

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 856 (as reported without amendment)
Sponsor: Senator Gary Peters
Committee: Finance

Date Completed: 2-23-98

RATIONALE

The Federal Taxpayer Relief Act of 1997 created a new type of individual retirement account (IRA), the Roth IRA. An individual may make annual nondeductible contributions to his or her Roth IRA of up to \$2,000 (\$4,000 per couple). After age 59½, or under certain circumstances prescribed in the Internal Revenue Code, the individual may make tax-free withdrawals. (In general, qualified taxpayers who open standard IRAs make tax-deductible contributions to those IRAs, but upon withdrawal the contributions and interest earned on the contributions are taxable.) It has been pointed out that in Michigan, persons who open one of the new Roth IRAs may expose themselves to risks that are not present for persons who have or who open standard IRAs. Under the Revised Judicature Act, whenever a judgment is issued in any court, an execution to collect the judgment also may be issued. The Act contains a list of the types of property that are exempt from levy and sale under any execution; the list includes certain qualified pension plans and IRAs. It has been suggested that Roth IRAs be protected in the same manner.

collect assets, including qualified pension plans and IRAs as specified in the Act. Since the Federal Taxpayers Relief Act of 1997 now allows persons to deposit funds in a new type of IRA, the Roth IRA, simple fairness requires that the protection against judgments also be extended to the Roth IRA.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman

CONTENT

The bill would amend the Revised Judicature Act to provide that a debtor's Roth individual retirement account would be exempt from levy and sale under any execution to enforce a court judgment.

MCL 600.6023

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Supporting Argument

Under the Act certain types of properties are protected against court-ordered judgments to