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BILL ANALYSIS



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Senate Bill 409 (Substitute S-1)
Sponsor: Senator Mary Cavanagh
Committee: Finance, Insurance, and Consumer Protection

Date Completed: 6-21-24

CONTENT

The bill would amend Chapter 54A (Bankruptcy) of the Revised Judicature Act to do the following:

- **Modify the value of types of property and expand the types of property exempt from inclusion in a debtor's estate.**
- **Require the State Treasurer to adjust the dollar amount for exempt homestead property based on national home pricing data every three years.**

The bill only would apply to bankruptcy cases filed on or after its effective date.

Generally, an individual who can no longer pay the individual's debts may file for either Chapter 13 or Chapter 7 bankruptcy, if eligible.¹ Under Chapter 13 bankruptcy, a debtor with a regular income must develop and propose a repayment plan to make installments to creditors over three to five years. Under Chapter 7 bankruptcy, an assigned bankruptcy trustee gathers and sells the debtor's nonexempt assets, using the proceeds of the sale to pay the debtor's creditors.

The U.S. Bankruptcy Code allows an individual debtor to exempt certain property from the debtor's estate, including certain retirement funds, professionally prescribed health aids, social security benefits, unemployment compensation, or local public assistance benefits, among others.² Under Chapter 7 bankruptcy, exempt property cannot be sold to pay creditors. Under Chapter 13 bankruptcy, exempt property is not included in the calculation of the value of a debtor's estate, which is used to calculate the monthly payment required in a debt reorganization plan.

Changes to Exempt Property

The Code also allows states to establish their own bankruptcy property exemptions. In Michigan, a debtor may elect to abide by Federal or State exemptions. The bill would modify the types of property a debtor could exempt from the debtor's estate under State law as follows.

¹ Referring to Chapter 7 and Chapter 13 of the U.S. Bankruptcy Code. For more information on individual eligibility for Chapter 7 bankruptcy, see www.uscourts.gov.

² For more information on Federally exempt property, see uscode.house.gov.

Type of property	Current Value	Proposed Value
The interest, not to exceed a value of \$450 in each item and an aggregate value of... in household goods, furniture, utensils, books, appliances, and jewelry.	\$3,000	\$5,000
The interest, not to exceed... in value, of crops, farm animals, and feed for the farm animals.	\$2,000	\$10,000
The interest, not to exceed... in value, of one motor vehicle.	\$2,775	\$15,000
The interest, not to exceed... in value, of the tools, materials, stock, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged.	\$2,000	\$10,000
The interest of the debtor, the codebtor, and the debtor's dependents, not to exceed... in value of a homestead. ³	\$30,000	\$125,000
<i>If the debtor or a dependent of the debtor is 65 years of age or older or disabled, the interest of the debtor, the codebtor, and the debtor's dependents, not to exceed... in value of a homestead.</i>	\$45,000	\$200,000
The interest, not to exceed..., in one computer and its accessories.	\$500	\$5,000

The bill would modify the latter exemption to include multiple computers and computer accessories, such as mobile computing devices and mobile phones. Additionally, it would provide that, if the interest of a debtor in a homestead did not exceed the applicable exemption amount provided on the date the bankruptcy petition was filed, any increase in the value of the debtor's interest in the homestead during the process of the case would be exempt.

Currently, a seat, pew, or slip occupied by the debtor or the debtor's family in a house or place of public worship, as well as household pets, are exempt from inclusion in a debtor's estate if they are valued at under \$500. The bill would delete these monetary limits, exempting these types of property from inclusion in an estate no matter their worth. It also would add to these exemptions companion animals and service animals.

Additionally, the bill would allow the following property to be exempted from a debtor's estate:

- Any money paid or to be paid because the debtor or a dependent of the debtor was a crime victim.

³ "Homestead" means one of the following owned or being purchased under an executory contract by the debtor that the debtor or a dependent of the debtor occupies as his or her principal residence: 1) if the land is located outside of a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 40 acres; 2) if the land is located within a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding one lot or parcel; 3) a residential dwelling situated on land not owned by the debtor; 4) a condominium unit; 5) A unit in a cooperative; 6) a motor home; and 7) a boat or other watercraft.

- The debtor's interest in or money held in a bank account that the debtor received within the previous 18 months as payment of any means-tested public assistance benefits, unemployment compensation benefits, Federal earned income tax credit, State tax credit equal to an earned income tax credit, or a similar credit under a program of the State or a local unit of government providing an earned income tax credit, disability benefits, or worker's compensation benefits.⁴
- In addition to current State exemptions and those proposed by the bill, the debtor's aggregate interest in any property, not to exceed in value \$1,475, plus up to \$13,950 of any unused amount of the homestead exemption.

Under the bill, the value of property to which an exemption was applied and the adjusted value of the exemption would have to be determined on the date the bankruptcy petition was filed.

The bill specifies that, in a joint bankruptcy case, the Act's and bill's property exemptions would apply fully for each debtor. The exemptions also would apply to all property held in a revocable trust of which the debtor was the settlor to the same extent the property would be exempt if it were not held in trust.

Adjusted Dollar Amount for Home Price Index

Currently, the State Treasurer is required to adjust each dollar amount in Section 5451 of the Act (the section that the bill would amend) at the end of each three-year period after March 1, 2005. The next required adjustment period will be on March 1, 2026. This adjusted dollar amount must reflect the cumulative change in the Consumer Price Index (CPI) for the three-year period ending on the December 31 preceding the adjustment date.⁵ The adjusted dollar amount must be rounded to the nearest \$25. The State Treasurer must publish the adjusted dollar amounts.

Under the bill, at the end of the first three-year adjustment period after the bill's effective date and at the end of each three-year period after, the State Treasurer would have to adjust the dollar amounts for exempt homestead value by an amount determined to reflect the cumulative change in the home price index for the period beginning on the bill's effective date and ending on the December 31 preceding the first adjustment for the first adjustment, and for the three-year period ending on the December 31 preceding the adjustment date for each subsequent adjustment. The adjusted dollar amount would have to be rounded to the nearest \$25. The State Treasurer would have to publish the adjusted dollar amounts.

"Home price index" would mean the Federal Housing Finance Agency (FHFA) House Price Index, calculated and published by the FHFA, or, if that index is no longer calculated and published, the most similar index available.⁶

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Legislative Analyst: Nathan Leaman

⁴ The source of money held in a bank account would have to be determined by applying a first-in, first-out assumption.

⁵ The CPI is a measure of the average change over time in the prices paid by consumers for a market basket of consumer goods and services and is calculated by the United States Bureau of Labor Statistics.

⁶ The FHFA House Price Index is a comprehensive collection of publicly available house price indexes that measure changes in single-family home values.

FISCAL IMPACT

This bill would have a minor fiscal impact on the State Treasurer in the form of administrative costs as it would require Treasury to adjust debtors' interest every three years to reflect cumulative changes in the home price index.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.