

Committee on Banking and Insurance

HB 469 — Individual Retirement Accounts

by Rep. Stargel (SB 978 by Senator Flores and Diaz de la Portilla)

The bill amends s. 222.21(2)(c), F.S., to provide that an Individual Retirement Account (IRA) exempt from creditors under s. 222.21(2)(a), F.S., would continue to be exempt if the original IRA were transferred into an Inherited IRA.

The bill contains "whereas" clauses to express the Legislature's intent that an Inherited IRA, as defined in the Internal Revenue Code of 1986, was intended to be exempt from the claims of creditors and that the decisions in *Robertson v. Deeb* and *In re: Ard* are contrary to the Legislature's intent in 2005.

The bill amends s. 222.21(2)(c), F.S., to provide that an IRA exempt from creditors under s. 222.21(2)(a), F.S., would continue to be exempt if the original IRA were transferred into an Inherited IRA. Under the proposed changes, when an owner of an IRA passes away, his or her named beneficiary would continue to enjoy the protection from creditors that the original owner enjoyed under s. 222.21(2)(a), F.S. This protection would most likely extend to protection in bankruptcy proceedings, as well.

The bill contains language indicating the provisions are clarifying and shall apply retroactively to all Inherited IRA's regardless of when an Inherited IRA was created.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-0