

STATE GOVERNMENT
FILED FEB 3 1999

SENATE FILE 105
BY TINSMAN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to an exemption from execution for certain
2 retirement plans.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 105
STATE GOVERNMENT

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1 Section 1. Section 627.6, subsection 8, Code 1999, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. All contributions to and assets in the
4 following list of federally authorized pension or retirement
5 plans, and the accumulated earnings, and market increases in
6 value, therefrom: simplified employee pension plans, self-
7 employed pension plans, Keogh plans, also known as H.R. 10
8 plans, individual retirement accounts, Roth individual
9 retirement accounts, savings incentive matched plans for
10 employees, and similar plans for retirement investments in the
11 future authorized under federal law. However, contributions
12 to a plan made within the twenty-four-month period prior to
13 the date the exemption is claimed shall not be exempt to the
14 extent the contributions exceed the average contributions that
15 had been made to the plan or plans by the debtor or the
16 debtor's employer or both in the five tax years ending prior
17 to the twenty-four-month period before the date the exemption
18 is claimed. The exception to the exemption in this paragraph
19 for contributions within the twenty-four-month period prior to
20 the date the exemption is claimed shall not include the
21 interest and any accumulation on that interest in any new
22 plans that are used to replace prior plans, or policies that
23 would have been excludable from a bankruptcy estate or that
24 the debtor could have claimed exempt from execution at the
25 time of the transfer. For purposes of this paragraph, market
26 increases in value shall include, but not be limited to,
27 dividends, stock splits, interest, and appreciation.

28 EXPLANATION

29 The purpose of this bill is to eliminate the discrimination
30 that currently exists in Iowa law regarding the exemption of
31 retirement plans. Currently, ERISA qualified plans, such as
32 most employer-maintained pension plans, are exempt from the
33 claims of creditors. However, self-employed persons using a
34 Keogh plan or IRA as their retirement vehicle are not
35 similarly protected. Likewise, those who have taken their

1 previously safe ERISA qualified pensions and rolled them over
2 into an IRA due to plan termination, retirement, job loss, or
3 other causes have, by such rollover, subjected their formerly
4 protected assets to the claims of creditors. These amendments
5 will eliminate such disparity and will clarify the types of
6 federally authorized plans which Iowans will be entitled to
7 claim as exempt.

8 This bill also eliminates the ability of debtors to utilize
9 this exemption as a vehicle in which to place assets on the
10 eve of filing bankruptcy. No exemption can be claimed for
11 contributions to plans made within the 24-month period in
12 excess of the average annual contributions that have been made
13 in the five previous tax years.

14 This bill also protects rollover contributions to IRAs by
15 excluding them from the contribution limit within the 24-month
16 period prior to claiming an exemption.

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