

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981

SENATE BILL 203

*Postponed
indefinitely*

Short Title: Exemptions from Claims of Creditors. (Public)

Sponsors: Senators Creech; Johnson and Mills.

Referred to: Small Business.

March 5, 1981

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT CERTAIN PROPERTY AND INCOME OF A NORTH CAROLINA
3 DEBTOR FROM THE CLAIMS OF CREDITORS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 1-369 is rewritten to read:

6 "§ 1-369. Exempt property.--A resident of North Carolina may
7 retain the following property free of the claims of his
8 creditors:

9 (1) the debtor's homestead, which includes the debtor's
10 principal residence, whether real or personal property, the site
11 of the residence and reasonable access to the residence. The
12 site of the residence shall not exceed one acre unless
13 ordinances, subdivision restrictions, restrictive covenants or
14 the like do not permit reduction to one acre, in which case it
15 shall consist of the smallest permissible unit;

16 (2) one thousand dollars (\$1,000) in money or property, plus
17 five hundred dollars (\$500.00) in money or property for each
18 person dependent upon the debtor for support, after deducting
19 from the value of the property the amount of valid security
20

1 interests in or liens, other than judicial liens, against the
2 property;

3 (3) health aids reasonably necessary to enable the debtor or a
4 dependent of the debtor to work or sustain health; and

5 (4) a burial plot for the debtor and his family."

6 Sec. 2. Article 32 of Chapter 1 is amended by adding a
7 new section, G.S. 1-369.1, to read:

8 "§ 1-369.1. Exempt income.--The following income is exempt
9 from the claims of creditors:

10 (1) life insurance proceeds as provided in Article X, 65 of
11 the North Carolina Constitution;

12 (2) compensation for personal injury or for the death of a
13 person upon whom the debtor depends for support to the extent a
14 claim is not for funeral, legal, medical, dental, hospital or
15 health care charges related to the accident or injury giving rise
16 to the compensation;

17 (3) a reasonable amount for rent, as determined by the court,
18 if the debtor does not have a dwelling that is exempt under G.S.
19 1-369(3); and

20 (4) the amount protected from garnishment by 15 U. S. C. §
21 1673 or the sum of one thousand dollars (\$1000) per month of
22 income, whether earned or unearned, whichever is greater. If
23 this amount is not sufficient to meet the reasonable support
24 needs of the debtor and his dependents for health, care and
25 maintenance, the court must by order increase the amount exempted
26 to an adequate level."

27 Sec. 3. G.S. 1-370 is amended by inserting the

28

1 following sentence between the first and second sentences of that
2 section:

3 "The allotment of the homestead shall, for all property
4 included therein, suspend the running of the statute of
5 limitations on all judgments against the homesteader during the
6 continuance of the homestead."

7 Sec. 4. The first sentence of G.S. 1-372 is rewritten
8 to read:

9 "The appraisers shall determine what is to be included in the
10 debtor's homestead and shall also determine its metes and
11 bounds."

12 Sec. 5. G.S. 1-373, G.S. 1-374, G.S. 1-375 and G.S. 1-
13 377 are repealed.

14 Sec. 6. G.S. 1-378 is amended by deleting the phrase
15 "in no case to exceed in value five hundred dollars,".

16 Sec. 7. G.S. 1-384 is amended by deleting the phrase
17 "except for increase in value".

18 Sec. 8. G.S. 1-386 is amended by deleting the phrase
19 "not to exceed one thousand dollars in value," in the second
20 sentence of the first paragraph and by deleting the phrase "not
21 exceeding in value the sum of five hundred dollars," from the
22 first sentence of the second paragraph.

23 Sec. 9. G.S. 1-391 is amended by deleting the words
24 "homestead or".

25 Sec. 10. The heading of Form No. 1 in G.S. 1-392 is
26 rewritten to read:

27 "Appraiser's Return. Allotment of homestead and appraisal
28 of personal property."

1 Sec. 11. G.S. 1-392 is amended in Form No. 1 by
2 substituting the phrase "and determine the tract bounded by the
3 lands of...and...to be exempt" for the phrase "to be one thousand
4 dollars (or any less sum) and that the entire tract, bounded by
5 the lands of...and...is therefore exempted" in the first sentence
6 of the body of the form, and is further amended in Form No. 2 by
7 deleting the second sentence in that form, which begins with the
8 words "The true value of".

9 Sec. 12. This act is effective upon ratification.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28