

HOUSE BILL No. 1192

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-55-10-2.

Synopsis: Bankruptcy exemptions. Provides that if the total value of property claimed as exempt by a bankruptcy debtor with respect to certain specified categories of property is less than the sum of the maximum allowed exemption values for those categories, the debtor may apportion among the specified categories an amount equal to the difference between the sum of the maximum allowed exemption values and the total amount claimed as exempt, notwithstanding the applicable maximum exemption value for each category. Provides that the total amount of intangible personal property that may be claimed as exempt by a debtor may not exceed \$10,000.

Effective: July 1, 2013.

DeLaney

January 10, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1192



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-55-10-2, AS AMENDED BY P.L.160-2012,
2 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 2. (a) This section does not apply to judgments
4 obtained before October 1, 1977.

5 (b) The amount of each exemption under subsection (c) applies until
6 a rule is adopted by the department of financial institutions under
7 section 2.5 of this chapter.

8 (c) **Subject to subsection (d)**, the following property of a debtor
9 domiciled in Indiana is exempt:

10 (1) Real estate or personal property constituting the personal or
11 family residence of the debtor or a dependent of the debtor, or
12 estates or rights in that real estate or personal property, of not
13 more than fifteen thousand dollars (\$15,000). The exemption
14 under this subdivision is individually available to joint debtors
15 concerning property held by them as tenants by the entireties.

16 (2) Other real estate or tangible personal property of eight
17 thousand dollars (\$8,000).



- 1 (3) Intangible personal property, including choses in action,
 2 deposit accounts, and cash (but excluding debts owing and
 3 income owing), of three hundred dollars (\$300).
 4 (4) Professionally prescribed health aids for the debtor or a
 5 dependent of the debtor.
 6 (5) Any interest that the debtor has in real estate held as a tenant
 7 by the entirety. The exemption under this subdivision does not
 8 apply to a debt for which the debtor and the debtor's spouse are
 9 jointly liable.
 10 (6) An interest, whether vested or not, that the debtor has in a
 11 retirement plan or fund to the extent of:
 12 (A) contributions, or portions of contributions, that were made
 13 to the retirement plan or fund by or on behalf of the debtor or
 14 the debtor's spouse:
 15 (i) which were not subject to federal income taxation to the
 16 debtor at the time of the contribution; or
 17 (ii) which are made to an individual retirement account in
 18 the manner prescribed by Section 408A of the Internal
 19 Revenue Code of 1986;
 20 (B) earnings on contributions made under clause (A) that are
 21 not subject to federal income taxation at the time of the levy;
 22 and
 23 (C) roll-overs of contributions made under clause (A) that are
 24 not subject to federal income taxation at the time of the levy.
 25 (7) Money that is in a medical care savings account established
 26 under IC 6-8-11.
 27 (8) Money that is in a health savings account established under
 28 Section 223 of the Internal Revenue Code of 1986.
 29 (9) Any interest the debtor has in a qualified tuition program, as
 30 defined in Section 529(b) of the Internal Revenue Code of 1986,
 31 but only to the extent funds in the program are not attributable to:
 32 (A) excess contributions, as described in Section 529(b)(6) of
 33 the Internal Revenue Code of 1986, and earnings on the excess
 34 contributions;
 35 (B) contributions made by the debtor within one (1) year
 36 before the date of the levy or the date a bankruptcy petition is
 37 filed by or against the debtor, and earnings on the
 38 contributions; or
 39 (C) the excess over five thousand dollars (\$5,000) of aggregate
 40 contributions made by the debtor for all programs under this
 41 subdivision and education savings accounts under subdivision
 42 (10) having the same designated beneficiary;

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- 1 (i) not later than one (1) year before; and
 2 (ii) not earlier than two (2) years before;
 3 the date of the levy or the date a bankruptcy petition is filed by
 4 or against the debtor, and earnings on the aggregate
 5 contributions.
- 6 (10) Any interest the debtor has in an education savings account,
 7 as defined in Section 530(b) of the Internal Revenue Code of
 8 1986, but only to the extent funds in the account are not
 9 attributable to:
- 10 (A) excess contributions, as described in Section 4973(e) of
 11 the Internal Revenue Code of 1986, and earnings on the excess
 12 contributions;
 13 (B) contributions made by the debtor within one (1) year
 14 before the date of the levy or the date a bankruptcy petition is
 15 filed by or against the debtor, and earnings on the
 16 contributions; or
 17 (C) the excess over five thousand dollars (\$5,000) of aggregate
 18 contributions made by the debtor for all accounts under this
 19 subdivision and qualified tuition programs under subdivision
 20 (9) having the same designated beneficiary:
- 21 (i) not later than one (1) year before; and
 22 (ii) not earlier than two (2) years before;
 23 the date of the levy or the date a bankruptcy petition is filed by
 24 or against the debtor, and earnings on the excess contributions.
- 25 (11) The debtor's interest in a refund or a credit received or to be
 26 received under the following:
- 27 (A) Section 32 of the Internal Revenue Code of 1986 (the
 28 federal earned income tax credit).
 29 (B) IC 6-3.1-21-6 (the Indiana earned income tax credit).
- 30 (12) A disability benefit awarded to a veteran for a service
 31 connected disability under 38 U.S.C. 1101 et seq. This
 32 subdivision does not apply to a service connected disability
 33 benefit that is subject to child and spousal support enforcement
 34 under 42 U.S.C. 659(h)(1)(A)(ii)(V).
- 35 (13) Compensation distributed from the supplemental state fair
 36 relief fund under IC 34-13-8 to an eligible person (as defined in
 37 IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2). This
 38 subdivision applies even if a debtor is not domiciled in Indiana.
- 39 **(d) If the total value of property claimed as exempt by a debtor**
 40 **under subsection (c)(1), (c)(2), and (c)(3) is less than the sum of the**
 41 **maximum total exemption values allowed under subsection (c)(1),**
 42 **(c)(2), and (c)(3), an amount equal to:**

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- 1 **(1) the sum of the maximum total exemption values allowed**
 2 **under subsection (c)(1), (c)(2), and (c)(3); minus**
 3 **(2) the total value of property claimed as exempt by the**
 4 **debtor under subsection (c)(1), (c)(2), and (c)(3);**
 5 **may be apportioned, in a manner determined by the debtor, among**
 6 **subsection (c)(1), (c)(2), or (c)(3), or any combination of subsection**
 7 **(c)(1), (c)(2), and (c)(3), and applied as additional exemption**
 8 **amounts under those provisions, notwithstanding the applicable**
 9 **maximum exemption value for each of those provisions. However,**
 10 **the total amount that may be claimed as exempt by a debtor under**
 11 **subsection (c)(3) may not exceed ten thousand dollars (\$10,000).**
 12 ~~(d)~~ **(e)** A bankruptcy proceeding that results in the ownership by the
 13 bankruptcy estate of a debtor's interest in property held in a tenancy by
 14 the entirety does not result in a severance of the tenancy by the
 15 entireties.
 16 ~~(e)~~ **(f)** Real estate or personal property upon which a debtor has
 17 voluntarily granted a lien is not, to the extent of the balance due on the
 18 debt secured by the lien:
 19 (1) subject to this chapter; or
 20 (2) exempt from levy or sale on execution or any other final
 21 process from a court.

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