

As Introduced

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H. B. No. 37

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A B I L L

To amend section 2329.66 and to enact section 1
2329.663 of the Revised Code to permit the 2
attachment of retirement accounts in certain 3
situations. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2329.66 be amended and section 5
2329.663 of the Revised Code be enacted to read as follows: 6

Sec. 2329.66. (A) Every person who is domiciled in this state 7
may hold property exempt from execution, garnishment, attachment, 8
or sale to satisfy a judgment or order, as follows: 9

(1)(a) In the case of a judgment or order regarding money 10
owed for health care services rendered or health care supplies 11
provided to the person or a dependent of the person, one parcel or 12
item of real or personal property that the person or a dependent 13
of the person uses as a residence. Division (A)(1)(a) of this 14
section does not preclude, affect, or invalidate the creation 15
under this chapter of a judgment lien upon the exempted property 16
but only delays the enforcement of the lien until the property is 17
sold or otherwise transferred by the owner or in accordance with 18

other applicable laws to a person or entity other than the
surviving spouse or surviving minor children of the judgment
debtor. Every person who is domiciled in this state may hold
exempt from a judgment lien created pursuant to division (A)(1)(a)
of this section the person's interest, not to exceed five thousand
dollars, in the exempted property.

(b) In the case of all other judgments and orders, the
person's interest, not to exceed five thousand dollars, in one
parcel or item of real or personal property that the person or a
dependent of the person uses as a residence.

(2) The person's interest, not to exceed one thousand
dollars, in one motor vehicle;

(3) The person's interest, not to exceed two hundred dollars
in any particular item, in wearing apparel, beds, and bedding, and
the person's interest, not to exceed three hundred dollars in each
item, in one cooking unit and one refrigerator or other food
preservation unit;

(4)(a) The person's interest, not to exceed four hundred
dollars, in cash on hand, money due and payable, money to become
due within ninety days, tax refunds, and money on deposit with a
bank, savings and loan association, credit union, public utility,
landlord, or other person. Division (A)(4)(a) of this section
applies only in bankruptcy proceedings. This exemption may include
the portion of personal earnings that is not exempt under division
(A)(13) of this section.

(b) Subject to division (A)(4)(d) of this section, the
person's interest, not to exceed two hundred dollars in any
particular item, in household furnishings, household goods,
appliances, books, animals, crops, musical instruments, firearms,
and hunting and fishing equipment, that are held primarily for the
personal, family, or household use of the person;

(c) Subject to division (A)(4)(d) of this section, the person's interest in one or more items of jewelry, not to exceed four hundred dollars in one item of jewelry and not to exceed two hundred dollars in every other item of jewelry;

(d) Divisions (A)(4)(b) and (c) of this section do not include items of personal property listed in division (A)(3) of this section.

If the person does not claim an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed two thousand dollars. If the person claims an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed one thousand five hundred dollars.

(5) The person's interest, not to exceed an aggregate of seven hundred fifty dollars, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture;

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;

(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;

(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;

(d) The person's interest in money, benefits, charity,	80
relief, or aid to be paid, provided, or rendered by a fraternal	81
benefit society, as exempted by section 3921.18 of the Revised	82
Code;	83
(e) The person's interest in the portion of benefits under	84
policies of sickness and accident insurance and in lump sum	85
payments for dismemberment and other losses insured under those	86
policies, as exempted by section 3923.19 of the Revised Code.	87
(7) The person's professionally prescribed or medically	88
necessary health aids;	89
(8) The person's interest in a burial lot, including, but not	90
limited to, exemptions under section 517.09 or 1721.07 of the	91
Revised Code;	92
(9) The person's interest in the following:	93
(a) Moneys paid or payable for living maintenance or rights,	94
as exempted by section 3304.19 of the Revised Code;	95
(b) Workers' compensation, as exempted by section 4123.67 of	96
the Revised Code;	97
(c) Unemployment compensation benefits, as exempted by	98
section 4141.32 of the Revised Code;	99
(d) Cash assistance payments under the Ohio works first	100
program, as exempted by section 5107.75 of the Revised Code;	101
(e) Benefits and services under the prevention, retention,	102
and contingency program, as exempted by section 5108.08 of the	103
Revised Code;	104
(f) Disability financial assistance payments, as exempted by	105
section 5115.06 of the Revised Code.	106
(10)(a) Except in cases in which the person was convicted of	107
or pleaded guilty to a violation of section 2921.41 of the Revised	108

Code and in which an order for the withholding of restitution from 109
payments was issued under division (C)(2)(b) of that section or in 110
cases in which an order for withholding was issued under section 111
2907.15 of the Revised Code, and only to the extent provided in 112
the order, and except as provided in sections 2329.663, 3105.171, 113
3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 114
Revised Code, the person's right to a pension, benefit, annuity, 115
retirement allowance, or accumulated contributions, the person's 116
right to a participant account in any deferred compensation 117
program offered by the Ohio public employees deferred compensation 118
board, a government unit, or a municipal corporation, or the 119
person's other accrued or accruing rights, as exempted by section 120
145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of 121
the Revised Code, and the person's right to benefits from the Ohio 122
public safety officers death benefit fund; 123

(b) Except as provided in sections 2329.663, 3119.80, 124
3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the 125
person's right to receive a payment under any pension, annuity, or 126
similar plan or contract, not including a payment from a stock 127
bonus or profit-sharing plan or a payment included in division 128
(A)(6)(b) or (10)(a) of this section, on account of illness, 129
disability, death, age, or length of service, to the extent 130
reasonably necessary for the support of the person and any of the 131
person's dependents, except if all the following apply: 132

(i) The plan or contract was established by or under the 133
auspices of an insider that employed the person at the time the 134
person's rights under the plan or contract arose. 135

(ii) The payment is on account of age or length of service. 136

(iii) The plan or contract is not qualified under the 137
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 138
amended. 139

(c) Except for any portion of the assets that were deposited 140
for the purpose of evading the payment of any debt and except as 141
provided in sections 2329.663, 3119.80, 3119.81, 3121.02, 3121.03, 142
and 3123.06 of the Revised Code, the person's right in the assets 143
held in, or to receive any payment under, any individual 144
retirement account, individual retirement annuity, "Roth IRA," or 145
education individual retirement account that provides benefits by 146
reason of illness, disability, death, or age, to the extent that 147
the assets, payments, or benefits described in division (A)(10)(c) 148
of this section are attributable to any of the following: 149

(i) Contributions of the person that were less than or equal 150
to the applicable limits on deductible contributions to an 151
individual retirement account or individual retirement annuity in 152
the year that the contributions were made, whether or not the 153
person was eligible to deduct the contributions on the person's 154
federal tax return for the year in which the contributions were 155
made; 156

(ii) Contributions of the person that were less than or equal 157
to the applicable limits on contributions to a Roth IRA or 158
education individual retirement account in the year that the 159
contributions were made; 160

(iii) Contributions of the person that are within the 161
applicable limits on rollover contributions under subsections 219, 162
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 163
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 164
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 165

(d) Except for any portion of the assets that were deposited 166
for the purpose of evading the payment of any debt and except as 167
provided in sections 2329.663, 3119.80, 3119.81, 3121.02, 3121.03, 168
and 3123.06 of the Revised Code, the person's right in the assets 169
held in, or to receive any payment under, any Keogh or "H.R. 10" 170

plan that provides benefits by reason of illness, disability, 171
death, or age, to the extent reasonably necessary for the support 172
of the person and any of the person's dependents. 173

(11) The person's right to receive spousal support, child 174
support, an allowance, or other maintenance to the extent 175
reasonably necessary for the support of the person and any of the 176
person's dependents; 177

(12) The person's right to receive, or moneys received during 178
the preceding twelve calendar months from, any of the following: 179

(a) An award of reparations under sections 2743.51 to 2743.72 180
of the Revised Code, to the extent exempted by division (D) of 181
section 2743.66 of the Revised Code; 182

(b) A payment on account of the wrongful death of an 183
individual of whom the person was a dependent on the date of the 184
individual's death, to the extent reasonably necessary for the 185
support of the person and any of the person's dependents; 186

(c) Except in cases in which the person who receives the 187
payment is an inmate, as defined in section 2969.21 of the Revised 188
Code, and in which the payment resulted from a civil action or 189
appeal against a government entity or employee, as defined in 190
section 2969.21 of the Revised Code, a payment, not to exceed five 191
thousand dollars, on account of personal bodily injury, not 192
including pain and suffering or compensation for actual pecuniary 193
loss, of the person or an individual for whom the person is a 194
dependent; 195

(d) A payment in compensation for loss of future earnings of 196
the person or an individual of whom the person is or was a 197
dependent, to the extent reasonably necessary for the support of 198
the debtor and any of the debtor's dependents. 199

(13) Except as provided in sections 3119.80, 3119.81, 200
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 201

earnings of the person owed to the person for services in an	202
amount equal to the greater of the following amounts:	203
(a) If paid weekly, thirty times the current federal minimum	204
hourly wage; if paid biweekly, sixty times the current federal	205
minimum hourly wage; if paid semimonthly, sixty-five times the	206
current federal minimum hourly wage; or if paid monthly, one	207
hundred thirty times the current federal minimum hourly wage that	208
is in effect at the time the earnings are payable, as prescribed	209
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29	210
U.S.C. 206(a)(1), as amended;	211
(b) Seventy-five per cent of the disposable earnings owed to	212
the person.	213
(14) The person's right in specific partnership property, as	214
exempted by division (B)(3) of section 1775.24 of the Revised	215
Code;	216
(15) A seal and official register of a notary public, as	217
exempted by section 147.04 of the Revised Code;	218
(16) The person's interest in a tuition credit or a payment	219
under section 3334.09 of the Revised Code pursuant to a tuition	220
credit contract, as exempted by section 3334.15 of the Revised	221
Code;	222
(17) Any other property that is specifically exempted from	223
execution, attachment, garnishment, or sale by federal statutes	224
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11	225
U.S.C.A. 101, as amended;	226
(18) The person's interest, not to exceed four hundred	227
dollars, in any property, except that division (A)(18) of this	228
section applies only in bankruptcy proceedings.	229
(B) As used in this section:	230
(1) "Disposable earnings" means net earnings after the	231

garnishee has made deductions required by law, excluding the 232
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 233
3121.03, or 3123.06 of the Revised Code. 234

(2) "Insider" means: 235

(a) If the person who claims an exemption is an individual, a 236
relative of the individual, a relative of a general partner of the 237
individual, a partnership in which the individual is a general 238
partner, a general partner of the individual, or a corporation of 239
which the individual is a director, officer, or in control; 240

(b) If the person who claims an exemption is a corporation, a 241
director or officer of the corporation; a person in control of the 242
corporation; a partnership in which the corporation is a general 243
partner; a general partner of the corporation; or a relative of a 244
general partner, director, officer, or person in control of the 245
corporation; 246

(c) If the person who claims an exemption is a partnership, a 247
general partner in the partnership; a general partner of the 248
partnership; a person in control of the partnership; a partnership 249
in which the partnership is a general partner; or a relative in, a 250
general partner of, or a person in control of the partnership; 251

(d) An entity or person to which or whom any of the following 252
applies: 253

(i) The entity directly or indirectly owns, controls, or 254
holds with power to vote, twenty per cent or more of the 255
outstanding voting securities of the person who claims an 256
exemption, unless the entity holds the securities in a fiduciary 257
or agency capacity without sole discretionary power to vote the 258
securities or holds the securities solely to secure to debt and 259
the entity has not in fact exercised the power to vote. 260

(ii) The entity is a corporation, twenty per cent or more of 261

whose outstanding voting securities are directly or indirectly
owned, controlled, or held with power to vote, by the person who
claims an exemption or by an entity to which division (B)(2)(d)(i)
of this section applies.

(iii) A person whose business is operated under a lease or
operating agreement by the person who claims an exemption, or a
person substantially all of whose business is operated under an
operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially
all of the property of the person who claims an exemption under a
lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a
person or entity to which division (B)(2)(d)(i), (ii), (iii), or
(iv) of this section applies, as if the person or entity were a
person who claims an exemption;

(f) A managing agent of the person who claims an exemption.

(3) "Participant account" has the same meaning as in section
148.01 of the Revised Code.

(4) "Government unit" has the same meaning as in section
148.06 of the Revised Code.

(C) For purposes of this section, "interest" shall be
determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is
filed with the bankruptcy court commencing a case under Title 11
of the United States Code;

(2) In all cases other than bankruptcy proceedings, as of the
date of an appraisal, if necessary under section 2329.68 of the
Revised Code, or the issuance of a writ of execution.

An interest, as determined under division (C)(1) or (2) of
this section, shall not include the amount of any lien otherwise

valid pursuant to section 2329.661 of the Revised Code. 292

Sec. 2329.663. (A) Subject to division (B) of this section, 293
the exemptions described in division (A)(10) of section 2329.66 of 294
the Revised Code do not apply if all of the following are the 295
case: 296

(1) The person claiming the exemption has been convicted of 297
or pleaded guilty to a felony. 298

(2) The judgment creditor is the victim of a felony of which 299
the person claiming the exemption has been convicted or to which 300
the person has pleaded guilty. 301

(3) The judgment or order relates to harm incurred as a 302
result of the felony described in division (A)(2) of this section. 303

(4) One of the following applies: 304

(a) The person claiming the exemption is serving a prison 305
term or community residential sanction. 306

(b) The person claiming the exemption is committed to a 307
facility or institution operated by the department of mental 308
health or the department of mental retardation and developmental 309
disabilities as a result of either of the following: 310

(i) A finding that the person is incompetent to stand trial; 311

(ii) A finding that the person is not guilty by reason of 312
insanity. 313

(B) The victim described in division (A)(2) of this section 314
may execute, garnish, attach, or sell the property otherwise held 315
exempt except to the following extent: 316

(1) The property remains exempt to the extent reasonably 317
necessary for the support of the spouse and dependents of the 318
person claiming the exemption while the person is serving a prison 319
term or community residential sanction or committed to a facility 320

or institution operated by the department of mental health or the 321
department of mental retardation and developmental disabilities as 322
described in division (A)(2)(b) of this section. 323

(2) With respect to the execution, garnishment, attachment, 324
or sale of property under this section that results in funds being 325
provided to the judgment creditor after the date on which the 326
person claiming the exemption will no longer satisfy the 327
requirement listed in division (A)(4) of this section, the 328
property remains exempt to the extent reasonably necessary for the 329
support of the person, the person's spouse, and the person's 330
dependents after the person has completed the prison term or 331
community residential sanction or has been released from the 332
facility or institution operated by the department of mental 333
health or the department of mental retardation and developmental 334
disabilities. 335

Section 2. That existing section 2329.66 of the Revised Code 336
is hereby repealed. 337