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**SENATE BILL 5024**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators L. Smith, Bauer, Saling, Thorsness, Johnson, Roach, McCaslin, McDonald, Sellar, West, Rasmussen and Nelson.

Read first time January 16, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to pension exemptions for enforcement of judgments;  
2 and amending RCW 6.15.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 6.15.020 and 1990 c 237 s 1 are each amended to read  
5 as follows:

6 (1) It is the policy of the state of Washington to ensure the  
7 well-being of its citizens by protecting retirement income to which  
8 they are or may become entitled. For that purpose generally and  
9 pursuant to the authority granted to the state of Washington under 11  
10 U.S.C. Sec. 522(b)(2), the exemptions in this section relating to  
11 retirement benefits are provided.

12 (2) Unless otherwise provided by federal law, any money received  
13 by any citizen of the state of Washington as a pension from the  
14 government of the United States, whether the same be in the actual

1 possession of such person or be deposited or loaned, shall be exempt  
2 from execution, attachment, garnishment, or seizure by or under any  
3 legal process whatever, and when a debtor dies, or absconds, and leaves  
4 his or her family any money exempted by this subsection, the same shall  
5 be exempt to the family as provided in this subsection. This  
6 subsection shall not apply to child support collection actions issued  
7 under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by  
8 federal law.

9 (3) The right of a person to a pension, annuity, or retirement  
10 allowance or disability allowance, or death benefits, or any optional  
11 benefit, or any other right accrued or accruing to any citizen of the  
12 state of Washington under any employee benefit plan, and any fund  
13 created by such a plan or arrangement, shall be exempt from execution,  
14 attachment, garnishment, or seizure by or under any legal process  
15 whatever. This subsection includes all property in this state of the  
16 judgment debtor where the judgment is in favor of any state for failure  
17 to pay that state's income tax on benefits received from a pension or  
18 other retirement plan. This subsection shall not apply to child  
19 support collection actions issued under chapter 26.18, 26.23, or 74.20A  
20 RCW if otherwise permitted by federal law. This subsection shall  
21 permit benefits under any such plan or arrangement to be payable to a  
22 spouse, former spouse, child, or other dependent of a participant in  
23 such plan to the extent expressly provided for in a qualified domestic  
24 relations order that meets the requirements for such orders under the  
25 plan, or, in the case of benefits payable under a plan described in  
26 sections 403(b) or 408 of the internal revenue code of 1986, as  
27 amended, or section 409 of such code as in effect before January 1,  
28 1984, to the extent provided in any order issued by a court of  
29 competent jurisdiction that provides for maintenance or support. This  
30 subsection shall not prohibit actions against an employee benefit plan,

1 or fund for valid obligations incurred by the plan or fund for the  
2 benefit of the plan or fund.

3 (4) For the purposes of this section, the term "employee benefit  
4 plan" means any plan or arrangement that is described in RCW 49.64.020,  
5 including any Keogh plan, whether funded by a trust or by an annuity  
6 contract, and in sections 401(a) or 403(a) of the internal revenue code  
7 of 1986, as amended; or that is described in sections 403(b) or 408 of  
8 the internal revenue code of 1986, as amended, or section 409 of such  
9 code as in effect before January 1, 1984. The term "employee benefit  
10 plan" shall not include any employee benefit plan that is established  
11 or maintained for its employees by the government of the United States,  
12 by the state of Washington or any political subdivision thereof, or by  
13 any agency or instrumentality of any of the foregoing.

14 (5) An employee benefit plan shall be deemed to be a spendthrift  
15 trust, regardless of the source of funds, the relationship between the  
16 trustee or custodian of the plan and the beneficiary, or the ability of  
17 the debtor to withdraw or borrow or otherwise become entitled to  
18 benefits from the plan before retirement. This subsection shall not  
19 apply to child support collection actions issued under chapter 26.18,  
20 26.23, or 74.20A RCW, if otherwise permitted by federal law. This  
21 subsection shall permit benefits under any such plan or arrangement to  
22 be payable to a spouse, former spouse, child, or other dependent of a  
23 participant in such plan to the extent expressly provided for in a  
24 qualified domestic relations order that meets the requirements for such  
25 orders under the plan, or, in the case of benefits payable under a plan  
26 described in sections 403(b) or 408 of the internal revenue code of  
27 1986, as amended, or section 409 of such code as in effect before  
28 January 1, 1984, to the extent provided in any order issued by a court  
29 of competent jurisdiction that provides for maintenance or support.