

2012 -- S 2493

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROPERTY EXEMPT FROM
ATTACHMENT

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-26-4 of the General Laws in Chapter 9-26 entitled "Levy and Sale
2 on Execution" is hereby amended to read as follows:

3 **9-26-4. Property exempt from attachment. --** The following goods and property shall
4 be exempt from attachment on any warrant of distress or on any other writ, original, mesne, or
5 judicial:

6 (1) The necessary wearing apparel of a debtor or of the debtor's family, if he or she has a
7 family.

8 (2) The working tools of a debtor necessary in the debtor's usual occupation, not
9 exceeding in value the sum of one thousand five hundred dollars (\$1,500), and the professional
10 library of any professional person in actual practice.

11 (3) The household furniture, clothing, and family stores of a housekeeper in the whole,
12 including beds and bedding, not exceeding in value the sum of nine thousand six hundred dollars
13 (\$9,600).

14 (4) The bibles, school books, and other books in use in the family, not exceeding in value
15 the sum of three hundred dollars (\$300).

16 (5) The debtor's interest in one lot or right of burial, as the case may be, in any cemetery.

17 (6) Wages due or accruing to any sailor.

18 (7) Debts secured by bills of exchange or negotiable promissory notes.

1 (8) (i) The entire salary or wages of any debtor due or payable from any charitable
2 corporation, or from any person or corporation engaged in the disbursement or administration of
3 any public charitable fund or money, whenever the salaries or wages are to be paid or supplied,
4 directly or indirectly, from any fund or money appropriated or contributed for the relief of the
5 poor or in aid of unemployment, and the debtor is the object of the relief or aid.

6 (ii) The entire wages or salary of any debtor due or payable from any employer, where
7 the debtor has been the object of relief from any state, federal, or municipal corporation or agency
8 for a period of one year from and after the time when the debtor ceases to be the object of such
9 relief.

10 (iii) The salary or wages due or payable to any other debtor, not exceeding the sum of
11 fifty dollars (\$50.00).

12 (9) The salary and wages of the wife and the minor children of any debtor.

13 (10) Such other property, real, personal, or mixed, in possession or actions as is or shall
14 be exempted from attachment and execution, either permanently or temporarily, by general or
15 special acts, charters of incorporation, or by the policy of the law.

16 (11) An individual retirement account or individual retirement annuity as defined in
17 sections 408 and 408A of the Internal Revenue Code, 26 U.S.C. sections 408 and 408A, and the
18 payments or distributions from such an account or annuity, except that this exemption does not
19 apply to any of the following:

20 (i) An order of a court pursuant to a judgment of divorce or separate maintenance.

21 (ii) An order of a court concerning child support.

22 (iii) Contributions to an individual retirement account or premiums on an individual
23 retirement annuity, including the earnings or benefits from those contributions or premiums, that
24 constitute an excess contribution within the meaning of Section 4973 of the Internal Revenue
25 Code [26 U.S.C. section 4973_.

26 (12) The right or interest of a person in an annuity, pension, profit sharing, or other
27 retirement plan protected by the Employee Retirement Income Security Act of 1974, Public Law
28 93-406, 29 U.S.C. section 1001 et seq. This exemption shall also apply to the operation of the
29 Federal Bankruptcy Code, as permitted by Section 522(d)(10)(E) of Title 11 of the United States
30 Code, 11 U.S.C. section 522(d)(10)(E). This exemption shall not apply to the right or interest of a
31 person in an annuity, pension, profit sharing, or other retirement plan to the extent that that right
32 or interest is subject to any of the following:

33 (i) An order of the court pursuant to a judgment of divorce or separated maintenance.

34 (ii) An order of a court concerning child support.

1 This exemption shall not apply to contributions to and the earnings of any of the
2 retirement plans enumerated in this subdivision that are not qualified retirement plans as defined
3 by Section 401 of the Internal Revenue Code, 26 U.S.C. section 401.

4 (13) Any and all motor vehicles owned by the debtor not to exceed an aggregate total of
5 twelve thousand dollars (\$12,000).

6 (14) Any and all jewelry owned by the debtor not to exceed an aggregate total of two
7 thousand dollars (\$2,000).

8 (15) An account balance, right, or interest of a person in a "prepaid tuition program" or a
9 "tuition savings program" as defined in section 16-57-3(10) and (16), respectively. This
10 exemption shall not apply to a balance, right, or interest to the extent that the balance, right, or
11 interest is subject to any of the following:

12 (i) An order of a court pursuant to a judgment of divorce or separate maintenance;

13 (ii) An order of a court concerning child support.

14 (16) The cash surrender values and proceeds of life insurance policies issued upon the
15 lives of citizens or residents of the state and the proceeds and contract values of annuity contracts
16 issued to citizens or residents of the state, in whatever form shall not be liable to attachment,
17 garnishment or legal process in favor of any creditor of the person whose life is so insured or of
18 any creditor of the person who is the beneficiary of such life insurance policy or annuity contract,
19 unless the insurance policy or annuity contract was effected for the benefit of such creditor;
20 provided, that this exemption shall not apply to a claim by the state of Rhode Island.

21 ~~(16)~~(17) In addition to the exemptions herein, a debtor in bankruptcy may exempt an
22 additional five thousand dollars (\$5,000) in any assets.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would add the cash surrender values and proceeds of life insurance policies on
2 the lives of residents of the state and the proceeds of annuity contracts of residents of the state to
3 the property exempt from attachment by creditors.

4 This act would take effect upon passage.

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