

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-1-81

Time 4:30 p.m.

No: 849

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Com. Sub. for
HOUSE BILL No. 849

(By Mr. Tucker.....)



Passed March 24, 1981

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 849
(By MR. TUCKER)

[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 follows:

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

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

1 Pursuant to the "Bankruptcy Reform Act of 1978", 92 Stat.
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",
5 92 Stat. 2549, 11 U.S.C. 522 (d).

6 Any person who files a petition under the "Bankruptcy

7 Reform Act of 1978" (Public Law 95-598) may exempt from
8 property of the estate in a bankruptcy proceeding the following
9 property:

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

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

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

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

29 (e) The debtor's interest, not to exceed in value four hun-
30 dred dollars plus any unused amount of the exemption provid-
31 ed under subsection (a) in any property.

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

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

38 (h) The debtor's interest, not to exceed in value four thou-
39 sand dollars less any amount of property of the estate trans-
40 ferred in the manner specified in section 542 (d) of the "Bank-
41 ruptcy Reform Act of 1978" (Public Law 95-598), in any ac-
42 crued dividend or interest under, or loan value of, any un-

43 matured life insurance contract owned by the debtor under
44 which the insured is the debtor or an individual of whom the
45 debtor is a dependent.

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

48 (j) The debtor's right to receive:

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

51 (2) A veterans' benefit;

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

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

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

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

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

66 (C) Such plan or contract does not qualify under section
67 401(a), 403(a), 403(b), 408 or 409 of the Internal Revenue
68 Code of 1954.

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

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

72 (2) A payment on account of the wrongful death of an
73 individual of whom the debtor was a dependent, to the extent
74 reasonably necessary for the support of the debtor and any
75 dependent of the debtor;

76 (3) A payment under a life insurance contract that insured
77 the life of an individual of whom the debtor was a dependent
78 on the date of such individual's death, to the extent reason-
79 ably necessary for the support of the debtor and any dependent
80 of the debtor;

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

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

90 This section shall not be construed to affect the applicability
91 of any provision of the "Bankruptcy Reform Act of 1978"
92 (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. Bayler

Chairman Senate Committee

Tony E. Whitlow

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Willis

Clerk of the Senate

W. Blankenship

Clerk of the House of Delegates

Walter R. McDrew

President of the Senate

Charles M. See, Jr.

Speaker House of Delegates

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

John R. Rupp

Governor

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OFFICE OF THE GOVERNOR

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OFFICE
SECY. OF STATE