

---

SENATE BILL 6352

---

State of Washington

61st Legislature

2010 Regular Session

By Senator Kline

Read first time 01/13/10. Referred to Committee on Judiciary.

1 AN ACT Relating to modifying provisions on personal property exempt  
2 from execution, attachment, and garnishment; and amending RCW 6.15.010,  
3 6.15.020, and 48.18.430.

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

5 **Sec. 1.** RCW 6.15.010 and 2005 c 272 s 6 are each amended to read  
6 as follows:

7 (1) Except as provided in RCW 6.15.050, the following personal  
8 property ~~((shall be))~~ is exempt from execution, attachment, and  
9 garnishment:

10 ~~((+1))~~ (a) All wearing apparel of every individual and family, but  
11 not to exceed ~~((one))~~ five thousand dollars in value in furs, jewelry,  
12 and personal ornaments for any individual.

13 ~~((+2))~~ (b) All private libraries including electronic media, which  
14 includes audio-visual, entertainment, or reference media in digital or  
15 analogue format, of every individual, but not to exceed ~~((fifteen~~  
16 ~~hundred))~~ three thousand dollars in value, and all family pictures and  
17 keepsakes.

18 ~~((+3))~~ (c) To each individual or, as to community property of

1 spouses maintaining a single household as against a creditor of the  
2 community, to the community:

3 ~~((a))~~ (i) The individual's or community's household goods,  
4 appliances, furniture, and home and yard equipment, not to exceed  
5 ~~((two))~~ ten thousand ~~((seven-hundred))~~ dollars in value for the  
6 individual or ~~((five))~~ fifteen thousand ~~((four-hundred))~~ dollars for  
7 the community, no single item to exceed seven hundred fifty dollars,  
8 said amount to include provisions and fuel for the comfortable  
9 maintenance of the individual or community;

10 ~~((b))~~ (ii) Other personal property, except personal earnings as  
11 provided under RCW 6.15.050(1), not to exceed ~~((two))~~ ten thousand  
12 dollars in value, of which not more than two thousand five hundred  
13 dollars in value may consist of cash, and of which not more than two  
14 thousand five hundred dollars in value may consist of bank accounts,  
15 savings and loan accounts, stocks, bonds, or other securities;

16 ~~((c))~~ (iii) For an individual, a motor vehicle used for personal  
17 transportation, not to exceed ~~((two))~~ five thousand ~~((five-hundred))~~  
18 dollars or for a community two motor vehicles used for personal  
19 transportation, not to exceed ~~((five))~~ ten thousand dollars in  
20 aggregate value;

21 ~~((d))~~ (iv) Any past due, current, or future child support paid or  
22 owed to the debtor, which can be traced;

23 ~~((e))~~ (v) All professionally prescribed health aids for the  
24 debtor or a dependent of the debtor; and

25 ~~((f))~~ (vi) To any individual, the right to or proceeds of a  
26 payment not to exceed ~~((sixteen))~~ twenty-five thousand ~~((one-hundred~~  
27 ~~fifty))~~ dollars on account of personal bodily injury, not including  
28 pain and suffering or compensation for actual pecuniary loss, of the  
29 debtor or an individual of whom the debtor is a dependent; or the right  
30 to or proceeds of a payment in compensation of loss of future earnings  
31 of the debtor or an individual of whom the debtor is or was a  
32 dependent, to the extent reasonably necessary for the support of the  
33 debtor and any dependent of the debtor. The exemption under this  
34 subsection ~~((3)(f))~~ (1)(c)(vi) does not apply to the right of the  
35 state of Washington, or any agent or assignee of the state, as a  
36 lienholder or subrogee under RCW 43.20B.060.

37 ~~((4))~~ (d) To each qualified individual, one of the following  
38 exemptions:

1        ~~((a))~~ (i) To a farmer, farm trucks, farm stock, farm tools, farm  
2 equipment, supplies and seed, not to exceed twenty-five thousand  
3 dollars in value;

4        ~~((b))~~ (ii) To a physician, surgeon, attorney, clergyman, or other  
5 professional person, the individual's library, office furniture, office  
6 equipment and supplies, not to exceed twenty-five thousand dollars in  
7 value;

8        ~~((c))~~ (iii) To any other individual, the tools and instruments  
9 and materials used to carry on his or her trade for the support of  
10 himself or herself or family, not to exceed twenty-five thousand  
11 dollars in value.

12        (e) Tuition units, under chapter 28B.95 RCW, purchased more than  
13 two years prior to the date of a bankruptcy filing or court judgment,  
14 and contributions to any other qualified tuition program under 26  
15 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and  
16 to a Coverdell education savings account, also known as an education  
17 individual retirement account, under 26 U.S.C. Sec. 530 of the internal  
18 revenue code of 1986, as amended, contributed more than two years prior  
19 to the date of a bankruptcy filing or court judgment.

20        (2) For purposes of this section, "value" means the reasonable  
21 market value of the debtor's interest in an article or item at the time  
22 it is selected for exemption, exclusive of all liens and encumbrances  
23 thereon.

24        ~~((5) Tuition units, under chapter 28B.95 RCW, purchased more than~~  
25 ~~two years prior to the date of a bankruptcy filing or court judgment.))~~

26        **Sec. 2.** RCW 6.15.020 and 2007 c 492 s 1 are each amended to read  
27 as follows:

28        (1) It is the policy of the state of Washington to ensure the well-  
29 being of its citizens by protecting retirement income to which they are  
30 or may become entitled. For that purpose generally and pursuant to the  
31 authority granted to the state of Washington under 11 U.S.C. Sec.  
32 522(b)(2), the exemptions in this section relating to retirement  
33 benefits are provided.

34        (2) Unless otherwise provided by federal law, any money received by  
35 any citizen of the state of Washington as a pension from the government  
36 of the United States, whether the same be in the actual possession of  
37 such person or be deposited or loaned, shall be exempt from execution,

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

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

28 (4) For the purposes of this section, the term "employee benefit  
29 plan" means any plan or arrangement that is described in RCW 49.64.020,  
30 including any Keogh plan, whether funded by a trust or by an annuity  
31 contract, and in 26 U.S.C. Sec((tions)). 401(a) or 403(a) of the  
32 internal revenue code of 1986, as amended; or that is a tax-sheltered  
33 annuity or a custodial account described in section 403(b) of such code  
34 or an individual retirement account or an individual retirement annuity  
35 described in section 408 of such code; or a Roth individual retirement  
36 account described in section 408A of such code; or a medical savings  
37 account or a health savings account described in sections 220 and 223,  
38 respectively, of such code; (~~or an education individual retirement~~

1 ~~account described in section 530 of such code~~) or a retirement bond  
2 described in section 409 of such code as in effect before January 1,  
3 1984. (~~The term "employee benefit plan" also means any rights~~  
4 ~~accruing on account of money paid currently or in advance for purchase~~  
5 ~~of tuition units under the advanced college tuition payment program in~~  
6 ~~chapter 28B.95 RCW.~~) The term "employee benefit plan" shall not  
7 include any employee benefit plan that is established or maintained for  
8 its employees by the government of the United States, by the state of  
9 Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37,  
10 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or  
11 instrumentality of the government of the United States.

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

29 (6) Unless (~~contrary to applicable~~) prohibited by federal law,  
30 nothing contained in subsection (3), (4), or (5) of this section shall  
31 be construed as a termination or limitation of a spouse's community  
32 property interest in an (~~individual retirement account~~) employee  
33 benefit plan held in the name of or on account of the other spouse, who  
34 is the participant or the account holder spouse. Unless prohibited by  
35 applicable federal law, at the death of the nonparticipant, nonaccount  
36 holder spouse, the nonparticipant, nonaccount holder spouse may  
37 transfer or distribute the community property interest of the  
38 nonparticipant, nonaccount holder spouse in the participant or account

1 holder spouse's (~~(individual retirement account)~~) employee benefit plan  
2 to the nonparticipant, nonaccount holder spouse's estate, testamentary  
3 trust, inter vivos trust, or other successor or successors pursuant to  
4 the last will of the nonparticipant, nonaccount holder spouse or the  
5 law of intestate succession, and that distributee may, but shall not be  
6 required to, obtain an order of a court of competent jurisdiction,  
7 including a nonjudicial (~~(dispute resolution)~~) binding agreement or  
8 (~~(other)~~) order entered under chapter 11.96A RCW, to confirm the  
9 distribution. For purposes of subsection (3) of this section, the  
10 distributee of the nonparticipant, nonaccount holder spouse's community  
11 property interest in an (~~(individual retirement account)~~) employee  
12 benefit plan shall be considered a person entitled to the full  
13 protection of subsection (3) of this section. The nonparticipant,  
14 nonaccount holder spouse's consent to a beneficiary designation by the  
15 participant or account holder spouse with respect to an (~~(individual~~  
16 ~~retirement account)~~) employee benefit plan shall not, absent clear and  
17 convincing evidence to the contrary, be deemed a release, gift,  
18 relinquishment, termination, limitation, or transfer of the  
19 nonparticipant, nonaccount holder spouse's community property interest  
20 in an (~~(individual retirement account)~~) employee benefit plan. For  
21 purposes of this subsection, the term "nonparticipant, nonaccount  
22 holder spouse" means the spouse of the person who is a participant in  
23 an employee benefit plan or in whose name (~~(the)~~) an individual  
24 retirement account is maintained. (~~(The term "individual retirement~~  
25 ~~account" includes an individual retirement account and an individual~~  
26 ~~retirement annuity both as described in section 408 of the internal~~  
27 ~~revenue code of 1986, as amended, a Roth individual retirement account~~  
28 ~~as described in section 408A of the internal revenue code of 1986, as~~  
29 ~~amended, and an individual retirement bond as described in section 409~~  
30 ~~of the internal revenue code as in effect before January 1, 1984.)) As~~  
31 used in this subsection, an order of a court of competent jurisdiction  
32 entered under chapter 11.96A RCW includes an agreement, as that term is  
33 used under RCW 11.96A.220.

34 **Sec. 3.** RCW 48.18.430 and 2005 c 223 s 10 are each amended to read  
35 as follows:

36 (1) The benefits, rights, privileges, and options under any annuity  
37 contract that are due the annuitant who paid the consideration for the

1 annuity contract are not subject to execution and the annuitant may not  
2 be compelled to exercise those rights, powers, or options, and  
3 creditors are not allowed to interfere with or terminate the contract,  
4 except:

5 (a) As to amounts paid for or as premium on an annuity with intent  
6 to defraud creditors, with interest thereon, and of which the creditor  
7 has given the insurer written notice at its home office prior to making  
8 the payments to the annuitant out of which the creditor seeks to  
9 recover. The notice must specify the amount claimed or the facts that  
10 will enable the insurer to determine the amount, and must set forth the  
11 facts that will enable the insurer to determine the insurance or  
12 annuity contract, the person insured or annuitant and the payments  
13 sought to be avoided on the basis of fraud.

14 (b) The total exemption of benefits presently due and payable to an  
15 annuitant periodically or at stated times under all annuity contracts  
16 may not at any time exceed ((two)) five thousand ((five hundred))  
17 dollars per month for the length of time represented by the  
18 installments, and a periodic payment in excess of ((two)) five thousand  
19 ((five hundred)) dollars per month is subject to garnishee execution to  
20 the same extent as are wages and salaries.

21 (c) If the total benefits presently due and payable to an annuitant  
22 under all annuity contracts at any time exceeds payment at the rate of  
23 ((two)) five thousand ((five hundred)) dollars per month, then the  
24 court may order the annuitant to pay to a judgment creditor or apply on  
25 the judgment, in installments, the portion of the excess benefits that  
26 the court determines to be just and proper, after due regard for the  
27 reasonable requirements of the judgment debtor and the judgment  
28 debtor's dependent family, as well as any payments required to be made  
29 by the annuitant to other creditors under prior court orders.

30 (2) The benefits, rights, privileges, or options accruing under an  
31 annuity contract to a beneficiary or assignee are not transferable or  
32 subject to commutation, and if the benefits are payable periodically or  
33 at stated times, the same exemptions and exceptions contained in this  
34 section for the annuitant apply to the beneficiary or assignee.

35 (3) An annuity contract within the meaning of this section is any  
36 obligation to pay certain sums at stated times, during life or lives,  
37 or for a specified term or terms, issued for a valuable consideration,  
38 regardless of whether or not the sums are payable to one or more

1 persons, jointly or otherwise, but does not include payments under life  
2 insurance contracts at stated times during life or lives, or for a  
3 specified term or terms.

--- END ---