

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 817
Second Edition Engrossed 5/8/91
House Committee Substitute Favorable 6/24/91
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Short Title: Protect Bona Fide Purchasers.

(Public)

Sponsors:

Referred to:

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 FOR WHICH THE STATUTE OF
4 LIMITATIONS IS SUSPENDED FOR THE PERIOD OF EXEMPTION BY
5 REQUIRING THE ORDER DESIGNATING EXEMPT PROPERTY TO BE
6 FILED IN THE 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

1) SET ASIDE EXEMPT
2 Judgment Debtor) PROPERTY

3 I,, being duly sworn do depose and say:
4 (fill in your name)

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

6 2. That I was born on;
7 (date of birth)

8 3. That I am (married to)
9 (spouse's name)

10;
11 (not married)

12 4. That the following persons live in my household and are in substantial need of my
13 support:

Table with 3 columns: NAME, RELATIONSHIP TO DEBTOR, AGE. Rows 14-18.

19 (Use additional space, as necessary)

20 5. That (I own) (I am purchasing) (I rent) (choose one; mark out the other choices) a
21 (house) (trailer) (apartment) (choose one; mark out the other choices) located at
22

23 which is my residence.
24 (address, city, zip code)

25 6. That I (do) (do not) own any other real property. If other real property is
26 owned, list that property on the following lines; if no other real property is owned, mark
27 'not applicable' on the first line.

28
29
30
31

32 7. That the following persons are, so far as I am able to tell, all of the persons or
33 companies to whom I owe money:

34
35
36
37
38

39 8. That I wish to claim my interest in the following real or personal property that I
40 use as a residence or my dependent uses as a residence. I also wish to claim my interest
41 in the following burial plots for myself or my dependents. I understand that my total
42 interest claimed in the residence and burial plots may not exceed \$7,500. I understand
43 that I am not entitled to this exemption if I take the homestead exemption provided by
44 the Constitution of North Carolina in other property. I understand that if I wish to claim

1 more than one parcel exempt I must attach additional pages setting forth the following
2 information for each parcel claimed exempt.

- 3 Address
- 4 Names of Owners of Record
- 5 Estimated Value
- 6 Amount of Liens
- 7 Amount of Debtor's Interest

8 Property Location:
 9 County Township
 10 Street Address

11 Legal Description:
 12 Number by which county tax assessor identifies property
 13 Description (Attach a copy of your deed or other instrument of conveyance that
 14 describes the property and indicate here:..... or describe the
 15 property in as much detail as possible.
 16 Attach additional sheets if necessary.)
 17
 18
 19
 20

21 Record Owner(s)
 22
 23 Estimated Value:.....

24 Lienholders:(1) Name Current
 25 Balance

26 Address

27 (2) Name Current Balance

28 Address

29 (3) Name..... Current Balance

30 Address.....

31 (4) If others, attach additional pages.

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

34 Name of Insurer	Policy Number	Face Value	Beneficiary(ies)
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35
36
37
38

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

41 Item	Purpose	Person using item
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42
43
44

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

4 Item Estimated Value

5
6
7

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

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

19 Item (or class)	Amount of Lien	Location	Estimated
20 of Property	or Security		Value of
	Interest		Debtor's Interest
21
22
23
24

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

30 Make and	Year	Name(s) of	Name(s) of	Estimated
31 Model of		Title Owner	Lien Holder(s)	Value of
32 Motor Vehicle		of Record	of Record	Debtor's
				Interest
33
34

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

- 41 (a) amount of compensation
- 42 (b) method of payment: lump sum or installments
- 43 (If installments, state amount, frequency and duration of payments)

44

1 (c) name and relationship to debtor of person(s) injured or killed giving rise to
2 compensation

3 (d) location of compensation if received in lump or installments
4

5 (e) unpaid debts arising out of the injury or death giving rise to compensation

6 Name and Address Services Rendered Amount of Debt

7
8

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

21 ~~Property Location~~ ~~Amount of Liens~~ ~~Estimated~~
22 ~~or Purchase Money~~ ~~Value of~~
23 ~~Security Interests~~ ~~Debtor's~~
24 ~~Interest~~

25
26
27

28 PERSONAL PROPERTY:

29 Property Location Amount of Liens Value of
30 or Purchase Money Debtor's
31 Security Interests Interest

32
33
34
35

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

39 Property Location

40 County Township

41 Street Address

42 Legal Description:

1 Number by which county tax assessor identifies property

2

3

4 Description (Attach a copy of your deed or other instrument of conveyance that
5 describes the property and indicate here: or describe the
6 property in as much detail as possible.

7 Attach additional sheets if necessary.)

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14

15 Record

16

17

18 Estimated Value:

19 Lienholders:

20 (1) Name Current Balance

21 Address

22 (2) Name Current Balance

23 Address

24 (3) Name Current Balance

25 Address.....

26

27 (4) If others, attach additional pages.

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

30 Item Location Estimated value

31

32

33

34 This the day of, 19....

35 Judgment Debtor

36 Sworn to and Subscribed before

37 me this day of, 19....

38

39 Notary Public

My Commission Expires:".

40 Sec. 2. G.S. 1C-1604 reads as rewritten:

41 "§ 1C-1604. Effect of exemption.

42 (a) Property allocated to the debtor as exempt is free of the enforcement of the
43 claims of creditors for indebtedness incurred before or after the exempt property is set
44 aside, other than claims exempted by G.S. 1C-1601(e), for so long as the debtor owns it.

1 When the property is conveyed to another, the exemption ceases as to liens attaching
2 prior to the conveyance. Creation of a security interest in the property does not
3 constitute a conveyance within the meaning of this section, but a transfer in satisfaction
4 of, or for the enforcement of, a security interest is a conveyance. When exempt property
5 is conveyed, the debtor may have other exemptions allotted. ~~The statute of limitation on~~
6 ~~judgments is suspended for the period of exemption, as to the property which is~~
7 ~~exempt.~~

8 (a1) The statute of limitations on judgments is suspended for the period of
9 exemption as to the property which is exempt. However, the statute of limitations is not
10 suspended as to the exempt property unless the judgment creditor shall have, prior to the
11 expiration of the statute of limitations, recorded a copy of the order designating exempt
12 property in the office of the register of deeds in the county where the exempt real
13 property is located.

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

19 Sec. 3. This act becomes effective October 1, 1991. For one year from
20 October 1, 1991, upon application of either the judgment debtor or judgment creditor,
21 the clerk of superior court may amend any order previously entered for the purpose of
22 more specifically describing exempt property. If the statute of limitations expires on a
23 judgment lien as to exempt property and, but for the provisions of this act, it would not
24 have expired, the statute of limitations is suspended for one year from October 1, 1991,
25 to allow a judgment creditor to file with the register of deeds a copy of an order
26 designating exempt property.