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Bill Analysis

Legislative Service Commission

S.B. 281

127th General Assembly
(As Introduced)

Sens. Seitz, Cates, Jacobson, Mumper, Niehaus, Schuler, Spada, Wagoner, Boccieri, Cafaro, Fedor, Kearney, Mason, D. Miller, Morano, Roberts, Sawyer

BILL SUMMARY

- Increases the exemptions for certain types of property a debtor may hold exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order to reflect the higher exemptions under the United States Bankruptcy Code.
- Provides for automatic, annual adjustments to the exemption amounts based on changes in the Consumer Price Index.

CONTENT AND OPERATION

Property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order

(R.C. 2329.01, 2716.01, and 2715.01 (not in the bill) and 2329.66(A))

Current law allows both real and personal property to be subject to the payment of debts and liable to be taken on execution, garnishment, attachment, or sale to satisfy a judgment or order. However, every person domiciled in Ohio may hold limited property interests in certain types of property exempt from being taken to satisfy a judgment or order. Generally, this bill increases the values of certain types of property interests already exempt in the current law and provides for periodic increases.¹

¹ The bill's proposed amendments make Ohio law consistent with debtor exemptions from the bankruptcy estate under federal bankruptcy law. (11 U.S.C. §§ 104(b)(1) and 522(b)(2) and (d).)

Residential property

(R.C. 2329.66(A)(1))

Under current law, a person domiciled in Ohio may exempt a property interest of no more than \$5,000 in one parcel or item of real or personal property that the person or that person's dependent uses as a residence. The bill raises the exemption amount to \$20,200.

Motor vehicle

(R.C. 2329.66(A)(2))

Current law also exempts from being taken to satisfy a judgment or order a person's interest in one motor vehicle in the amount of \$1,000 or less. The bill increases the maximum amount to \$3,225.

Personal, family, and household items and appliances

(R.C. 2329.66 (A)(3) and (4))

The following personal interests in property are exempt under current law from being taken to satisfy a judgment or order: (1) no more than \$200 in any one particular item of wearing apparel, beds, or bedding, (2) no more than \$300 in one cooking unit, (3) no more than \$300 in one refrigerator or other food preservation unit, (4) no more than \$200 in any particular item, in household furnishings, household goods, appliances, books, animals, crops, musical instruments, firearms, and hunting and fishing equipment held primarily for personal, family, or household use, and (5) no more than \$400 in one item of jewelry and no more than \$200 in every other item of jewelry. Current law also specifies that exemption items described in (1) through (3) above cannot be included as exemption items under (4) and (5). Additionally, current law provides that if a person does not claim the residential property exemption (see "**Residential property**" above), the exemption items described in (4) and (5), when their values are added together, cannot exceed \$2,000. If a person does claim the residential property exemption, those exemption items added together cannot exceed \$1,500.

The bill eliminates the exemptions in (1) to (3) as separate exemptions and includes them in exemption items (4) and (5). The bill changes exemption (4) by raising the exemption amount to \$525 in any particular item or \$10,775 in the aggregate, and by specifically including wearing apparel. With respect to (5), the bill eliminates the existing exemption and instead exempts an aggregate interest in one or more items of jewelry of no more than \$1,350 if the jewelry is held primarily for personal, family, or household use.

Professional books and tools

(R.C. 2329.66(A)(5))

Current law exempts a person's interest of no more than \$750 in aggregate in all implements, professional books, or tools of that person's profession, trade, or business (which specifically includes agriculture). The bill increases the interest in such exempt property to no more than \$2,025 in aggregate.

Payment on account of personal bodily injury

(R.C. 2329.66(A)(12))

Money received during the past 12 months, or the right to receive such money, as payment for personal bodily injury, but excluding pain and suffering or compensation for actual pecuniary loss, of the person or another individual for whom the person is a dependent is exempt under current law in an amount not exceeding \$5,000.² The bill increases the value of this exemption to a maximum of \$20,200.

Other property

(R.C. 2329.66(A)(18))

Current law permits a person, in a bankruptcy proceeding, to exempt an interest of up to \$400 in any property. The bill, instead, permits a person, in a bankruptcy proceeding, to exempt an aggregate interest in any property not to exceed \$1,075, plus up to \$10,125 of any unused amount of the residential exemption.

Annual adjustments

(R.C. 2329.66(B))

Unlike current law, the bill requires periodic adjustment of the maximum amounts for each type of property that may be exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order. The bill requires that on April 1, 2010, and on the same day every third year thereafter, each exempted dollar amount must be adjusted to reflect the change in the Consumer

² This exemption is unavailable if the person receiving the payment is an inmate and the payment resulted from a civil action or appeal against a government entity or employee. (R.C. 2969.21 to 2969.27, not in the bill.)

Price Index,³ as published by the U.S. Department of Labor. In the event the index is no longer published, the amounts instead must be adjusted to reflect a generally available comparable index for the three-year period ending on December 31 of the preceding year, with any such adjustment being rounded to the nearest \$25.

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 01-29-08 |

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³ The Consumer Price Index (CPI) produces data on changes in the prices paid by urban consumers for a representative basket of goods and services (U.S. Department of Labor, Bureau of Labor and Statistics, <http://www.bls.gov/cpi/>).