A seat, pew, or slip occupied by the judgment
7 debtor or the judgment debtor's family in any house or place of
8 public worship, and all cemeteries, tombs, and rights of burial
9 while in use as repositories of the dead of the judgment debtor's
10 family or kept for burial of the judgment debtor. ~~—~~

11 (D) ~~(4)~~ To each householder, 10 sheep, 2 cows, 5 swine,
12 100 hens, 5 roosters, and a sufficient quantity of hay and grain,
13 growing or otherwise, for properly keeping such animals and poul-
14 try for 6 months. ~~—~~

15 (E) ~~(5)~~ The tools, implements, materials, stock, appa-
16 ratus, team, vehicle, motor vehicle, horses, harness, or other
17 things to enable a person to carry on the profession, trade,
18 occupation, or business in which the person is principally
19 engaged, not exceeding in value \$1,000.00. ~~—~~

20 (F) ~~(6)~~ Any ~~moneys~~ MONEY or other benefits paid, pro-
21 vided, or allowed to be paid, provided, or allowed, by any stock
22 or mutual life or health or casualty insurance company, on
23 account of the disability due to injury or sickness of any
24 insured person, whether the debt or liability of such insured
25 person or beneficiary was incurred before or after the accrual of
26 benefits under the insurance ~~policies and contracts above~~
27 ~~specified~~ POLICY OR CONTRACT, except that ~~such~~ THE exemption

1 does not apply to actions to recover for necessities contracted
2 for after the accrual of ~~such~~ THE benefits. —

3 (G) ~~(7)~~ The shares held by any member, being a household-
4 er, of any association incorporated under the provisions of ~~Act~~
5 ~~No. 17 of the Public Acts of 1901, relating to mutual building~~
6 ~~and loan associations~~ THE SAVINGS AND LOAN ACT OF 1980, ACT
7 NO. 307 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 491.102 TO
8 491.1202 OF THE MICHIGAN COMPILED LAWS, to the amount of
9 \$1,000.00 in such shares, at par value, except that ~~such~~ THIS
10 exemption does not apply to any person who has a homestead
11 exempted under the general laws of this state. —

12 (H) ~~(8)~~ A homestead of not exceeding 40 acres of land and
13 the dwelling house and appurtenances ~~thereon~~ ON THAT HOMESTEAD,
14 and not included in any recorded ~~town~~ plat, city, or village,
15 or, instead, and at the option of the owner, a quantity of land
16 not exceeding in amount 1 lot, being within a recorded town plat,
17 city, or village, and the dwelling house and appurtenances
18 ~~thereon~~ ON THAT LAND, owned and occupied by any resident of
19 this state, not exceeding in value \$3,500.00. This exemption
20 extends to any person owning and occupying any house on land not
21 his or her own and which ~~such~~ THE person claims as a
22 homestead. ~~But~~ HOWEVER, this exemption does not apply to any
23 mortgage on the homestead, lawfully obtained, except that ~~such~~
24 THE mortgage is not valid without the signature of a married
25 judgment debtor's spouse unless EITHER OF THE FOLLOWING OCCURS:

26 (i) ~~(a)~~ The mortgage is given to secure the payment of the
27 purchase money or a portion ~~thereof, or~~ OF THE PURCHASE MONEY.

1 (ii) ~~(b)~~ The mortgage is recorded in the office of the
2 register of deeds of the county ~~wherein~~ IN WHICH the property
3 is located, for a period of 25 years, and no notice of a claim of
4 invalidity is filed in ~~such~~ THAT office during the 25 years
5 following the recording of the mortgage.

6 (I) ~~(9)~~ An equity of redemption as described in section
7 6060.

8 (J) ~~(10)~~ The homestead of a family, after the death of the
9 owner ~~thereof~~ OF THE HOMESTEAD, from the payment of his or her
10 debts in all cases during the minority of his or her children.

11 (K) ~~(11)~~ An individual retirement account or individual
12 retirement annuity as defined in section 408 of the internal rev-
13 enue code and the payments or distributions from such an account
14 or annuity. ~~, except that this~~ THIS exemption ONLY APPLIES TO
15 THE OPERATION OF THE FEDERAL BANKRUPTCY CODE AS PERMITTED BY SEC-
16 TION 522(b)(2) OF TITLE 11 OF THE UNITED STATES CODE, 11 U.S.C.
17 522. THIS EXEMPTION DOES NOT APPLY TO ANY AMOUNTS CONTRIBUTED TO
18 AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY
19 IF THE CONTRIBUTION OCCURS WITHIN 120 DAYS BEFORE THE DEBTOR
20 FILES FOR BANKRUPTCY. THIS EXEMPTION does not apply to AN INDI-
21 VIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY TO THE
22 EXTENT THAT any of the following OCCUR:

23 (i) ~~An~~ THE INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL
24 RETIREMENT ANNUITY IS SUBJECT TO AN order of a court pursuant to
25 a judgment of divorce or separate maintenance.

1 (ii) ~~An~~ THE INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL
2 RETIREMENT ANNUITY IS SUBJECT TO AN order of a court concerning
3 child support.

4 (iii) Contributions to ~~an~~ THE individual retirement
5 account or premiums on ~~an~~ THE individual retirement annuity,
6 including the earnings or benefits from those contributions or
7 premiums, ~~that~~ exceed, in the tax year made or paid, the
8 deductible amount allowed under section 408 of the internal reve-
9 nue code.

10 (1) THE RIGHT OR INTEREST OF A PERSON IN A PENSION,
11 PROFIT-SHARING, STOCK BONUS, OR OTHER PLAN THAT IS QUALIFIED
12 UNDER SECTION 401 OF THE INTERNAL REVENUE CODE, OR AN ANNUITY
13 CONTRACT UNDER SECTION 403(b) OF THE INTERNAL REVENUE CODE, WHICH
14 PLAN OR ANNUITY IS SUBJECT TO THE EMPLOYEE RETIREMENT INCOME
15 SECURITY ACT OF 1974, PUBLIC LAW 93-406, 88 STAT. 829. THIS
16 EXEMPTION ONLY APPLIES TO THE OPERATION OF THE FEDERAL BANKRUPTCY
17 CODE, AS PERMITTED BY SECTION 522(b)(2) OF TITLE 11 OF THE UNITED
18 STATES CODE, 11 U.S.C. 522. THIS EXEMPTION DOES NOT APPLY TO ANY
19 AMOUNT CONTRIBUTED TO A PENSION, PROFIT-SHARING, STOCK BONUS, OR
20 OTHER QUALIFIED PLAN OR A 403(b) ANNUITY IF THE CONTRIBUTION
21 OCCURS WITHIN 120 DAYS BEFORE THE DEBTOR FILES FOR BANKRUPTCY.
22 THIS EXEMPTION DOES NOT APPLY TO THE RIGHT OR INTEREST OF A
23 PERSON IN A PENSION, PROFIT-SHARING, STOCK BONUS, OR OTHER QUALI-
24 FIED PLAN OR A 403(b) ANNUITY TO THE EXTENT THAT THE RIGHT OR
25 INTEREST IN THE PLAN OR ANNUITY IS SUBJECT TO ANY OF THE
26 FOLLOWING:

1 (i) AN ORDER OF A COURT PURSUANT TO A JUDGMENT OF DIVORCE OR
2 SEPARATE MAINTENANCE.

3 (ii) AN ORDER OF A COURT CONCERNING CHILD SUPPORT.

4 (2) ~~(b)~~ The exemptions provided in this section shall not
5 extend to any lien thereon excluded from exemption by law.

6 (3) ~~(c)~~ If the owner of a homestead dies, leaving a sur-
7 viving spouse but no children, ~~such~~ THE homestead shall be
8 exempt, and the rents and profits ~~thereof~~ OF THE HOMESTEAD
9 shall accrue to the benefit of the surviving spouse before his or
10 her remarriage, unless the surviving spouse is the owner of a
11 homestead in his or her own right.