

HOUSE BILL 527

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2lr2105

By: **Delegates Norman and Weir**

Introduced and read first time: February 3, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Bankruptcy – Arms**

3 FOR the purpose of authorizing a person to claim an exemption in certain bankruptcy
4 proceedings for arms not exceeding a certain amount in value; providing for the
5 application of this Act; and generally relating to an exemption in certain
6 bankruptcy proceedings for arms not exceeding a certain amount in value.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 11–504
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2011 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Courts and Judicial Proceedings**

15 11–504.

16 (a) (1) In this section the following terms have the meanings indicated.

17 (2) “Value” means fair market value as of the date upon which the
18 execution or other judicial process becomes effective against the property of the debtor,
19 or the date of filing the petition under the federal Bankruptcy Code.

20 (b) The following items are exempt from execution on a judgment:

21 (1) Wearing apparel, books, tools, instruments, or appliances, in an
22 amount not to exceed \$5,000 in value necessary for the practice of any trade or
23 profession except those kept for sale, lease, or barter.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Except as provided in subsection (i) of this section, money payable
2 in the event of sickness, accident, injury, or death of any person, including
3 compensation for loss of future earnings. This exemption includes but is not limited to
4 money payable on account of judgments, arbitrations, compromises, insurance,
5 benefits, compensation, and relief. Disability income benefits are not exempt if the
6 judgment is for necessities contracted for after the disability is incurred.

7 (3) Professionally prescribed health aids for the debtor or any
8 dependent of the debtor.

9 (4) The debtor's interest, not to exceed \$1,000 in value, in household
10 furnishings, household goods, wearing apparel, appliances, books, animals kept as
11 pets, and other items that are held primarily for the personal, family, or household use
12 of the debtor or any dependent of the debtor.

13 (5) Cash or property of any kind equivalent in value to \$6,000 is
14 exempt, if within 30 days from the date of the attachment or the levy by the sheriff,
15 the debtor elects to exempt cash or selected items of property in an amount not to
16 exceed a cumulative value of \$6,000.

17 (6) Money payable or paid in accordance with an agreement or court
18 order for child support.

19 (7) Money payable or paid in accordance with an agreement or court
20 order for alimony to the same extent that wages are exempt from attachment under §
21 15–601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

22 (8) The debtor's beneficial interest in any trust property that is
23 immune from the claims of the debtor's creditors under § 14–113 of the Estates and
24 Trusts Article.

25 (9) With respect to claims by a separate creditor of a husband or wife,
26 trust property that is immune from the claims of the separate creditors of the husband
27 or wife under § 14–113 of the Estates and Trusts Article.

28 (c) (1) In order to determine whether the property listed in subsection
29 (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the
30 property at the time of levy. The sheriff shall return the appraisal with the writ.

31 (2) An appraisal made by the sheriff under this subsection is subject to
32 review by the court on motion of the debtor.

33 (3) Procedures will be as prescribed by rules issued by the Court of
34 Appeals.

1 (d) The debtor may not waive, by cognovit note or otherwise, the provisions
2 of subsections (b) and (h) of this section.

3 (e) The exemptions in this section do not apply to wage attachments.

4 (f) (1) (i) In addition to the exemptions provided in subsection (b) of
5 this section, and in other statutes of this State, in any proceeding under Title 11 of the
6 United States Code, entitled "Bankruptcy", any individual debtor domiciled in this
7 State may exempt the debtor's aggregate interest in:

8 1. Personal property, up to \$5,000; [and]

9 2. **ARMS IN AN AMOUNT NOT TO EXCEED \$2,000 IN**
10 **VALUE; AND**

11 **[2.] 3.** Subject to subparagraph (ii) of this paragraph:

12 A. Owner-occupied residential real property, including a
13 condominium unit; or

14 B. A cooperative housing corporation that owns property
15 that the debtor occupies as a residence.

16 (ii) The exemption allowed under subparagraph **[(i)2] (I)3** of
17 this paragraph may not exceed the amount under 11 U.S.C. § 522(d)(1), adjusted in
18 accordance with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of
19 this subsection.

20 (2) An individual may not claim the exemption under paragraph
21 **[(1)(i)2] (1)(I)3** of this subsection on a particular property if:

22 (i) The individual has claimed successfully the exemption on
23 the property within 8 years prior to the filing of the bankruptcy proceeding in which
24 the exemption under this subsection is claimed; or

25 (ii) The individual's spouse, child, child's spouse, parent, sibling,
26 grandparent, or grandchild has claimed successfully the exemption on the property
27 within 8 years prior to the filing of the bankruptcy proceeding in which the exemption
28 under this subsection is claimed.

29 (3) The exemption under paragraph **[(1)(i)2] (1)(I)3** of this subsection
30 may not be claimed by both a husband and wife in the same bankruptcy proceeding.

31 (g) In any bankruptcy proceeding, a debtor is not entitled to the federal
32 exemptions provided by § 522(d) of the federal Bankruptcy Code.

1 (h) (1) In addition to the exemptions provided in subsections (b) and (f) of
2 this section and any other provisions of law, any money or other assets payable to a
3 participant or beneficiary from, or any interest of any participant or beneficiary in, a
4 retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or
5 § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as
6 in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as
7 amended, shall be exempt from any and all claims of the creditors of the beneficiary or
8 participant, other than claims by the Department of Health and Mental Hygiene.

9 (2) Paragraph (1) of this subsection does not apply to:

10 (i) An alternate payee under a qualified domestic relations
11 order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as
12 amended;

13 (ii) A retirement plan, qualified under § 401(a) of the United
14 States Internal Revenue Code of 1986, as amended, as a creditor of an individual
15 retirement account qualified under § 408 of the United States Internal Revenue Code
16 of 1986, as amended; or

17 (iii) The assets of a bankruptcy case filed before January 1, 1988.

18 (3) The interest of an alternate payee in a plan described in subsection
19 (h)(1) of this section shall be exempt from any and all claims of any creditor of the
20 alternate payee, except claims by the Department of Health and Mental Hygiene.

21 (4) If a contribution to a retirement plan described under paragraph
22 (1) of this subsection exceeds the amount deductible or, in the case of contribution
23 under § 408A of the Internal Revenue Code, the maximum contribution allowed under
24 the applicable provisions of the United States Internal Revenue Code of 1986, as
25 amended, the portion of that contribution that exceeds the amount deductible or, in
26 the case of contribution under § 408A of the Internal Revenue Code, the maximum
27 contribution allowed, and any accrued earnings on such a portion, are not exempt
28 under paragraph (1) of this subsection.

29 (i) (1) In this subsection, “net recovery” means the sum of money to be
30 distributed to the debtor after deduction of attorney’s fees, expenses, medical bills, and
31 satisfaction of any liens or subrogation claims arising out of the claims for personal
32 injury, including those arising under:

33 (i) The Medicare Secondary Payer Act, 42 U.S.C. § 1395y;

34 (ii) A program of the Department of Health and Mental Hygiene
35 for which a right of subrogation exists under §§ 15–120 and 15–121.1 of the
36 Health – General Article;

1 (iii) An employee benefit plan subject to the federal Employee
2 Retirement Income Security Act of 1974; or

3 (iv) A health insurance contract.

4 (2) Twenty-five percent of the net recovery by the debtor on a claim
5 for personal injury is subject to execution on a judgment for a child support arrearage.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively and may not be applied or interpreted to have
8 any effect on or application to any case filed before the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2012.