WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

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ENROLLED
Com. Sub. for
HOUSE BILL No. 849

(By Mr. Tucker)

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Passed March 24, 1981

In Effect Ninety Days From Passage
AN ACT to amend article ten, chapter thirty-eight of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section
four, relating to the property that may be exempted under the
"Bankruptcy Reform Act of 1978" (Public Law 95-598) in a
bankruptcy proceeding.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter thirty-eight of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be amended by
adding thereto a new section, designated section four, to read as fol­
lows:

ARTICLE 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN
BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

2 2549, 11 O.S.C. 522 (b) (1), this state specifically does not
3 authorize debtors who are domiciled in this state to exempt the
4 property specified in the “Bankruptcy Reform Act of 1978”,
6 Any person who files a petition under the “Bankruptcy
Reform Act of 1978" (Public Law 95-598) may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor's interest, not to exceed seven thousand five hundred dollars in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plat for the debtor or a dependent of the debtor.

(b) The debtor's interest, not to exceed one thousand two hundred dollars in value, in one motor vehicle.

(c) The debtor's interest, not to exceed two hundred dollars in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor: Provided, That the total amount of personal property exempted under this subsection shall not exceed one thousand dollars.

(d) The debtor's interest, not to exceed five hundred dollars in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value four hundred dollars plus any unused amount of the exemption provided under subsection (a) in any property.

(f) The debtor's interest, not to exceed seven hundred fifty dollars in value, in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor.

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

(h) The debtor's interest, not to exceed in value four thousand dollars less any amount of property of the estate transferred in the manner specified in section 542 (d) of the “Bankruptcy Reform Act of 1978" (Public Law 95-598), in any accrued dividend or interest under, or loan value of, any un-
matured life insurance contract owned by the debtor under
which the insured is the debtor or an individual of whom the
debtor is a dependent.

(i) Professionally prescribed health aids for the debtor or
a dependent of the debtor.

(j) The debtor's right to receive:

(1) A social security benefit, unemployment compensation,
or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

(4) Alimony, support, or separate maintenance, to the ex-
tent reasonably necessary for the support of the debtor and
any dependent of the debtor;

(5) A payment under a stock bonus, pension, profitsharing,
annuity, or similar plan or contract on account of illness, dis-
ability, death, age or length of service, to the extent reason-
ably necessary for the support of the debtor and any dependent
of the debtor, unless:

(A) Such plan or contract was established by or under the
auspices of an insider that employed the debtor at the time
the debtor's rights under such plan or contract arose;

(B) Such payment is on account of age or length of ser-
vice; and

(C) Such plan or contract does not qualify under section
401(a), 403(a), 403(b), 408 or 409 of the Internal Revenue
Code of 1954.

(k) The debtor's right to receive, or property that is trace-
able to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an
individual of whom the debtor was a dependent, to the extent
reasonably necessary for the support of the debtor and any
dependent of the debtor;
(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual’s death, to the extent reasonably necessary for the support of the debtor and any dependent; of the debtor;

(4) A payment, not to exceed seven thousand five hundred dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

This section shall not be construed to affect the applicability of any provision of the “Bankruptcy Reform Act of 1978” (Public Law 95-598) other than section 552(d).
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

L. P. Bynum
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd A. Mills
Clerk of the Senate

W.R. Blankenship
Clerk of the House of Delegates

Walter P. Madison
President of the Senate

H. L. Lee, Jr.
Speaker House of Delegates

The within is approved this the 1 day of April, 1981.

Governor