

SECOND REGULAR SESSION

# HOUSE BILL NO. 1940

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MACKEY.

3259H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 513.430, RSMo, and to enact in lieu thereof one new section relating to property exempt from attachment.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 513.430, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 513.430, to read as follows:

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed three thousand dollars in value in the aggregate;

(2) A wedding ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value six hundred dollars in the aggregate;

(4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;

(5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (6) Any mobile home used as the principal residence but not attached to real property  
18 in which the debtor has a fee interest, not to exceed five thousand dollars in value;

19 (7) Any one or more unmaturred life insurance contracts owned by such person, other  
20 than a credit life insurance contract, and up to fifteen thousand dollars of any matured life  
21 insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the  
22 spouse, child, or parent of the beneficiary;

23 (8) The amount of any accrued dividend or interest under, or loan value of, any one or  
24 more unmaturred life insurance contracts owned by such person under which the insured is  
25 such person or an individual of whom such person is a dependent; provided, however, that if  
26 proceedings under Title 11 of the United States Code are commenced by or against such  
27 person, the amount exempt in such proceedings shall not exceed in value one hundred fifty  
28 thousand dollars in the aggregate less any amount of property of such person transferred by  
29 the life insurance company or fraternal benefit society to itself in good faith if such transfer is  
30 to pay a premium or to carry out a nonforfeiture insurance option and is required to be so  
31 transferred automatically under a life insurance contract with such company or society that  
32 was entered into before commencement of such proceedings. No amount of any accrued  
33 dividend or interest under, or loan value of, any such life insurance contracts shall be exempt  
34 from any claim for child support. Notwithstanding anything to the contrary, no such amount  
35 shall be exempt in such proceedings under any such insurance contract which was purchased  
36 by such person within one year prior to the commencement of such proceedings;

37 (9) Professionally prescribed health aids for such person or a dependent of such  
38 person;

39 (10) Such person's right to receive:

40 (a) A Social Security benefit, unemployment compensation or a public assistance  
41 benefit;

42 (b) A veteran's benefit;

43 (c) A disability, illness or unemployment benefit;

44 (d) Alimony, support or separate maintenance, not to exceed seven hundred fifty  
45 dollars a month;

46 (e) **a.** Any payment under a stock bonus plan, pension plan, disability or death  
47 benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or  
48 established pursuant to section 456.014, the person's right to a participant account in any  
49 deferred compensation program offered by the state of Missouri or any of its political  
50 subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age  
51 or length of service, to the extent reasonably necessary for the support of such person and any  
52 dependent of such person unless:

53 ~~[a-]~~ (i) Such plan or contract was established by or under the auspices of an insider  
54 that employed such person at the time such person's rights under such plan or contract arose;

55 ~~[b-]~~ (ii) Such payment is on account of age or length of service; and

56 ~~[e-]~~ (iii) Such plan or contract does not qualify under Section 401(a), 403(a), 403(b),  
57 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401  
58 (a), 403(a), 403(b), 408, 408A or 409)[~~]~~.

59

60 ~~[except that]~~ **b. Notwithstanding the exemption provided in subparagraph a. of this**  
61 **paragraph**, any such payment to any person shall be subject to attachment or execution  
62 pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal  
63 Revenue Code of 1986 (**26 U.S.C. Section 414(p)**), as amended, issued by a court in any  
64 proceeding for dissolution of marriage or legal separation or a proceeding for disposition of  
65 property following dissolution of marriage by a court which lacked personal jurisdiction over  
66 the absent spouse or lacked jurisdiction to dispose of marital property at the time of the  
67 original judgment of dissolution;

68 (f) Any money or assets, payable to a participant or beneficiary from, or any interest  
69 of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan,  
70 or similar plan, including an inherited account or plan, that is qualified under Section 401(a),  
71 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986 (**26 U.S.C. 401(a),**  
72 **403(a), 403(b), 408, 408A, or 409**), as amended, whether such participant's or beneficiary's  
73 interest arises by inheritance, designation, appointment, or otherwise, except as provided in  
74 this paragraph. Any plan or arrangement described in this paragraph shall not be exempt  
75 from the claim of an alternate payee under a qualified domestic relations order; however, the  
76 interest of any and all alternate payees under a qualified domestic relations order shall be  
77 exempt from any and all claims of any creditor, other than the state of Missouri through its  
78 department of social services. As used in this paragraph, the terms "alternate payee" and  
79 "qualified domestic relations order" have the meaning given to them in Section 414(p) of the  
80 Internal Revenue Code of 1986 (**26 U.S.C. Section 414(p)**), as amended. If proceedings  
81 under Title 11 of the United States Code are commenced by or against such person, no  
82 amount of funds shall be exempt in such proceedings under any such plan, contract, or trust  
83 which is fraudulent as defined in subsection 2 of section 428.024 and for the period such  
84 person participated within three years prior to the commencement of such proceedings. For  
85 the purposes of this section, when the fraudulently conveyed funds are recovered and after,  
86 such funds shall be deducted and then treated as though the funds had never been contributed  
87 to the plan, contract, or trust;

88 (11) The debtor's right to receive, or property that is traceable to, a payment on  
89 account of the wrongful death of an individual of whom the debtor was a dependent, to the  
90 extent reasonably necessary for the support of the debtor and any dependent of the debtor;

91 (12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five  
92 hundred dollars in value in the aggregate;

93 **(13) Any moneys accruing to and deposited in individual savings accounts or**  
94 **individual deposit accounts under sections 166.400 to 166.456 or sections 166.500 to**  
95 **166.529, subject to the following provisions:**

96 **(a) This subdivision shall apply to any proceeding that:**

97 **a. Is filed on or before January 1, 2022; or**

98 **b. Was filed before January 1, 2022, and is pending or on appeal after January 1,**  
99 **2022;**

100 **(b) Except as provided by paragraph (c) of this subdivision, if the designated**  
101 **beneficiary of an individual savings account or individual deposit account established**  
102 **under sections 166.400 to 166.456 or sections 166.500 to 166.529 is a lineal descendant of**  
103 **the account owner, all moneys in the account shall be exempt from any claims of**  
104 **creditors of the account owner or designated beneficiary;**

105 **(c) The provisions of paragraph (b) of this subdivision shall not apply to:**

106 **a. Claims of any creditor of an account owner as to amounts contributed within**  
107 **a two-year period preceding the date of the filing of a bankruptcy petition under 11**  
108 **U.S.C. Section 101 et seq., as amended; or**

109 **b. Claims of any creditor of an account owner as to amounts contributed within**  
110 **a one-year period preceding an execution on judgment for such claims against the**  
111 **account owner.**

112 2. Nothing in this section shall be interpreted to exempt from attachment or execution  
113 for a valid judicial or administrative order for the payment of child support or maintenance  
114 any money or assets, payable to a participant or beneficiary from, or any interest of any  
115 participant or beneficiary in, a retirement plan which is qualified pursuant to Sections 408 and  
116 408A of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408 and 408A), as  
117 amended.

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