

SB 306

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



## ENROLLED

SENATE BILL NO. 306

(By Senator ROSS, ET AL)



PASSED MARCH 7, 1996

In Effect NINETY DAYS FROM Passage

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## ENROLLED

### Senate Bill No. 306

(BY SENATORS ROSS, ANDERSON, BUCKALEW,  
SHARPE, BOWMAN, HELMICK, BLATNIK, DUGAN,  
YODER AND SCHOONOVER)

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[Passed March 7, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact section four, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing amounts for authorized exemptions of property in bankruptcy proceedings.

*Be it enacted by the Legislature of West Virginia:*

That section four, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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 provisions of 11 U.S.C. 522(b)(1), this
- 2 state specifically does not authorize debtors who are
- 3 domiciled in this state to exempt the property specified

4 under the provisions of 11 U.S.C. 522(d).

5 Any person who files a petition under the federal  
6 bankruptcy law may exempt from property of the estate  
7 in a bankruptcy proceeding the following property:

8 (a) The debtor's interest, not to exceed fifteen thousand  
9 dollars in value, in real property or personal property  
10 that the debtor or a dependent of the debtor uses as a  
11 residence, in a cooperative that owns property that the  
12 debtor or a dependent of the debtor uses as a residence  
13 or in a burial plot for the debtor or a dependent of the  
14 debtor.

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

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

26 (d) The debtor's interest, not to exceed one thousand  
27 dollars in value, in jewelry held primarily for the per-  
28 sonal, family or household use of the debtor or a depend-  
29 ent of the debtor.

30 (e) The debtor's interest, not to exceed in value eight  
31 hundred dollars plus any unused amount of the exemp-  
32 tion provided under subsection (a) of this section in any  
33 property.

34 (f) The debtor's interest, not to exceed one thousand  
35 five hundred dollars in value, in any implements, profes-  
36 sional books or tools of the trade of the debtor or the  
37 trade of a dependent of the debtor.

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

40 (h) The debtor's interest, not to exceed in value eight  
41 thousand dollars less any amount of property of the  
42 estate transferred in the manner specified in 11 U.S.C.  
43 542(d), in any accrued dividend or interest under, or loan  
44 value of, any unmaturred life insurance contract owned  
45 by the debtor under which the insured is the debtor or an  
46 individual of whom the debtor is a dependent.

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

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

50 (1) A social security benefit, unemployment compensa-  
51 tion or a local public assistance benefit;

52 (2) A veterans' benefit;

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

54 (4) Alimony, support or separate maintenance, to the  
55 extent reasonably necessary for the support of the debtor  
56 and any dependent of the debtor;

57 (5) A payment under a stock bonus, pension, profit  
58 sharing, annuity or similar plan or contract on account  
59 of illness, disability, death, age or length of service, to  
60 the extent reasonably necessary for the support of the  
61 debtor and any dependent of the debtor, unless:

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

66 (B) Such payment is on account of age or length of  
67 service; and

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

71 (k) The debtor's right to receive, or property that is  
72 traceable to:

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

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

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

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

88 (5) A payment in compensation of loss of future earn-  
89 ings of the debtor or an individual of whom the debtor is  
90 or was a dependent, to the extent reasonably necessary  
91 for the support of the debtor and any dependent of the  
92 debtor.

93 This section shall not be construed to affect the appli-  
94 cability of any provision of the federal bankruptcy law  
95 other than 11 U.S.C. 552(d).

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Barry Schomover*  
.....  
Chairman Senate Committee

*Ludy Stewart*  
.....  
Chairman House Committee

Originated in the Senate.  
In effect ninety days from passage.

*Karsell Edwards*  
.....  
Clerk of the Senate

*Bryan W. Gray*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*Paul E. Cribben*  
.....  
Speaker House of Delegates

The within *is approved* this the *19th* day of *March*, 1996.

*Gaston Caputo*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/96

Time 3:22 pm