

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE REPORT

5 April 30, 2008

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7 **H. 3816**

8

9 Introduced by Reps. G.M. Smith, Weeks and G. Brown

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11 S. Printed 4/30/08--S.

12 Read the first time February 12, 2008.

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15 **THE COMMITTEE ON JUDICIARY**

16 To whom was referred a Bill (H. 3816) to amend Section
17 15-41-30, as amended, Code of Laws of South Carolina, 1976,
18 relating to property exempt from attachment, levy, and sale, etc.,
19 respectfully

20 **REPORT:**

21 That they have duly and carefully considered the same and
22 recommend that the same do pass:

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24 CHAUNCEY K. GREGORY for Committee.

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[3816-1]

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9 **A BILL**

11 TO AMEND SECTION 15-41-30, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO
13 PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND
14 SALE, SO AS TO INCREASE THE AMOUNT OF DEBTOR'S
15 INTEREST IN CERTAIN DELINEATED PROPERTIES THAT
16 ARE EXEMPT FROM ATTACHMENT, LEVY, AND SALE
17 UNDER ORDER OF A COURT OR AS A RESULT OF A
18 BANKRUPTCY PROCEEDING.

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20 Be it enacted by the General Assembly of the State of South
21 Carolina:

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23 SECTION 1. Section 15-41-30 of the 1976 Code, as last amended
24 by Act 300 of 2006, is further amended to read:

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26 "Section 15-41-30. (A) The following real and personal
27 property of a debtor domiciled in this State is exempt from
28 attachment, levy, and sale under any mesne or final process issued
29 by ~~any~~ a court or bankruptcy proceeding:

30 (1) The debtor's aggregate interest, not to exceed fifty
31 thousand dollars in value, in real property or personal property that
32 the debtor or a dependent of the debtor uses as a residence, in a
33 cooperative that owns property that the debtor or a dependent of
34 the debtor uses as a residence, or in a burial plot for the debtor or a
35 dependent of the debtor, except that the aggregate value of
36 multiple homestead exemptions allowable with respect to a single
37 living unit may not exceed one hundred thousand dollars. If there
38 are multiple owners of such a living unit exempt as a homestead,
39 the value of the exemption of each individual owner may not
40 exceed his fractional portion of one hundred thousand dollars.
41 ~~Beginning on July 1, 2007, and each year thereafter, each dollar~~
42 ~~amount in subsection (1) of this section, immediately before July~~

1 ~~first, shall be adjusted to reflect the change in the Southeastern~~
2 ~~Consumer Price Index, All Urban Consumers, as published by the~~
3 ~~Department of Labor, Bureau of Labor Statistics, for the most~~
4 ~~recent year ending immediately before January first preceding July~~
5 ~~first, and to round to the nearest twenty five dollars the dollar~~
6 ~~amount that represents this change. No later than March first of~~
7 ~~each year, the Economic Research Section of the Office of~~
8 ~~Research and Statistics of the Budget and Control Board shall~~
9 ~~publish in the State Register the dollar amounts that will become~~
10 ~~effective on each July first.~~

11 (2) The debtor's interest, not to exceed ~~one~~ five thousand
12 ~~two hundred~~ dollars in value, in one motor vehicle.

13 (3) The debtor's interest, not to exceed ~~two~~ four thousand
14 ~~five hundred~~ dollars in aggregate value in household furnishings,
15 household goods, wearing apparel, appliances, books, animals,
16 crops, or musical instruments, that are held primarily for the
17 personal, family, or household use of the debtor or a dependent of
18 the debtor.

19 (4) The debtor's aggregate interest, not to exceed ~~five~~
20 ~~hundred~~ one thousand dollars in value, in jewelry held primarily
21 for the personal, family, or household use of the debtor or a
22 dependent of the debtor.

23 (5) The debtor's aggregate interest in cash and other liquid
24 assets to the extent of a value not exceeding ~~one~~ five thousand
25 dollars, except that this exemption is available only to an
26 individual who does not claim a homestead exemption. The term
27 'liquid assets' includes deposits, securities, notes, drafts, unpaid
28 earnings not otherwise exempt, accrued vacation pay, refunds,
29 prepayments, and other receivables.

30 (6) The debtor's aggregate interest, not to exceed ~~seven~~
31 ~~hundred fifty~~ one thousand five hundred dollars in value, in any
32 implements, professional books, or tools of the trade of the debtor
33 or the trade of a dependent of the debtor.

34 (7) The debtor's aggregate interest in any property, not to
35 exceed five thousand dollars in value of an unused exemption
36 amount to which the debtor is entitled pursuant to subsection (A),
37 items (1) through (6).

38 (8) Any unmatured life insurance contract owned by the
39 debtor, other than a credit life insurance contract.

40 (8) (9) The debtor's aggregate interest, not to exceed in value
41 four thousand dollars less any amount of property of the estate
42 transferred in the manner specified in Section 542(d) of the
43 Bankruptcy Code of 1978, in any accrued dividend or interest

1 under, or loan value of, any unmatured life insurance contract
2 owned by the debtor under which the insured is the debtor or an
3 individual of whom the debtor is a dependent.

4 ~~(9)~~ (10) Professionally prescribed health aids for the debtor
5 or a dependent of the debtor.

6 ~~(10)~~ (11) The debtor's right to receive or property that is
7 traceable to:

8 ~~(A)~~ (a) a social security benefit, unemployment
9 compensation, or a local public assistance benefit;

10 ~~(B)~~ (b) a veteran's benefit;

11 ~~(C)~~ (c) a disability benefit, except as provided in Section
12 15-41-33, or an illness or unemployment benefit;

13 ~~(D)~~ (d) alimony, support, or separate maintenance; or

14 ~~(E)~~ (e) a payment under a stock bonus, pension, profit
15 sharing, annuity, or similar plan or contract on account of illness,
16 disability, death, age, or length of service, unless:

17 (i) the plan or contract was established by or under the
18 auspices of an insider that employed the debtor at the time the
19 debtor's rights under the plan or contract arose;

20 (ii) the payment is on account of age or length of
21 service; and

22 (iii) the plan or contract does not qualify under Sections
23 401(a), 403(a), 403(b), or 409 of the Internal Revenue Code of
24 1954 (26 U.S.C. 401(a), 403(a), 403(b), or 409).

25 ~~(11)~~ (12) The debtor's right to receive or property that is
26 traceable to:

27 ~~(A)~~ (a) an award under a crime victim's reparation law;

28 ~~(B)~~ (b) a payment on account of the bodily injury of the
29 debtor or of the wrongful death or bodily injury of another
30 individual of whom the debtor was or is a dependent; or

31 ~~(C)~~ (c) a payment under a life insurance contract that
32 insured the life of an individual of whom the debtor was a
33 dependent on the date of that individual's death, to the extent
34 reasonably necessary for the support of the debtor and any
35 dependent of the debtor.

36 ~~(12)~~ (13) The debtor's right to receive individual retirement
37 accounts as described in Sections 408(a) and 408A of the Internal
38 Revenue Code, individual retirement annuities as described in
39 Section 408(b) of the Internal Revenue Code, and accounts
40 established as part of a trust described in Section 408(c) of the
41 Internal Revenue Code, to the extent reasonably necessary for the
42 support of the debtor and any dependent of the debtor. A claimed
43 exemption may be reduced or eliminated by the amount of a

1 fraudulent conveyance into the individual retirement account or
2 other plan. For purposes of this item, 'Internal Revenue Code' has
3 the meaning provided in Section 12-6-40(A).

4 (13) (14) The debtor's interest in a pension plan qualified
5 under the Employee Retirement Income Security Act of 1974, as
6 amended.

7 (B) Beginning on July 1, 2008, and each even-numbered year
8 thereafter, each dollar amount in subsection (A), items (1) through
9 (14), immediately before July first, must be adjusted to reflect the
10 change in the Southeastern Consumer Price Index, All Urban
11 Consumers, as published by the Department of Labor, Bureau of
12 Labor Statistics, for the most recent year ending immediately
13 before January first preceding July first, and to round to the nearest
14 twenty-five dollars, the dollar amount that represents this change.
15 No later than March first of each even-numbered year, the
16 Economic Research Section of the Office of Research and
17 Statistics of the Budget and Control Board shall publish in the
18 State Register the dollar amounts that will become effective on
19 July first of each even-numbered year."

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21 SECTION 2. This act takes effect upon approval by the Governor
22 and is immediately applicable to all attachments, levies, and sales
23 under any mesne or final process issued by a court or bankruptcy
24 proceeding.

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