

SENATE BILL NO. 962

June 09, 2020, Introduced by Senator IRWIN and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 6023 (MCL 600.6023), as amended by 2012 PA 553.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6023. (1) The following property of a judgment debtor and
2 the judgment debtor's dependents is exempt from levy and sale under
3 an execution:

4 (a) All family pictures, all arms and accouterments required
5 by law to be kept by any person, all wearing apparel of every
6 person and his or her family, and provisions and fuel for

1 comfortable subsistence of each householder and his or her family
2 for 6 months.

3 (b) All household goods, furniture, utensils, books, and
4 appliances, not exceeding in value \$1,000.00.

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

10 (d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens,
11 5 roosters, and a sufficient quantity of hay and grain, growing or
12 otherwise, for properly keeping the animals and poultry for 6
13 months.

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

19 (f) Any money or other benefits paid, provided, or allowed to
20 be paid, provided, or allowed, by any stock or mutual life or
21 health or casualty insurance company, on account of the disability
22 due to injury or sickness of the insured person, whether the debt
23 or liability of ~~such~~**the** insured person or beneficiary was incurred
24 before or after the accrual of benefits under the insurance policy
25 or contract, except that the exemption under this subdivision does
26 not apply to actions to recover for necessities contracted for
27 after the accrual of the benefits.

28 (g) A homestead of not more than 40 acres of land and the
29 dwelling house and appurtenances on that homestead that is not

1 included in a recorded plat, city, or village, or, at the option of
2 the owner, a quantity of land that consists of not more than 1 lot
3 that is within a recorded town plat, city, or village, and the
4 dwelling house and appurtenances on that land, owned and occupied
5 by any resident of this state, not exceeding in value \$3,500.00.

6 This exemption applies to any house that is owned, occupied, and
7 claimed as a homestead by a person but that is on land not owned by
8 the person. However, this exemption does not apply to a mortgage on
9 the homestead that is lawfully obtained. A mortgage is not valid
10 for purposes of this subdivision without the signature of a married
11 judgment debtor's spouse unless either of the following occurs:

12 (i) The mortgage is given to secure the payment of the purchase
13 money or a portion of the purchase money.

14 (ii) The mortgage is recorded in the office of the register of
15 deeds of the county in which the property is located, for a period
16 of 25 years, and no notice of a claim of invalidity is filed in
17 that office during the 25 years following the recording of the
18 mortgage.

19 (h) An equity of redemption as described in section 6060.

20 (i) The homestead of a family, after the death of the owner of
21 the homestead, from the payment of his or her debts in all cases
22 during the minority of his or her children.

23 (j) An individual retirement account or individual retirement
24 annuity as defined in section 408 or 408a of the internal revenue
25 code of 1986, 26 USC 408 and 408a, and the payments or
26 distributions from the account or annuity. This exemption applies
27 to the operation of the federal bankruptcy code as permitted by
28 section 522(b) (2) of the bankruptcy code, 11 USC 522. This
29 exemption does not apply to any amounts contributed to the

1 individual retirement account or individual retirement annuity if
2 the contribution occurs within 120 days before the debtor files for
3 bankruptcy. This exemption does not apply to an individual
4 retirement account or individual retirement annuity to the extent
5 that any of the following occur:

6 (i) The individual retirement account or individual retirement
7 annuity is subject to an order of a court pursuant to a judgment of
8 divorce or separate maintenance.

9 (ii) The individual retirement account or individual retirement
10 annuity is subject to an order of a court concerning child support.

11 (iii) Contributions to the individual retirement account or
12 premiums on the individual retirement annuity, including the
13 earnings or benefits from those contributions or premiums, exceed,
14 in the tax year made or paid, the deductible amount allowed under
15 section 408 of the internal revenue code of 1986, 26 USC 408. This
16 limitation on contributions does not apply to a rollover of a
17 pension, profit-sharing, stock bonus, or other plan that is
18 qualified under section 401 of the internal revenue code of 1986,
19 26 USC 401, or an annuity contract under section 403(b) of the
20 internal revenue code of 1986, 26 USC 403.

21 (k) The right or interest of a person in a pension, profit-
22 sharing, stock bonus, or other plan that is qualified under section
23 401 of the internal revenue code of 1986, 26 USC 401, or an annuity
24 contract under section 403(b) of the internal revenue code of 1986,
25 26 USC 403, if the plan or annuity is subject to the employee
26 retirement income security act of 1974, Public Law 93-406. ~~7-88~~
27 ~~Stat. 829.~~ This exemption applies to the operation of the federal
28 bankruptcy code, as permitted by section 522(b)(2) of the
29 bankruptcy code, 11 USC 522. This exemption does not apply to any

1 amount contributed to a pension, profit-sharing, stock bonus, or
2 other qualified plan or a 403(b) annuity if the contribution occurs
3 within 120 days before the debtor files for bankruptcy. This
4 exemption does not apply to the right or interest of a person in a
5 pension, profit-sharing, stock bonus, or other qualified plan or a
6 403(b) annuity to the extent that the right or interest in the plan
7 or annuity is subject to either of the following:

8 (i) An order of a court pursuant to a judgment of divorce or
9 separate maintenance.

10 (ii) An order of a court concerning child support.

11 (l) Any interest in the following:

12 (i) A trust, fund, or advance tuition payment contract
13 established under the Michigan education trust act, 1986 PA 316,
14 MCL 390.1421 to 390.1442.

15 (ii) An account established under the Michigan education
16 savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

17 (iii) An account in a qualified tuition program or educational
18 savings trust under section 529 or 530 of the internal revenue code
19 of 1986, 26 USC 529 and 530.

20 **(m) An advance payment to an individual for an income tax**
21 **credit, or recovery rebate, under 26 USC 6428, as added by section**
22 **2201 of the coronavirus aid, relief, and economic security act,**
23 **Public Law 116-136, or any similar payment under any later federal**
24 **law as a response to COVID-19, and the proceeds of the payment held**
25 **in an account with a financial institution.**

26 (2) The exemptions provided in this section do not extend to
27 any lien on the exempt property that is excluded from exemption by
28 law.

29 (3) If the owner of a homestead dies, leaving a surviving

1 spouse but no children, the homestead is exempt, and the rents and
2 profits of the homestead ~~shall~~ accrue to the benefit of the
3 surviving spouse before his or her remarriage, unless the surviving
4 spouse is the owner of a homestead in his or her own right.