

1 A bill to be entitled
2 An act relating to debtors and creditors;
3 amending s. 222.21, F.S.; providing an
4 exemption from legal process; providing an
5 effective date.

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7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Section 222.21, Florida Statutes, is
10 amended to read:

11 222.21 Exemption of pension money and retirement or
12 profit-sharing benefits from legal processes.--

13 (1) Money received by any debtor as pensioner of the
14 United States within 3 months next preceding the issuing of an
15 execution, attachment, or garnishment process may not be
16 applied to the payment of the debts of the pensioner when it
17 is made to appear by the affidavit of the debtor or otherwise
18 that the pension money is necessary for the maintenance of the
19 debtor's support or a family supported wholly or in part by
20 the pension money. The filing of the affidavit by the debtor,
21 or the making of such proof by the debtor, is prima facie
22 evidence; and it is the duty of the court in which the
23 proceeding is pending to release all pension moneys held by
24 such attachment or garnishment process, immediately, upon the
25 filing of such affidavit or the making of such proof.

26 (2)(a) Except as provided in paragraph (b), any money
27 or other assets payable to a participant or beneficiary from,
28 or any interest of any participant or beneficiary in, a
29 retirement or profit-sharing plan that is qualified under s.
30 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, or s. 409 of

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1 the Internal Revenue Code of 1986, as amended, is exempt from
2 all claims of creditors of the beneficiary or participant.
3 (b) Any plan or arrangement described in paragraph (a)
4 is not exempt from the claims of an alternate payee under a
5 qualified domestic relations order. However, the interest of
6 any alternate payee under a qualified domestic relations order
7 is exempt from all claims of any creditor, other than the
8 Department of Health and Rehabilitative Services, of the
9 alternate payee. As used in this paragraph, the terms
10 "alternate payee" and "qualified domestic relations order"
11 have the meanings ascribed to them in s. 414(p) of the
12 Internal Revenue Code of 1986.

13 (c) The provisions of paragraphs (a) and (b) apply to
14 any proceeding that is filed on or after October 1, 1987.

15 Section 2. This act shall take effect October 1, 1998.
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