

FILED

2005 APR 18 P 5:47

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2477

(By Delegates Hrutkay, Beane,
Craig, Webster and Amores)



Passed April 6, 2005

In Effect Ninety Days from Passage

FILED

2005 APR 18 P 5:47

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2477

(BY DELEGATES HRUTKAY, BEANE,
CRAIG, WEBSTER AND AMORES)

[Passed April 6, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §38-8-3 of the Code of West Virginia, 1931, as amended, and to amend and reenact §46A-2-136, all relating to exemptions from execution or other judicial process of certain personal property.

Be it enacted by the Legislature of West Virginia:

That § 38-8-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §46A-2-136 be amended and reenacted, all to read as follows:

CHAPTER 38. LIENS.

ARTICLE 8. EXEMPTIONS FROM LEVY.

§38-8-3. Method of claiming exemption on personal property.

1 When a debtor claims personal property as exempt under
2 the provisions of this article, he or she shall deliver to the
3 officer holding the execution or other process, a list by separate
4 items with the fair market value of each item, according to the
5 belief of the debtor, of all personal property and estate owned
6 or claimed the debtor, including money, bonds, bills, notes,
7 claims and demands, along with the address of the person so
8 indebted. The list shall also set forth with respect to each item
9 of personal property and estate the name and address of the
10 holder of and the current amount owing on each lien thereon
11 other than judicial liens obtained by legal or equitable proceed-
12 ings. The debtor shall verify such list, valuation and lien
13 indebtedness by affidavit, which affidavit shall also show that
14 the debtor is entitled to the exemption, and shall specify the
15 character in which he claims to be so entitled, as for example,
16 that he is a husband. If the value of the property named in the
17 list exceeds, as stated therein, the maximum allowed amounts
18 set forth in section one of this article, the debtor shall state at
19 the foot thereof what part of the property he claims as exempt,
20 but if such value does not exceed the allowed amount, as so
21 stated, the claim of exemption shall be held to extend to the
22 whole thereof without stating more; and if no appraisalment
23 thereof be demanded, as hereinafter provided, the property so
24 claimed shall be set apart to the debtor as exempt. If the
25 husband, wife, parent or other head of a household owning such
26 property be absent, or incapable of acting, or neglect or decline
27 to act, the claim may be made, the list delivered, and the
28 affidavit made by another member of the family, with the same
29 effect as if made by the owner, and the claim may be made, the
30 list delivered, and the affidavit made on behalf of infant
31 children by the guardian thereof or someone standing in loco
32 parentis thereto. The officer shall immediately, upon receipt of
33 the list, exhibit the same to the creditor, his or her agent or
34 attorney.

**CHAPTER 46A. WEST VIRGINIA CONSUMER
CREDIT AND PROTECTION ACT.**

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-136. Personal property exemptions.

1 Any consumer residing in this State may set apart and hold
2 personal property to be exempt from execution or other judicial
3 process resulting from consumer credit transactions or con-
4 sumer leases, except for the purchase money due on such
5 property, in such amounts as follows: Children's books,
6 pictures, toys and other such personal property of children; all
7 medical health equipment used for health purposes by the
8 consumer, his or her spouse and any dependent of such con-
9 sumer; and personal property set apart and held as exempt
10 pursuant to section one, article eight, chapter thirty-eight of this
11 code. When a consumer claims personal property as exempt
12 under the provisions of this section, he or she shall deliver a list
13 containing all the personal property owned or claimed by him
14 or her and all items of such property he or she claims as exempt
15 hereunder, with the value of each separate item listed according
16 to his or her best knowledge, to the officer holding the execu-
17 tion or other such process. Such list shall be sworn to by
18 affidavit. If the value of the property named in such list exceeds
19 the amounts specified in this section, the consumer shall state
20 at the foot thereof what part of such property he or she claims
21 as exempt. If such value does not exceed the amounts specified
22 in this section, the claim of exemption shall be held to extend
23 to the whole thereof without stating more and, if no appraise-
24 ment is demanded, the property so claimed shall be set aside as
25 exempt. Where the consumer owning exempt property is absent
26 or incapable of acting or neglects or declines to act hereunder,
27 the claim of exemption may be made, the list delivered and the
28 affidavit made by his or her spouse or by or on behalf of a
29 dependent of the consumer, with the same effect as if the owner

30 had done so. Upon receipt of such a list, the officer to whom it
31 is given shall immediately exhibit such list to the creditor or his
32 or her agent or attorney. The rights granted and procedures
33 provided in article eight, chapter thirty-eight of this code shall
34 apply to any proceeding under this section, except that the
35 provisions of section three of such article shall not apply.


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


Chairman Senate Committee

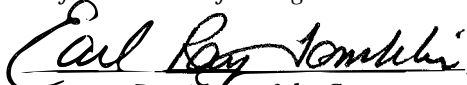

Chairman House Committee

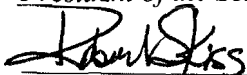
Originating in the House.

In effect ninety days from passage.



Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 18th
day of April, 2005.


Governor

PRESENTED TO THE
GOVERNOR

Date 4/12/05

Time 2:55p