

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 817

Short Title: Protect Bona Fide Purchasers.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary I.

April 24, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT BONA FIDE PURCHASERS FOR VALUE OF REAL
3 PROPERTY AGAINST JUDGMENTS MORE THAN TEN YEARS OLD THAT
4 ARE TOLLED FOR THE PERIOD OF EXEMPTION BY REQUIRING THE
5 ORDER DESIGNATING EXEMPT PROPERTY TO BE FILED IN THE
6 REGISTER OF DEEDS OFFICE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 1C-1603(c) reads as rewritten:
9 "(c) Statement by the Debtor. - When proceedings are instituted, the debtor must
10 file with the court a schedule of:
11 (1) His assets, including their location;
12 (2) His debts and the names and addresses of his creditors;
13 (3) The property which he desires designated as exempt.

14 The form for the statement must be substantially as follows:

15 NORTH CAROLINA IN THE GENERAL COURT
16 COUNTY OF JUSTICE DISTRICT
17 COURT DIVISION
18 CvD
19 Judgment Creditor) SCHEDULE OF DEBTOR'S
20) PROPERTY
21 vs.) AND REQUEST TO
22) SET ASIDE EXEMPT
23 Judgment Debtor) PROPERTY

24 I,, being duly sworn do depose and say:

1 (fill in your name)

2 1. That I am a citizen and resident of County, North Carolina;

3 2. That I was born on

4 (date of birth)

5 3. That I am (married to

6 (spouse's name)

7

8 (not married)

9 4. That the following persons live in my household and are in substantial need of my

10 support:

11 NAME	RELATIONSHIP TO DEBTOR	AGE
12
13
14
15

16 (Use additional space, as necessary)

17 5. That (I own) (I am purchasing) (I rent) (choose one; mark out the other choices) a

18 (house) (trailer) (apartment) (choose one; mark out the other choices) located at

19

20 which is my residence.

21 (address, city, zip code)

22 6. That I (do) (do not) own any other real property. If other real property is

23 owned, list that property on the following lines; if no other real property is owned, mark

24 'not applicable' on the first line.

25

26

27

28

29 7. That the following persons are, so far as I am able to tell, all of the persons or

30 companies to whom I owe money:

31

32

33

34

35

36 8. That I wish to claim my interest in the following real or personal property that I

37 use as a residence or my dependent uses as a residence. I also wish to claim my interest

38 in the following burial plots for myself or my dependents. I understand that my total

39 interest claimed in the residence and burial plots may not exceed \$7,500. I understand

40 that I am not entitled to this exemption if I take the homestead exemption provided by

41 the Constitution of North Carolina in other property. I understand that if I wish to claim

42 more than one parcel exempt I must attach additional pages setting forth the following

43 information for each parcel claimed exempt.

44 Address

1 Names of Owners of Record

2 Estimated Value

3 Amount of Liens

4 Amount of Debtor's Interest

5 Property Location:

6 County Township

7 Street Address

8 Legal Description:

9 Number by which county tax assessor identifies property

10 Description (Attach a copy of your deed or other instrument of conveyance that
 11 describes the property and indicate here:..... or describe the
 12 property in as much detail as possible.
 13 Attach additional sheets if necessary.)

14

15

16

17

18 Record Owner(s)

19

20

20 Estimated Value:.....

21 Lienholders:(1) Name Current
 22 Balance

23 Address

24 (2) Name Current Balance

25 Address

26 (3) Name..... Current Balance

27 Address.....

28 (4) If others, attach additional pages.

29 9. That I wish to claim the following life insurance policies whose sole beneficiaries
 30 are (my wife) (my children) (my wife and children) as exempt:

31 Name of Insurer Policy Number Face Value Beneficiary(ies)

32

33

34

35

36 10. That I wish to claim the following items of health care aid necessary for (myself)
 37 (my dependents) to work or sustain health:

38 Item Purpose Person using item

39

40

41

42 11. That I wish to claim the following implements, professional books, or tools (not
 43 to exceed \$500), of my trade or the trade of my dependent. I understand that such
 44 property purchased within 90 days of this proceeding is not exempt:

1 Item Estimated Value

2
3
4

5 12. That I wish to claim the following personal property consisting of household
6 furnishings, household goods, wearing apparel, appliances, books, animals, crops or
7 musical instruments as exempt from the claims of my creditors. I affirm, that these
8 items of personal property are held primarily for my personal, family or household use
9 or for such use by my dependents.

10 I understand that I am entitled to personal property worth the sum of \$2,500. I
11 understand that I am also entitled to \$500 for each person dependent on me for support,
12 but not to exceed \$2,000 for dependents. I further understand that I am entitled to this
13 amount after deduction from the value of the property the amount of any valid lien or
14 purchase money security interest and that property purchased within 90 days of this
15 proceeding is not exempt.

16 Item (or class)	17 Amount of Lien	18 Location	19 Estimated
20 of Property	21 or Security		22 Value of
	23 Interest		24 Debtor's Interest
25	26	27	28
29	30	31	32
33	34	35	36

37 13. That I wish to claim my interest in the following motor vehicle as exempt from
38 the claims of my creditors. I understand that I am entitled to my interest in a motor
39 vehicle worth the sum of \$1,000 after deduction of the amount of any valid liens or
40 purchase money security interest. I understand that a motor vehicle purchased within 90
41 days of this proceeding is not exempt.

42 Make and	43 Year	44 Name(s) of	45 Name(s) of	46 Estimated
47 Model of		48 Title Owner	49 Lien Holder(s)	50 Value of
51 Motor Vehicle		52 of Record	53 of Record	54 Debtor's
				55 Interest
56	57	58	59	60

61 14. That I wish to claim as exempt the following compensation which I received for
62 the personal injury of myself or a person upon whom I was dependent for support or
63 compensation which I received for the death of a person upon whom I was dependent
64 for support. I understand that this compensation is not exempt from claims for funeral,
65 legal, medical, dental, hospital or health care charges related to the accident or injury
66 which resulted in the payment of the compensation to me.

- 67 (a) amount of compensation
- 68 (b) method of payment: lump sum or installments
- 69 (If installments, state amount, frequency and duration of payments)
- 70
- 71 (c) name and relationship to debtor of person(s) injured or killed giving rise to
- 72 compensation
- 73 (d) location of compensation if received in lump or installments

1
 2 (e) unpaid debts arising out of the injury or death giving rise to compensation
 3 Name and Address Services Rendered Amount of Debt
 4
 5

6 15. That I wish to claim the following property as exempt because I claimed
 7 residential real or personal property as exempt that is worth less than \$2,500 or I made
 8 no claim for a residential exemption under section (8) above. I understand that I am
 9 entitled to \$2,500 in any property only if I made no claim under section (8) above and
 10 that if I make a claim under section (8) above, that I am entitled to \$2,500 in any
 11 property minus any amount I claimed under section (8). (Examples: claim of \$1,000
 12 under section (8), \$1,500 allowed here; claim of \$2,450 under section (8), \$50 allowed
 13 here; claim of \$2,600 under section (8), no claim allowed here.) I further understand
 14 that the amount of my claim under this section is after the deduction from the value of
 15 this property of the amount of any valid lien or purchase money security interests and
 16 that tangible personal property purchased within 90 days of this proceeding is not
 17 exempt.

<u>Property Location</u>	<u>Amount of Liens or Purchase Money Security Interests</u>	<u>Estimated Value of Debtor's Interest</u>
.....
.....
.....

25 PERSONAL PROPERTY:

<u>Property Location</u>	<u>Amount of Liens or Purchase Money Security Interests</u>	<u>Value of Debtor's Interest</u>
.....
.....
.....
.....

33 REAL PROPERTY (I understand that if I wish to claim more than one parcel exempt, I
 34 must attach additional pages setting forth the following information for each parcel
 35 claimed exempt):

36 Property Location
 37 County Township
 38 Street Address
 39 Legal Description:
 40 Number by which county tax assessor identifies property
 41
 42

1 Description (Attach a copy of your deed or other instrument of conveyance that
 2 describes the property and indicate here: or describe the
 3 property in as much detail as possible.
 4 Attach additional sheets if necessary.)
 5
 6
 7
 8
 9
 10

11
12 Record

13
 14
 15 Estimated Value:

16 Lienholders:

- 17 (1) Name Current Balance
 18 Address
 19 (2) Name Current Balance
 20 Address
 21 (3) Name..... Current Balance
 22 Address.....
 23
 24 (4) If others, attach additional pages.

25 16. That the following is a complete listing of all of my assets which I have
 26 not claimed as exempt under any of the preceding paragraphs:

27 Item Location Estimated value
 28
 29
 30

31 This the day of, 19.....

32 Judgment Debtor

33 Sworn to and Subscribed before
 34 me this day of, 19.....

35
 36 Notary Public

My Commission Expires:"

37 Sec. 2. G.S. 1C-1604(a) reads as rewritten:

38 "**§ 1C-1604. Effect of exemption.**

39 (a) Property allocated to the debtor as exempt is free of the enforcement of the
 40 claims of creditors for indebtedness incurred before or after the exempt property is set
 41 aside, other than claims exempted by G.S. 1C-1601(e), for so long as the debtor owns it.
 42 When the property is conveyed to another, the exemption ceases as to liens attaching
 43 prior to the conveyance. Creation of a security interest in the property does not
 44 constitute a conveyance within the meaning of this section, but a transfer in satisfaction

1 of, or for the enforcement of, a security interest is a conveyance. When exempt property
2 is conveyed, the debtor may have other exemptions allotted. ~~The statute of limitation on~~
3 ~~judgments is suspended for the period of exemption, as to the property which is~~
4 ~~exempt.~~

5 (a1) The statute of limitations on judgments is suspended for the period of
6 exemption as to the property which is exempt. However, no judgment lien shall be valid
7 more than 10 years after the rendition of the judgment unless the judgment creditor shall
8 have, prior to that time, recorded a copy of the order designating exempt property in the
9 office of the register of deeds in the county where the exempt real property is located.

10 (b) Exempt property which passes by bequest, devise, intestate succession or gift
11 to a dependent spouse, child or person to whom the debtor stands in loco parentis,
12 continues to be exempt while held by that person. The exemption is terminated if the
13 spouse remarries, or, with regard to a dependent, when the court determinates that
14 dependency no longer exists."

15 Sec. 3. This act is effective upon ratification. For one year from the date of
16 ratification, upon application of either the judgment debtor or judgment creditor, the
17 clerk of superior court may amend any order previously entered for the purpose of more
18 specifically describing exempt real property.