

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 981 Value of Motor Vehicles Exempt from Legal Process

**SPONSOR(S):** Benjamin

**TIED BILLS:** IDEN./SIM. BILLS: SB 1014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	16 Y, 0 N	Mathews	Jones
2) Insurance & Banking Subcommittee			
3) Judiciary Committee			

**SUMMARY ANALYSIS**

The Florida Constitution allows a debtor to exempt a homestead property, regardless of value, from the claims of creditors as long as it is used as a residence. In addition to this constitutional exemption of homestead property and other personal property, Florida law protects certain assets from legal process so that they remain beyond a creditor’s reach, including:

- Funds held in individual retirement accounts (“IRA”) and other tax-exempt accounts.
- The cash surrender value of a life insurance policy and the proceeds of an annuity contract.
- Funds held in qualified tuition programs and medical, Coverdell education, and hurricane savings accounts.
- Disability income benefits.
- Wages, unless the debtor agrees to waive the exemption in writing.
- Social security benefits; unemployment compensation, or public assistance benefits; veterans’ benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.
- A debtor’s interest in any professionally prescribed health aids for the debtor or for a debtor’s dependent.
- A debtor’s interest in a refund or a credit received or to be received pursuant to the Internal Revenue Code; however, this exemption is not applicable to a debt owed for child support or spousal support.
- A debtor’s interest in personal property, not to exceed \$4,000, if the debtor does not claim or receive the benefits of a homestead exemption; however, this exemption is not applicable to a debt owed for child support or spousal support.
- A debtor’s interest, not to exceed \$1,000 in value, in a single motor vehicle.

HB 981 increases the maximum value of an exempt motor vehicle from \$1,000 to \$5,000.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Constitutional Exemptions

The Florida Constitution allows a debtor to exempt a homestead property, regardless of value, from the claims of creditors as long as it is used as a residence as well as up to \$1,000 in personal property.<sup>1</sup>

##### Other Asset Exemptions

In addition to the exemption of homestead property and personal property provided by the Florida Constitution, chapter 222, F.S., protects certain assets from legal process so that they remain out of a creditor's reach, including:

- Funds held in an individual retirement account ("IRA") and other tax-exempt accounts.<sup>2</sup>
- A life insurance policy's proceeds.<sup>3</sup>
- A life insurance policy's cash surrender value and an annuity contract's proceeds.<sup>4</sup>
- Funds held in qualified tuition programs and medical, Coverdell education, and hurricane savings accounts.<sup>5</sup>
- Disability income benefits.<sup>6</sup>
- Wages, unless the debtor agrees to waive the exemption in writing.<sup>7</sup>
- Certain personal property items.<sup>8</sup>
- Any professionally prescribed health aides.<sup>9</sup>
- Social security benefits; unemployment compensation, or public assistance benefits; veterans' benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.<sup>10</sup>
- A debtor's interest in a motor vehicle, up to \$1,000 in value.<sup>11</sup>

Historically, exempt assets have remained exempt from a creditor's reach unless specifically pledged in a security agreement.<sup>12</sup>

#### Effect of Proposed Changes

HB 981 amends section 222.25, F.S., to increase the maximum value for a single exempt motor vehicle from \$1,000 to \$5,000. The maximum value has not been amended since s. 222.25, F.S., was created in 1993.

The bill provides an effective date of July 1, 2023.

### B. SECTION DIRECTORY:

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<sup>1</sup> Art. X, s. 4, Fla. Const.

<sup>2</sup> S. 222.21, F.S.

<sup>3</sup> S. 222.13, F.S.

<sup>4</sup> S. 222.14, F.S.

<sup>5</sup> S. 222.22, F.S.

<sup>6</sup> S. 222.18, F.S.

<sup>7</sup> Ss. 222.11 and 225.15, F.S.

<sup>8</sup> S. 222.061, F.S.

<sup>9</sup> S. 222.25, F.S.

<sup>10</sup> S. 222.201, F.S.

<sup>11</sup> S. 222.25(1), F.S.

<sup>12</sup> Real Property, Probate, and Trust Law Section of the Florida Bar ("RPPTL"), *White Paper* (Jan. 26, 2021); see, e.g., *Havoco of Am. Ltd. v. Hill*, 790 So. 2d 1018 (Fla. 2001); *Connor v. Seaside Nat'l Bank*, 135 So. 3d 508 (Fla. 5th DCA 2014); *Killian v. Lawson*, 387 So. 2d 960 (Fla. 1980).

**Section 1:** Amends s. 222.25, F.S., relating to other individual property of natural persons exempt from legal process.

**Section 2:** Provides an effective date of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

Not applicable.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

During the 2022 session, the Legislature passed CS/HB 265. CS/HB 265 was substantively similar to HB 981, except that it contained a provision limiting the exemption to bankruptcy proceedings. The Governor vetoed the bill due to the limitation of the exemption to only Floridians in bankruptcy. However, the Governor noted in his veto message that the exemption value is likely ripe for an increase.<sup>13</sup>

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<sup>13</sup> See Veto Letter of Ron DeSantis, Governor (May 20, 2022), <https://www.flgov.com/wp-content/uploads/2022/05/5.20.22-Transmittal-Letters.pdf> (last visited Mar. 23, 2023).

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**