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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

SENATE BILL NO. 598

(By Senator Kessler, et al)

PASSED March 8, 2002

In Effect 90 days from **Passage**

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Senate Bill No. 598

(BY SENATORS KESSLER, ROWE, EDGELL AND MINARD)

[Passed March 8, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exemptions of property in bankruptcy proceedings.

Be it enacted by the Legislature of West Virginia:

That section four, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

1 Pursuant to the provisions of 11 U.S.C. §522(b)(1), this
2 state specifically does not authorize debtors who are
3 domiciled in this state to exempt the property specified
4 under the provisions of 11 U.S.C. §522(d).

5 Any person who files a petition under the federal
6 bankruptcy law may exempt from property of the estate in
7 a bankruptcy proceeding the following property:

8 (a) The debtor's interest, not to exceed twenty-five
9 thousand dollars in value, in real property or personal
10 property that the debtor or a dependent of the debtor uses
11 as a residence, in a cooperative that owns property that the
12 debtor or a dependent of the debtor uses as a residence or
13 in a burial plot for the debtor or a dependent of the debtor.

14 (b) The debtor's interest, not to exceed two thousand
15 four hundred dollars in value, in one motor vehicle.

16 (c) The debtor's interest, not to exceed four hundred
17 dollars in value in any particular item, in household
18 furnishings, household goods, wearing apparel, appliances,
19 books, animals, crops or musical instruments that are held
20 primarily for the personal, family or household use of the
21 debtor or a dependent of the debtor: *Provided*, That the
22 total amount of personal property exempted under this
23 subsection may not exceed eight thousand dollars.

24 (d) The debtor's interest, not to exceed one thousand
25 dollars in value, in jewelry held primarily for the personal,
26 family or household use of the debtor or a dependent of the
27 debtor.

28 (e) The debtor's interest, not to exceed in value eight
29 hundred dollars plus any unused amount of the exemption
30 provided under subsection (a) of this section in any
31 property.

32 (f) The debtor's interest, not to exceed one thousand five
33 hundred dollars in value, in any implements, professional
34 books or tools of the trade of the debtor or the trade of a
35 dependent of the debtor.

36 (g) Any unmeasured life insurance contract owned by the
37 debtor, other than a credit life insurance contract.

38 (h) The debtor's interest, not to exceed in value eight
39 thousand dollars less any amount of property of the estate
40 transferred in the manner specified in 11 U.S.C. §542(d),
41 in any accrued dividend or interest under, or loan value of,
42 any unmeasured life insurance contract owned by the
43 debtor under which the insured is the debtor or an individ-
44 ual of whom the debtor is a dependent.

45 (i) Professionally prescribed health aids for the debtor or
46 a dependent of the debtor.

47 (j) The debtor's right to receive:

48 (1) A social security benefit, unemployment compensa-
49 tion or a local public assistance benefit;

50 (2) A veterans' benefit;

51 (3) A disability, illness or unemployment benefit;

52 (4) Alimony, support or separate maintenance, to the
53 extent reasonably necessary for the support of the debtor
54 and any dependent of the debtor;

55 (5) A payment under a stock bonus, pension, profit
56 sharing, annuity or similar plan or contract on account of
57 illness, disability, death, age or length of service, to the
58 extent reasonably necessary for the support of the debtor
59 and any dependent of the debtor, and funds on deposit in
60 an individual retirement account (IRA), including a
61 simplified employee pension (SEP) regardless of the
62 amount of funds, unless:

63 (A) The plan or contract was established by or under the
64 auspices of an insider that employed the debtor at the time
65 the debtor's rights under the plan or contract arose;

66 (B) The payment is on account of age or length of service;

67 (C) The plan or contract does not qualify under Section
68 401(a), 403(a), 403(b), 408 or 409 of the Internal Revenue
69 Code of 1986; and

70 (D) With respect to an individual retirement account,
71 including a simplified employee pension, the amount is
72 subject to the excise tax on excess contributions under
73 Section 4973 and/or Section 4979 of the Internal Revenue
74 Code of 1986, or any successor provisions, regardless of
75 whether the tax is paid.

76 (k) The debtor's right to receive or property that is
77 traceable to:

78 (1) An award under a crime victim's reparation law;

79 (2) A payment on account of the wrongful death of an
80 individual of whom the debtor was a dependent, to the
81 extent reasonably necessary for the support of the debtor
82 and any dependent of the debtor;

83 (3) A payment under a life insurance contract that
84 insured the life of an individual of whom the debtor was a
85 dependent on the date of the individual's death, to the
86 extent reasonably necessary for the support of the debtor
87 and any dependent of the debtor;

88 (4) A payment, not to exceed fifteen thousand dollars on
89 account of personal bodily injury, not including pain and
90 suffering or compensation for actual pecuniary loss, of the
91 debtor or an individual of whom the debtor is a dependent;

92 (5) A payment in compensation of loss of future earnings
93 of the debtor or an individual of whom the debtor is or was
94 a dependent, to the extent reasonably necessary for the
95 support of the debtor and any dependent of the debtor;

96 (6) Payments made to the prepaid tuition trust fund or to
97 the savings plan trust fund, including earnings, in accor-
98 dance with article thirty, chapter eighteen of this code on
99 behalf of any beneficiary.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Emily Jones
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell Edwards
.....
Clerk of the Senate

Bryce W. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 3rd
Day of April, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

COMMISSIONER

Date 3/25/02

Time 11:30am