~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 3, 2017

**H. 3176**

Introduced by Reps. Clemmons, Daning, Pitts and Norrell

S. Printed 5/3/17--S.

Read the first time February 21, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3176) to amend Section 15‑41‑30, as amended, Code of Laws of South Carolina, 1976, relating to an individual retirement account being exempt from attachment, levy, etc., respectfully

**REPORT:**

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

ROSS TURNER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**State Expenditure**

This bill amends the provision for Individual Retirement Account exemptions from attachment, levy, and sale. Under current law, individual retirement accounts are exempt. The bill amends this section to exempt individual retirement accounts from the creditor process unconditionally to the extent permitted under the federal bankruptcy code.

**Department of Revenue.** The department indicates this bill will have no expenditure impact to the general fund, other funds, or federal funds. The department currently has procedures in place for this change.

**State Revenue**

This bill does not impact enforced collections by the Department of Revenue, and therefore, will not impact state revenues.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 15‑41‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN INDIVIDUAL RETIREMENT ACCOUNT BEING EXEMPT FROM ATTACHMENT, LEVY, AND SALE, SO AS TO DELETE THE PROVISION THAT THE EXEMPTION APPLIES ONLY TO THE EXTENT THAT IS PERMITTED IN SECTION 522(d) OF THE FEDERAL BANKRUPTCY CODE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑41‑30(A)(13) of the 1976 Code, as last amended by Act 153 of 2012, is further 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. 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 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.”

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

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