

SENATE BILL No. 370

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-3-2-17; IC 34-55-10-2.

Synopsis: Exemptions from seizure of property. Exempts worker's compensation benefits received from other states from the claims of creditors. Increases the bankruptcy exemption for intangible personal property from \$300 to \$1,200.

Effective: July 1, 2011.

Mrvan

January 11, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 370



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-3-2-17 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) Except as
3 provided in subsection (b), no claims for compensation under IC 22-3-2
4 through IC 22-3-6 **or under the worker's compensation program of**
5 **any other state** shall be assignable, and all compensation and claims
6 therefor shall be exempt from all claims of creditors.

7 (b) Compensation awards under IC 22-3-2 through IC 22-3-6 **or**
8 **under the worker's compensation program of any other state** are
9 subject to child support income withholding under IC 31-16-15 and
10 other remedies available for the enforcement of a child support order.
11 The maximum amount that may be withheld under this subsection is
12 one-half (1/2) of the compensation award.

13 SECTION 2. IC 34-55-10-2, AS AMENDED BY P.L.53-2010,
14 SECTION 1, AND AS AMENDED BY P.L.44-2010, SECTION 1, IS
15 CORRECTED AND AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This section does not apply
17 to judgments obtained before October 1, 1977.



1 (b) The amount of each exemption under subsection (c) applies until
2 a rule is adopted by the department of financial institutions under
3 section 2.5 of this chapter.

4 (c) The following property of a debtor domiciled in Indiana is
5 exempt:

6 (1) Real estate or personal property constituting the personal or
7 family residence of the debtor or a dependent of the debtor, or
8 estates or rights in that real estate or personal property, of not
9 more than fifteen thousand dollars (\$15,000). The exemption
10 under this subdivision is individually available to joint debtors
11 concerning property held by them as tenants by the entireties.

12 (2) Other real estate or tangible personal property of eight
13 thousand dollars (\$8,000).

14 (3) Intangible personal property, including choses in action,
15 deposit accounts, and cash (but excluding debts owing and
16 income owing), of ~~three hundred one thousand two hundred~~
17 **dollars (\$300): (\$1,200).**

18 (4) Professionally prescribed health aids for the debtor or a
19 dependent of the debtor.

20 (5) Any interest that the debtor has in real estate held as a tenant
21 by the entireties. The exemption under this subdivision does not
22 apply to a debt for which the debtor and the debtor's spouse are
23 jointly liable.

24 (6) An interest, whether vested or not, that the debtor has in a
25 retirement plan or fund to the extent of:

26 (A) contributions, or portions of contributions, that were made
27 to the retirement plan or fund by or on behalf of the debtor or
28 the debtor's spouse:

29 (i) which were not subject to federal income taxation to the
30 debtor at the time of the contribution; or

31 (ii) which are made to an individual retirement account in
32 the manner prescribed by Section 408A of the Internal
33 Revenue Code of 1986;

34 (B) earnings on contributions made under clause (A) that are
35 not subject to federal income taxation at the time of the levy;
36 and

37 (C) roll-overs of contributions made under clause (A) that are
38 not subject to federal income taxation at the time of the levy.

39 (7) Money that is in a medical care savings account established
40 under IC 6-8-11.

41 (8) Money that is in a health savings account established under
42 Section 223 of the Internal Revenue Code of 1986.

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(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

- (A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;
- (B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or
- (C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision (10) having the same designated beneficiary:
 - (i) not later than one (1) year before; and
 - (ii) not earlier than two (2) years before;
 the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

- (A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;
- (B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or
- (C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision (9) having the same designated beneficiary:
 - (i) not later than one (1) year before; and
 - (ii) not earlier than two (2) years before;
 the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be received under *the following*:

- (A) Section 32 of the Internal Revenue Code of 1986 (*the federal earned income tax credit*).

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1 (B) IC 6-3.1-21-6 (the Indiana earned income tax credit).
 2 (12) A disability benefit awarded to a veteran for a service
 3 connected disability under 38 U.S.C. 1101 et seq. This
 4 subdivision does not apply to a service connected disability
 5 benefit that is subject to child and spousal support enforcement
 6 under 42 U.S.C. 659(h)(1)(A)(ii)(V).
 7 (d) A bankruptcy proceeding that results in the ownership by the
 8 bankruptcy estate of a debtor's interest in property held in a tenancy by
 9 the entirety does not result in a severance of the tenancy by the
 10 entireties.
 11 (e) Real estate or personal property upon which a debtor has
 12 voluntarily granted a lien is not, to the extent of the balance due on the
 13 debt secured by the lien:
 14 (1) subject to this chapter; or
 15 (2) exempt from levy or sale on execution or any other final
 16 process from a court.

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