

SECOND REGULAR SESSION

HOUSE BILL NO. 1350

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BYRD.

Read 1st time February 2, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4225L.011

AN ACT

To repeal sections 513.430 and 513.440, RSMo, and to enact in lieu thereof two new sections relating to exemptions from attachment and execution.

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

Section A. Sections 513.430 and 513.440, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 513.430 and 513.440, to read as follows:

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

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

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

10 (3) Any other property of any kind, not to exceed in value [four] **six** hundred dollars in
11 the aggregate;

12 (4) Any implements, **breeding stock, dairy cattle**, professional books or tools of the
13 trade of such person or the trade of a dependent of such person not to exceed [two] **three**
14 thousand dollars in value in the aggregate;

15 (5) Any motor vehicle **in the aggregate**, not to exceed [one] **three** thousand dollars in
16 value;

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

17 (6) Any mobile home used as the principal residence **but not on or attached to real**
18 **property in which the debtor has an interest**, not to exceed [one] **five** thousand dollars in
19 value;

20 (7) Any one or more unmaturred life insurance contracts owned by such person, other
21 than a credit life insurance contract;

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

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

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

38 (a) A Social Security benefit, unemployment compensation or a local public assistance
39 benefit;

40 (b) A veteran's benefit;

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

42 (d) Alimony, support or separate maintenance, not to exceed [five] **seven** hundred **fifty**
43 dollars a month;

44 (e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan,
45 profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established
46 pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred
47 compensation program offered by the state of Missouri or any of its political subdivisions, or
48 annuity or similar plan or contract on account of illness, disability, death, age or length of
49 service, to the extent reasonably necessary for the support of such person and any dependent of
50 such person unless:

51 a. Such plan or contract was established by or under the auspices of an insider that
52 employed such person at the time such person's rights under such plan or contract arose;

53 b. Such payment is on account of age or length of service; and

54 c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A
55 or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b),
56 408, 408A or 409);

57

58 except that any such payment to any person shall be subject to attachment or execution pursuant
59 to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue
60 Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or
61 legal separation or a proceeding for disposition of property following dissolution of marriage by
62 a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to
63 dispose of marital property at the time of the original judgment of dissolution;

64 (f) Any money or assets, payable to a participant or beneficiary from, or any interest of
65 any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under
66 Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as
67 amended, except as provided in this paragraph. Any plan or arrangement described in this
68 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic
69 relations order; however, the interest of any and all alternate payees under a qualified domestic
70 relations order shall be exempt from any and all claims of any creditor, other than the state of
71 Missouri through its division of family services. As used in this paragraph, the terms "alternate
72 payee" and "qualified domestic relations order" have the meaning given to them in Section
73 414(p) of the Internal Revenue Code of 1986, as amended.

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75 If proceedings under Title 11 of the United States Code are commenced by or against such
76 person, no amount of funds shall be exempt in such proceedings under any such plan, contract,
77 or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person
78 participated within three years prior to the commencement of such proceedings. For the purposes
79 of this section, when the fraudulently conveyed funds are recovered and after, such funds shall
80 be deducted and then treated as though the funds had never been contributed to the plan, contract,
81 or trust;

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

85 2. Nothing in this section shall be interpreted to exempt from attachment or execution
86 for a valid judicial or administrative order for the payment of child support or maintenance any
87 money or assets, payable to a participant or beneficiary from, or any interest of any participant
88 or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal

89 Revenue Code of 1986, as amended.

2 513.440. Each head of a family may select and hold, exempt from execution, any other
3 property, real, personal or mixed, or debts and wages, not exceeding in value the amount of
4 [eight hundred fifty dollars plus two hundred] **one thousand two hundred fifty dollars plus**
5 **three hundred** fifty dollars for each of such person's unmarried dependent children under the
6 age of eighteen years **or dependent as defined by the Internal Revenue Code of 1986, as**
7 **amended, determined to be disabled by the Social Security Administration**, except ten
percent of any debt, income, salary or wages due such head of a family.