

BILL ANALYSIS

H.B. 2779
By: Wray
Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that using more efficient language will clarify laws regarding the exemption for certain savings plans from attachment, execution, or other seizure for a creditor's claim. H.B. 2779 seeks to provide this clarification by revising provisions relating to such an exemption.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2779 amends the Property Code to revise provisions relating to the exemption for certain savings plans from attachment, execution, or other seizure for a creditors' claims by doing the following:

- defining "qualified savings plan" as any stock bonus, pension, annuity, deferred compensation, profit-sharing, health, education, or similar plan or account, to the extent the plan or account is exempt from federal income tax or to the extent federal income tax on a person's interest in the plan or account is deferred until actual payment of benefits to the person;
- specifying certain plans and accounts eligible for the exemption;
- establishing that a plan or account is considered to be exempt from federal income tax for purposes of the additional exemption if the plan or account is subject to federal income tax solely under specified provisions of the federal Internal Revenue Code of 1986 relating to unrelated business income of certain charitable and otherwise tax exempt organizations and to unrelated business income from debt-financed property;
- excluding from the exemption a person's interest in a retirement plan that is solely an unfunded, unsecured promise by an employer to pay deferred compensation, unless otherwise exempt by law; and
- establishing that if any provision relating to the additional exemption is held invalid or preempted by federal law, in whole or in part or in certain circumstances, the remaining provisions remain in effect, to the maximum extent permitted by law.

H.B. 2779 makes the additional exemption applicable to a child support lien for the following: a plan or account established under the prepaid higher education tuition program, including a

prepaid tuition contract; a plan or account established under the higher education savings plan, including a savings trust account; and a qualified tuition program of any state that meets the requirements of the federal Internal Revenue Code of 1986.

H.B. 2779 repeals Section 42.0022, Property Code.

EFFECTIVE DATE

September 1, 2019.