~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 9, 2011

**S. 271**

Introduced by Senator Cleary

S. Printed 3/9/11--S.

Read the first time January 11, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 271) to amend Section 15‑41‑30 of the 1976 Code, relating to an individual retirement account being exempt from attachment, levy, and sale, to delete the provision, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 1, SECTION 1, by striking lines 34 through 40 in their entirety and inserting:

/ the meaning provided in Section 12‑6‑40(A). The interest of an individual under a retirement plan shall be exempt from creditor process to the same extent permitted in Section 522(d) under federal bankruptcy law and is an exception to Section 15-41-35. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise.” /

Renumber sections to conform.

Amend title to conform.

RAYMOND E. CLEARY III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Revenue and the State Retirement System each indicate there is no fiscal impact associated with enactment of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 15‑41‑30 OF THE 1976 CODE, RELATING TO AN INDIVIDUAL RETIREMENT ACCOUNT BEING EXEMPT FROM ATTACHMENT, LEVY, AND SALE, TO DELETE THE PROVISION THAT THE EXEMPTION ONLY APPLIES TO THE EXTENT REASONABLY NECESSARY FOR THE SUPPORT OF THE DEBTOR AND ANY DEPENDENT OF THE DEBTOR AND TO INCREASE THE ALLOWABLE AMOUNTS TO CONFORM TO THOSE ALLOWABLE UNDER FEDERAL BANKRUPTCY LAW.

SECTION 1. Section 15‑41‑30(A)(13) of the 1976 Code is amended to read:

“(13) The debtor’s right to receive individual retirement accounts as described in Sections 408(a) and 408A of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of the Internal Revenue Code~~, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor~~. A claimed exemption may be reduced or eliminated by the amount of a fraudulent conveyance into the individual retirement account or other plan. For purposes of this item, ‘Internal Revenue Code’ has the meaning provided in Section 12‑6‑40(A). The interest of an individual under a retirement plan shall be exempt from creditor process to the same extent permitted under federal bankruptcy law for such a plan. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise.”

SECTION 2. This act takes effect upon approval by the Governor.

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