

April 12, 2005

H 1176. PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. TO INCREASE THE CAP ON PROPERTY OF A JUDGMENT DEBTOR THAT IS FREE OF THE ENFORCEMENT OF THE CLAIMS OF CREDITORS, TO EXEMPT ADDITIONAL TYPES OF PROPERTY FROM ENFORCEMENT, TO PROVIDE FOR FUTURE AUTOMATIC ADJUSTMENTS OF THESE CAPS ON EXEMPT PROPERTY, AND TO MAKE CONFORMING CHANGES.

Makes following changes in GS 1C-1601 concerning items debtor is entitled to retain free of enforcement of claims of creditors: (1) Increases from \$10,000 to \$18,500 amount of debtor's aggregate interest in real or personal property used by debtor or dependent as residence, in cooperative, or in burial plot. Provides, however, that unmarried debtor who is 65 or older is entitled to retain aggregate interest in this property twice that value as long as property was previously owned by debtor as tenant by entireties or as joint tenant with rights of survivorship and former co-owner of property is deceased. (2) Increases from \$3,500 to \$5,000 value of debtor's aggregate interest in any property up to value of any unused exemption to which debtor is entitled for residence or burial plot. (3) Increases from \$1,500 to \$3,500 value for one motor vehicle. (4) Provides for debtor's aggregate interest in household furnishings, goods, etc., not to exceed \$5,000 (was, \$3,500) in value for debtor plus \$1,000 (was, \$750) for each dependent of debtor, not to exceed \$4,000 (was, \$3,000) in total for dependents. (5) Increases from \$750 to \$2,000 debtor's aggregate interest in any implements, professional books, or tools of trade of debtor or dependent. (6) Includes debtor's aggregate interest not to exceed \$4,000 in wedding and engagement rings of debtor and jewelry of debtor that is family heirloom. (7) Includes compensation from private disability policies or annuities. (8) Specifies individual retirement accounts. (9) Includes funds in college savings plan not to exceed cumulative limit of \$25,000 with specified limitations. (10) Includes retirement benefits under plans of other states and governmental units to extent the benefits are exempt under laws of that state or unit. (11) Includes alimony, support, separate maintenance, and child support payments under specified conditions. (12) Includes earnings of debtor for debtor's personal services, at any time within 60 days next preceding an order under GS 1-362, an execution, or filing of petition for bankruptcy under specified conditions.

Amends GS 1C-1601(d) (recent purchases) to add proviso to allow exemption for purchase of property directly traceable to liquidation or conversion of exemptible property of like kind if no additional property was transferred into or used to acquire replacement property. Amends GS 1C-1603(a)(4) and 1C-1603(c) to expand notice to judgment debtor and forms as specified in bill, including changes and additions made to GS 1C-1601(a). Amends GS 1-362 to provide that wages of judgment debtor may not be garnished and applied toward satisfaction of judgment unless specifically authorized by statute. Enacts new GS 1C-1601.1 to provide that effective April 1, 2009, and effective April 1 every three years thereafter, each dollar amount under GS 1C-1601(a) will be automatically adjusted to reflect change in Consumer Price Index as specified in bill and that number is rounded to nearest \$25. Requires Administrative Office of Courts (AOC) no later than March 20 of year in which automatic adjustment occurs to give public notice that adjustment will occur and of the revised amounts that will be effective that April 1; sets out additional duties for AOC and Reviser of Statutes. Effective January 1, 2006.

Intro. by Weiss, Glazier, Goodwin, Harrison.

Ref. to Judiciary IV

GS 1, 1C

May 2, 2005

H 1176. PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. Intro. 4/12/2005. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 1C-1601(a)(6) to exempt debtor's aggregate interest not to exceed \$4,000 in only wedding and engagement rings of debtor (was, wedding and engagement rings and jewelry of debtor that is family heirloom). Removes provisions requiring publication of annually adjusted amounts by Administrative Office of the Courts in NC Register and by Reviser of Statutes in next printing of the General Statutes. Makes technical and conforming changes.

May 11, 2005

H 1176. PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. Intro. 4/12/05. House committee substitute makes the following changes to 2nd edition. Transfers provisions of proposed GS 1C-1601.1 to new GS 1C-1601(a1) and clarifies that the adjustment of those exemption amounts will begin as of April 1, 2009, and every three years thereafter. New GS 1C-1601(a1) requires that the Office of State Budget and Management calculate the adjustment and provide adjusted amount to the Administrative Office of the Courts (AOC) no later than March 1. Requires that AOC amend the Statement by the Debtor no later than April 1 (was, prior to April 1). Requires Revisor of Statutes to reprint statutes with adjusted amounts. Provides that act applies to judgments and bankruptcy petitions filed on or after January 1, 2006.

May 25, 2005

H 1176. PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. Intro. 4/12/05. House committee substitute makes the following changes to 3rd edition. Amends GS 1C-1601 to delete debtor's aggregate interest of up to \$4,000 in wedding and engagement rings and jewelry that is a family heirloom from list of items debtor is entitled to retain free of enforcement of claims of creditors. Also deletes GS 1C-1601(a1) providing for the periodic adjustment of exemption amounts and amendments to GS 1-362, which deleted prohibition against applying the wages of a judgment debtor towards the satisfaction of a judgment where the wages are necessary for family support and instead provided that a wage garnishment must be statutorily authorized. Makes technical and conforming changes.

August 11, 2005

H 1176. PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. Intro. 4/12/05. Senate committee substitute makes the following changes to 4th edition. Removes language in GS 1C-1601(c) that allows a person to waive the exemptions of property from enforcement actions that are provided for in Sections 1 and 2 of Article X of the NC Constitution (related to personal property and homesteads). Such language was found unconstitutional by the NC Court of Appeals. Makes technical changes.

September 21, 2005

SL 2005-401 (H 1176). PROPERTY EXEMPT FROM ENFORCEMENT ACTIONS. AN ACT TO AMEND THE CAP ON PROPERTY OF A JUDGMENT DEBTOR THAT IS FREE OF THE ENFORCEMENT OF THE CLAIMS OF CREDITORS, AND TO EXEMPT CERTAIN TYPES OF PROPERTY FROM ENFORCEMENT. Summarized in *Daily Bulletin* 4/12/05, 5/2/05, 5/11/05, 5/25/05, and 8/11/05. Enacted September 14, 2005. Effective January 1, 2006.