

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 131
Committee Substitute Favorable 2/22/23
PROPOSED COMMITTEE SUBSTITUTE H131-PCS40129-BE-5

Short Title: Protect NC Ed. Savings & Investment Accounts.

(Public)

Sponsors:

Referred to:

February 16, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE PROTECTIONS FOR FUNDS HELD IN NORTH CAROLINA
3 EDUCATION SAVINGS AND INVESTMENT ACCOUNTS AND NC ABLE
4 ACCOUNTS FROM CLAIMS OF CREDITORS AND OTHER JUDGMENTS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 116-209.25 is amended by adding a new subsection to read:
7 "(c2) NC Education Savings and Investment Accounts Protected. – Notwithstanding any
8 other provision of law, funds located in an education savings and investment account of the
9 Parental Savings Trust Fund or withdrawn from the account and used for purposes permitted
10 under section 529 of the Internal Revenue Code shall not be subject to liens, attachment,
11 garnishment, levy, seizure, any involuntary sale or assignment by operation or execution of law,
12 or the enforcement of any other judgment or claim to pay any debt or liability of any account
13 owner, beneficiary, or contributor to a plan. This subsection shall not affect any protection from
14 creditors under G.S. 1C-1601(a)(10) for education savings and investment accounts that are not
15 part of the Parental Savings Trust Fund."

16 **SECTION 1.(b)** G.S. 1C-1601 reads as rewritten:

17 "Article 16.

18 "Exempt Property.

19 **"§ 1C-1601. What property exempt; waiver; exceptions.**

20 (a) Exempt property. – Each individual, resident of this State, who is a debtor is entitled
21 to retain free of the enforcement of the claims of creditors:

22 ...

23 (10) ~~Funds in a college savings plan~~ Except for funds in an education savings and
24 investment account that is part of the Parental Savings Trust Fund, as provided
25 in G.S. 116-209.25(c2), funds in an education savings and investment account
26 qualified under section 529 of the Internal Revenue Code, not to exceed a
27 cumulative limit of twenty-five thousand dollars (\$25,000), but excluding
28 (\$25,000). This exemption excludes any funds placed in a college savings plan
29 an education savings and investment account within the preceding 12 months
30 (except to the extent any of the contributions were made in the ordinary course
31 of the debtor's financial affairs and were consistent with the debtor's past
32 pattern of contributions) and only to the extent that the funds are for a child of
33 the debtor and will actually be used for the child's college or university
34 expenses. ~~expenses of the child that are permitted under section 529 of the~~
35 Internal Revenue Code.



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SECTION 2. Article 6F of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-86.74. Exemption from garnishment, attachment, judgment.

Notwithstanding any other provision of law, except as provided in this section, funds located in an ABLE account or withdrawn from the account and used for expenses permitted under section 529A of the Internal Revenue Code shall not be subject to liens, attachment, garnishment, levy, seizure, any involuntary sale or assignment by operation or execution of law, or the enforcement of any other judgment or claim to pay any debt or liability of any account owner, beneficiary, or contributor to a plan. This section does not prohibit the distribution of funds from the account following the death of the account owner under G.S. 147-86.73(e) or under section 529A(f) of the Internal Revenue Code."

SECTION 3. This act becomes effective September 1, 2023, and applies to actions filed on or after that date.