



H.B. 37

126th General Assembly
(As Introduced)

Reps. Hartnett, Wolpert, McGregor, Schaffer, S. Patton, Koziura, Aslanides, Carano, Allen, Webster, Driehaus, Reidelbach, Collier, Otterman, C. Evans

BILL SUMMARY

- Allows a court to execute, garnish, or withhold certain retirement benefits and deferred compensation accounts to satisfy a judgment or order against the owner resulting from commission of a felony.

CONTENT AND OPERATION

Current law

(R.C. 2329.66)

Under current law, certain types of property cannot be executed,¹ garnished, or withheld to satisfy a judgment against the property owner. Property exempted generally includes the right to a state or private retirement pension, benefit, annuity, or allowance, or accumulated contributions in a retirement fund and the right to a participant account in a state or local government deferred compensation program. The result of this exemption is that an individual entitled to compensation for damages caused by the owner of the property cannot access exempted property, such as a monthly pension, to satisfy a judgment or order against the property owner.

¹ Under Ohio law, "execution" means "a process of a court, issued by its clerk, and directed to the sheriff of the county" (R.C. 2327.01). Executions can be ordered against the property of the judgment debtor, against the person of the judgment debtor, or for the delivery of possession of real property of the judgment debtor (R.C. 2327.02).

The bill

(R.C. 2329.663)

The bill limits the application of the exemption. Under the bill, if the following four criteria are met, the property owner generally cannot claim the exemption:

- (1) The property owner has been convicted or pleaded guilty to a felony;
- (2) The judgment creditor (person entitled to compensation) is the victim of that felony;
- (3) The judgment or order relates to the harm incurred as a result of the felony;
- (4) The property owner is either (a) serving a prison term or a community residential sanction or (b) because of insanity or incompetence to stand trial is committed to a facility or institution operated by the Ohio Department of Mental Health or Ohio Department of Mental Retardation and Developmental Disabilities.

If the criteria are met, the judgment creditor may access the property to satisfy the judgment, subject to the limitations described below.

Limitations on access by the judgment creditor

The property is exempted from access by the judgment creditor to the extent necessary to support the spouse and dependents of the property owner while the property owner is in prison or institutionalized. Once the property owner is no longer in prison or committed to a facility or institution, the property is exempted to the extent necessary to support the owner, as well as the owner's spouse and dependants.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-05	p. 184

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