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ENGROSSED SUBSTITUTE HOUSE BILL 1105

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Revenue (originally sponsored by Representatives Jones, Betrozoff, Kremen, Dellwo, Hargrove, Inslee, Miller, Fraser, Haugen, Wilson, Winsley, Ferguson, Riley, Broback, Edmondson, D. Sommers, May, Wynne, Chandler, Brumsickle and Orr).

Read first time March 11, 1991.

1 AN ACT Relating to exempting property from execution; and amending  
2 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 by  
13 any citizen of the state of Washington as a pension from the government  
14 of the United States, whether the same be in the actual possession of  
15 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, and any property in this state  
12 of the judgment debtor where the judgment is for failure to pay state  
13 income tax on benefits received by the judgment debtor while a resident  
14 of this state from a pension or other retirement plan shall be exempt  
15 from execution, attachment, garnishment, or seizure by or under any  
16 legal process whatever. This subsection shall not apply to child  
17 support collection actions issued under chapter 26.18, 26.23, or 74.20A  
18 RCW if otherwise permitted by federal law. This subsection shall  
19 permit benefits under any such plan or arrangement to be payable to a  
20 spouse, former spouse, child, or other dependent of a participant in  
21 such plan to the extent expressly provided for in a qualified domestic  
22 relations order that meets the requirements for such orders under the  
23 plan, or, in the case of benefits payable under a plan described in  
24 sections 403(b) or 408 of the internal revenue code of 1986, as  
25 amended, or section 409 of such code as in effect before January 1,  
26 1984, to the extent provided in any order issued by a court of  
27 competent jurisdiction that provides for maintenance or support. This  
28 subsection shall not prohibit actions against an employee benefit plan,  
29 or fund for valid obligations incurred by the plan or fund for the  
30 benefit of the plan or fund.

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

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 sections 403(b) or 408 of the internal revenue code of  
25 1986, as amended, or section 409 of such code as in effect before  
26 January 1, 1984, to the extent provided in any order issued by a court  
27 of competent jurisdiction that provides for maintenance or support.