

State bankruptcy aid sought before stripping protection

By WILLIAM M. WELCH
The Associated Press

Efforts are under way in the state House and Senate to reduce the amount of money and property that can be protected from creditors by North Carolinians who face bankruptcy.

The change would prevent the financial exemptions in the federal bankruptcy code from being available to North Carolina debtors.

Bills that would have North Carolina "opt out" of the federal bankruptcy protections are before committees in both chambers of the General Assembly. They are hailed as desperately needed for small businesses and banks.

The drive has some people concerned that if the change is made without corresponding increases in the exemptions provided in state law, the Legislature could leave financially troubled residents with only 19th-century protection — the minimum bankruptcy exemptions in the state Constitution of 1868.

One legislator wants to prevent passage of the bill dropping the federal exemptions until another bill is passed that would raise North Carolina's exemptions to modern levels.

"Once we let them get the opt-out, it's Katie-bar-the-door," said Rep. J. Allen Adams, D-Wake.

"Then we have no reasonable chance of getting our exemptions up." The exemptions, both the bare minimums provided in the state Constitution and the more liberal, but optional ones passed by Congress in 1978, are intended to allow people who file for bankruptcy to keep some personal property



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enough, in theory, to allow them a fresh start toward financial recovery.

"My concern is that if the federal bankruptcy exemptions are dropped without a corresponding change in North Carolina's exemptions, then you have people being able to exempt only \$500," said William Lawton, a Raleigh bankruptcy attorney. "That will hardly cover the clothes on their backs these days."

Rep. W. Paul Pulley Jr., D-Durham, House sponsor of the bills, told members of the House Small Business Committee last week that 9,754 bankruptcies were filed in federal court in a one-year period ending Sept. 30, 1980 — a 104 percent increase over the previous year. The reason for the increase, he said, was the enticement to file for bankruptcy offered by the federal law that took effect in late 1979.

"Rather than protect people, the federal law has spread the concept of something for nothing," said Bill Rustin, lobbyist for the N.C. Merchants Association.

A group of public-interest lobbyists representing Legal Services of North Carolina Inc. is concerned that enthusiasm for higher state minimums will wane once business wins its drop of the federal exemptions.

"The federal exemptions are 110 years more in tune with the times," said Doug Scott, staff at-

torney for Central Carolina Legal Services of Greensboro, which represents low-income people in bankruptcy proceedings.

The state exemptions allow a person in bankruptcy to keep \$500 in personal property, \$1,000 in real property and life insurance proceeds. The federal exemptions, which Congress allowed legislatures to make unavailable in their states if they chose, set down 11 categories of protection.

Among them are \$7,500 per person for personal or real property; \$1,200 for a car; \$750 in work tools; benefits from social security, unemployment, Veterans Administration and other plans; and \$200 per item in household goods.

Before another House committee is a second bill by Pulley to raise the state exemptions. It would have fewer exemptions than the federal law, but includes one that appears to be broader.

That bill would drop the \$200 per-item exclusion, but would allow a person in bankruptcy to keep his or her home.

Pulley and the Senate sponsor of similar legislation, Sen. William A. Creech, D-Wake, say they want passage of higher state exemptions, as well as the federal opt-out.

One powerful lobby that is supporting the bill to drop federal exemptions — the banking industry — has not agreed to support Pulley's other

bill. John R. Jordan, chief lobbyist for the banking industry, agreed that some increases were needed in the state exemption, and Pulley said he has Jordan's "personal pledge" to support some increases.

Jordan said he couldn't commit the banks to that bill. The reason, Pulley said, is that the banks do not want the exemption for a person's home.



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