

SENATE SMALL BUSINESS COMMITTEE

MINUTES

APRIL 3, 1981

The Senate Small Business Committee met on Friday, April 3, 1981, at 10:00 a.m. The Chairman, Senator R. P. Thomas, presided.

The following members were present: Senators Thomas, Creech, Allred, Baker, Boger, Cavanagh, Frye, Lawing, Smith, and Walker. Members absent: Senators Marvin, Marion, and Noble.

The Chairman recognized Mr. William C. Lawton, an attorney from Raleigh, North Carolina, who made brief remarks to the committee stating that his position on Senate Bill 156 was that it was totally unnecessary. The Chairman then recognized Mr. William C. Rustin, Jr., of the North Carolina Merchants Association who made a statement in support of Senate Bill 156.

Senator Allred made the motion that Senate Bill 156, An Act to Make the Federal Bankruptcy Exemptions Unavailable to North Carolina Debtors, receive a favorable report, with Senator Smith seconding the motion. Motion carried.

Senator Thomas then recognized Senator Creech, sponsor of Senate Bill 203, An Act to Exempt Certain Property and Income of a North Carolina Debtor from the Claims of Creditors, to explain his proposed legislation. (A comparison of the present laws and proposed legislation is shown on Attachment No. 1.)

The Chairman recognized Mr. Lawton, who spoke on Senate Bill 203. (See copy of letter to Representative Musselwhite dated April 2, 1981, which covers Mr. Lawton's position on this bill, marked Attachment No. 2.)

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The Chairman stated that the discussion on Senate Bill 203 would continued at the next meeting.

The Meeting was adjourned at 10:45 a.m.

*R.P. "Bo" Thomas*

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R. P. "Bo" Thomas  
Chairman

*Joan W. Van Tilburg*

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Joan W. Van Tilburg  
Committee Clerk

NORTH CAROLINA CONSTITUTION

- Present*
1. \$500.00 in personal property.
  2. \$1000.00 in real property.
  3. Life insurance proceeds.

FEDERAL BANKRUPTCY CODE

- Present*  
*\$6152*  
*H23312*
1. \$7,500 in real or personal property used by debtor or debtor's dependent as a resident.
  2. \$1,200 in one motor vehicle.
  3. \$200 per item in household furniture, household goods, wearing apparel, appliances, etc.
  4. \$500 in jewelry.
  5. \$400 plus any unused portion of \$7,500 residence exemption in any property.
  6. \$750 in professional book, tools of trade, etc.
  7. Any unmaturred life insurance contract other than a credit life insurance contract.
  8. \$4,000 in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract.
  9. Professionally prescribed health aids.
  10. Debtor's right to receive social security benefits, unemployment compensation, veterans' benefits, disability or illness benefits, alimony and support, and a payment under a stock bonus, pension, profit-sharing, annuity, or a similar plan.
  11. Debtor's right to receive an award under a crime victim's reparation law, wrongful death payments, payments under a life insurance contract and bodily injury payments not to exceed \$7,500.00.

COLLECTION OF MONEY JUDGMENTS BILL

- Present*  
*\$6203*  
*H2313*  
*500000*
- DATE*  
*Change*
1. Principal residence, whether real or personal property, and lot or tract not to exceed one acre.
  2. Life insurance proceeds.
  3. Personal injury and wrongful death compensation.
  4. \$1,000 per month.
  5. Reasonable amount for rent, as determined by the court.
  6. \$1,000 in personal property plus \$500 in personal property for each dependent.
  7. Health aids.
  8. Burial plot for individual and his family.

William C. Lawton  
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FAYETTEVILLE STREET MALL  
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TELEPHONE 832-9681  
AREA CODE 919

P. O. BOX 182

April 2, 1981

C  
Representative Marvin Musselwhite  
P. O. Box 6273  
Raleigh, North Carolina 27611

Re: Bills Opting Out of Federal Bankruptcy Exemptions  
and Increasing N. C. Exemptions

O  
Dear Marvin:

P  
As we have discussed on numerous occasions, I have strong objections to the legislature opting out of the federal exemptions allowed under the Bankruptcy Code. I made a proposal to Senator Thomas in my March 2 letter to him, a copy of which is enclosed. It is my firm belief that the changes in the exemptions proposed in that letter would overcome the real objections to the federal exemptions.

Y  
However, assuming the General Assembly will opt out as proposed, I would like to propose at least one change in the Senate Bill (enclosed). The bill as it now stands exempts equity in any personal property up to \$1,000.00 for the head of household and \$500.00 for each additional dependant. I would simply propose a minimum figure inserted after the word "support" in page 1, line 18 as follows: ", or \$5,000.00 in money or property, whichever is greater,".

I would also invite the committee to provide either a cost of living increase or a section mandating legislative updating every four or five years.

Such amendments would allow a bare minimum fresh start and not adversely affect creditors' rights. In considering these proposals, please bear in mind that my income does not depend upon my individual bankruptcy clients. My concern is one of

Representative Marvin Musselwhite  
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fairness to all. I believe future statistics will prove what I have said all along -- that this legislation will not significantly decrease the number of bankruptcy filings. I have yet to have an individual bankruptcy client really care what property was exempt because they desperately needed the debt relief.

Thank you for your consideration.

Sincerely,

William C. Lawton

WCL:ssc

Enclosures

cc: Senator R. P. Thomas

Senator William A. Creech