

**SUBSTITUTE FOR
HOUSE BILL NO. 5648**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 6023 (MCL 600.6023), as amended by 1998
PA 61.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6023. (1) The following property of the debtor and the
2 debtor's dependents shall be exempt from levy and sale under any
3 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 or family, and provisions and fuel for comfortable subsis-
7 tence of each householder and his or her family for 6 months.

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

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1 (c) A seat, pew, or slip occupied by the judgment debtor or
2 the judgment debtor's family in any house or place of public
3 worship, and all cemeteries, tombs, and rights of burial while in
4 use as repositories of the dead of the judgment debtor's family
5 or kept for burial of the judgment debtor.

6 (d) To each householder, 10 sheep, 2 cows, 5 swine, 100
7 hens, 5 roosters, and a sufficient quantity of hay and grain,
8 growing or otherwise, for properly keeping the animals and poul-
9 try for 6 months.

10 (e) The tools, implements, materials, stock, apparatus,
11 team, vehicle, motor vehicle, horses, harness, or other things to
12 enable a person to carry on the profession, trade, occupation, or
13 business in which the person is principally engaged, not exceed-
14 ing in value \$1,000.00.

15 (f) Any money or other benefits paid, provided, or allowed
16 to be paid, provided, or allowed, by any stock or mutual life or
17 health or casualty insurance company, on account of the disabil-
18 ity due to injury or sickness of any insured person, whether the
19 debt or liability of such insured person or beneficiary was
20 incurred before or after the accrual of benefits under the insur-
21 ance policy or contract, except that the exemption does not apply
22 to actions to recover for necessities contracted for after the
23 accrual of the benefits.

24 (g) The shares held by any member, being a householder, of
25 any association incorporated under the provisions of the savings
26 and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, to
27 the amount of \$1,000.00 in such shares, at par value, except that

1 this exemption does not apply to any person who has a homestead
2 exempted under the general laws of this state.

3 (h) A homestead of not exceeding 40 acres of land and the
4 dwelling house and appurtenances on that homestead, and not
5 included in any recorded plat, city, or village, or, instead, and
6 at the option of the owner, a quantity of land not exceeding in
7 amount 1 lot, being within a recorded town plat, city, or vil-
8 lage, and the dwelling house and appurtenances on that land,
9 owned and occupied by any resident of this state, not exceeding
10 in value \$3,500.00. This exemption extends to any person owning
11 and occupying any house on land not his or her own and which the
12 person claims as a homestead. However, this exemption does not
13 apply to any mortgage on the homestead, lawfully obtained, except
14 that the mortgage is not valid without the signature of a married
15 judgment debtor's spouse unless either of the following occurs:

16 (i) The mortgage is given to secure the payment of the pur-
17 chase money or a portion of the purchase money.

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

23 (i) An equity of redemption as described in section 6060.

24 (j) The homestead of a family, after the death of the owner
25 of the homestead, from the payment of his or her debts in all
26 cases during the minority of his or her children.

1 (k) ~~An~~ ALL individual retirement ~~account or~~ ACCOUNTS AND
2 individual retirement ~~annuity~~ ANNUITIES as defined in section
3 408 or 408a of the internal revenue code of 1986 and the payments
4 or distributions from ~~such an account or annuity~~ THOSE ACCOUNTS
5 AND ANNUITIES. This exemption applies to the operation of the
6 federal bankruptcy code as permitted by section 522(b)(2) of
7 title 11 of the United States Code, 11 U.S.C. 522. This exemp-
8 tion does not apply to any amounts contributed to ~~an~~ individual
9 retirement ~~account or~~ ACCOUNTS, individual retirement ~~annuity~~
10 ANNUITIES, OR BOTH, if the contribution occurs within 120 days
11 before the debtor files for bankruptcy. This exemption does not
12 apply to ~~an~~ individual retirement ~~account~~ ACCOUNTS or indi-
13 vidual retirement ~~annuity~~ ANNUITIES to the extent that any of
14 the following occur:

15 (i) The individual retirement ~~account~~ ACCOUNTS or individ-
16 ual retirement ~~annuity is~~ ANNUITIES ARE subject to an order of
17 a court pursuant to a judgment of divorce or separate
18 maintenance.

19 (ii) The individual retirement ~~account~~ ACCOUNTS or indi-
20 vidual retirement ~~annuity is~~ ANNUITIES ARE subject to an order
21 of a court concerning child support.

22 (iii) Contributions to the individual retirement ~~account~~
23 ACCOUNTS or premiums on the individual retirement ~~annuity~~
24 ANNUITIES, including the earnings or benefits from those contri-
25 butions or premiums, exceed, in the tax year made or paid, the
26 APPLICABLE deductible ~~amount~~ AMOUNTS allowed under ~~section~~
27 SECTIONS 408 AND 408A of the internal revenue code of 1986. This

1 limitation on contributions does not apply to a rollover of a
2 pension, profit-sharing, stock bonus plan or other plan that is
3 qualified under section 401 of the internal revenue code of 1986,
4 or an annuity contract under section 403(b) of the internal reve-
5 nue code of 1986.

6 (1) The right or interest of a person in a pension,
7 profit-sharing, stock bonus, or other plan that is qualified
8 under section 401 of the internal revenue code of 1986, or an
9 annuity contract under section 403(b) of the internal revenue
10 code of 1986, which plan or annuity is subject to the employee
11 retirement income security act of 1974, Public Law 93-406, 88
12 Stat. 829. This exemption applies to the operation of the fed-
13 eral bankruptcy code, as permitted by section 522(b)(2) of title
14 11 of the United States Code, 11 U.S.C. 522. This exemption does
15 not apply to any amount contributed to a pension, profit-sharing,
16 stock bonus, or other qualified plan or a 403(b) annuity if the
17 contribution occurs within 120 days before the debtor files for
18 bankruptcy. This exemption does not apply to the right or inter-
19 est of a person in a pension, profit-sharing, stock bonus, or
20 other qualified plan or a 403(b) annuity to the extent that the
21 right or interest in the plan or annuity is subject to any of the
22 following:

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

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

26 (2) The exemptions provided in this section shall not extend
27 to any lien thereon excluded from exemption by law.

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1 (3) If the owner of a homestead dies, leaving a surviving
2 spouse but no children, the homestead shall be exempt, and the
3 rents and profits of the homestead shall accrue to the benefit of
4 the surviving spouse before his or her remarriage, unless the
5 surviving spouse is the owner of a homestead in his or her own
6 right.