

FIRST REGULAR SESSION

SENATE BILL NO. 100

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Pre-filed January 3, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0212S.011

AN ACT

To repeal section 513.430, RSMo, and to enact in lieu thereof one new section relating to the exemption from attachment and execution of a person's interest in inherited retirement accounts and health savings plans.

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

Section A. Section 513.430, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 513.430, to read as follows:

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

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

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

11 (3) Any other property of any kind, not to exceed in value six hundred
12 dollars in the aggregate;

13 (4) Any implements or professional books or tools of the trade of such
14 person or the trade of a dependent of such person not to exceed three thousand
15 dollars in value in the aggregate;

16 (5) Any motor vehicles, not to exceed three thousand dollars in value in
17 the aggregate;

18 (6) Any mobile home used as the principal residence but not attached to

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

19 real property in which the debtor has a fee interest, not to exceed five thousand
20 dollars in value;

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

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

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

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

43 (a) A Social Security benefit, unemployment compensation or a public
44 assistance benefit;

45 (b) A veteran's benefit;

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

47 (d) Alimony, support or separate maintenance, not to exceed seven
48 hundred fifty dollars a month;

49 (e) Any payment under a stock bonus plan, pension plan, disability or
50 death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan
51 described, defined, or established pursuant to section 456.072, the person's right
52 to a participant account in any deferred compensation program offered by the
53 state of Missouri or any of its political subdivisions, or annuity or similar plan or
54 contract on account of illness, disability, death, age or length of service, to the

55 extent reasonably necessary for the support of such person and any dependent of
56 such person unless:

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

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

61 c. Such plan or contract does not qualify under Section 401(a), 403(a),
62 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26
63 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409); except that any such payment to
64 any person shall be subject to attachment or execution pursuant to a qualified
65 domestic relations order, as defined by Section 414(p) of the Internal Revenue
66 Code of 1986, as amended, issued by a court in any proceeding for dissolution of
67 marriage or legal separation or a proceeding for disposition of property following
68 dissolution of marriage by a court which lacked personal jurisdiction over the
69 absent spouse or lacked jurisdiction to dispose of marital property at the time of
70 the original judgment of dissolution;

71 (f) Any money or assets, payable to a participant or beneficiary from, or
72 any interest of any participant or beneficiary in, a retirement plan [or],
73 profit-sharing plan, **health savings plan, or similar plan, including an**
74 **inherited account or plan**, that is qualified under Section 401(a), 403(a),
75 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended,
76 **whether such participant's or beneficiary's interest arises by**
77 **inheritance, designation, appointment, or otherwise**, except as provided
78 in this paragraph. Any plan or arrangement described in this paragraph shall
79 not be exempt from the claim of an alternate payee under a qualified domestic
80 relations order; however, the interest of any and all alternate payees under a
81 qualified domestic relations order shall be exempt from any and all claims of any
82 creditor, other than the state of Missouri through its division of family services.
83 As used in this paragraph, the terms "alternate payee" and "qualified domestic
84 relations order" have the meaning given to them in Section 414(p) of the Internal
85 Revenue Code of 1986, as amended.

86 If proceedings under Title 11 of the United States Code are commenced by or
87 against such person, no amount of funds shall be exempt in such proceedings
88 under any such plan, contract, or trust which is fraudulent as defined in
89 subsection 2 of section 428.024 and for the period such person participated within
90 three years prior to the commencement of such proceedings. For the purposes of

91 this section, when the fraudulently conveyed funds are recovered and after, such
92 funds shall be deducted and then treated as though the funds had never been
93 contributed to the plan, contract, or trust;

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

98 2. Nothing in this section shall be interpreted to exempt from attachment
99 or execution for a valid judicial or administrative order for the payment of child
100 support or maintenance any money or assets, payable to a participant or
101 beneficiary from, or any interest of any participant or beneficiary in, a retirement
102 plan which is qualified pursuant to Section 408A of the Internal Revenue Code
103 of 1986, as amended.

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Bill

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