HOUSE RESEARCH ORGANIZATION bill analysis	3/30/2005	HB 330 Berman (CSHB 330 by Griggs)

SUBJECT:	Shielding health savings accounts from creditors
COMMITTEE:	Pensions and Investments — committee substitute recommended
VOTE:	6 ayes — Eiland, Flynn, Griggs, Krusee, Rodriguez, Straus 0 nays 1 absent — McClendon
WITNESSES:	For — Bob Owen, Texas Society of Certified Public Accountants; Barbara Bass; Carol A. Cantrell; Felicia Finston Against — None
BACKGROUND:	Property Code, sec. 42.0021, exempts from creditors a person's assets or payments from retirement plans, including pensions, profit-sharing and stock bonuses, individual retirement accounts, and annuities purchased with assets from a retirement plan. The Property Code also exempts from seizure by creditors a homestead and one or more lots used for a place of burial of the dead, certain personal property, and state-sponsored college savings plans. The federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 authorized the creation of health savings accounts (HSAs) beginning January 1, 2004. People under 65 covered by high deductible health insurance coverage, defined as plans with deductibles of $1,000 for individual plans or $2,000 for family plans, can make annual contributions to HSAs of up to $2,250 per year for those with an individual health plan and $4,500 per year for those with a family plan. The contributions can be carried forward from year to year, and non-health withdrawals after age 65 are taxed but not penalized.
DIGEST:	CSHB 330 would amend Property Code, sec. 42.0021 to exempt health savings accounts described by Section 223 of the Internal Revenue Service Code of 1986 from attachment, execution, and seizure for the satisfaction of debts unless the plan, contract or account did not qualify under the applicable provisions of the Internal Revenue Code of 1986.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY:

CSHB 330 would provide an incentive for people to save money to cover health care costs by ensuring that money accumulated in health savings accounts would be exempt from bankruptcy proceedings. According to a recent Harvard study, illness and medical bills contributed to roughly half of all bankruptcy filings in 2001, affecting as many as 2.2 million Americans. The bill would provide an incentive for people to better prepare for medical catastrophes so that they may be able to avoid bankruptcy.

The bill would provide an additional incentive for employers to offer and employees to use health savings accounts as an alternative to traditional health insurance, which was the intent behind the creation of HSAs in 2004. Studies have shown that if employees are responsible for their health care costs, they will be more responsible consumers, ultimately reducing overall health care costs.

The bill appropriately would provide the same protection in statute for HSAs that is provided for pensions, retirement accounts, state sponsored college savings plans, and other savings vehicles.

OPPONENTS SAY:

If health care costs are a significant contributing factor to bankruptcies, creditors should be able to access these accounts to recover costs related to medical care. The bill would provide an incentive for people not to use their health savings accounts to cover medical costs if they are contemplating bankruptcy, since these funds would be protected from creditors.

HSAs are designed to help people cover ongoing health care costs and are likely to be offered as part of an employer's cafeteria plan. Although balances will be allowed to roll over from year to year, HSAs are more comparable to flexible spending accounts than to pensions and should not receive the same protections from creditors as these long-term savings vehicles.

NOTES:

The committee substitute made non-substantive revisions to the exemption for HSAs under Property Code, sec 42.0021(b).

A related bill, HB 1795 by Crownover, which would establish a state employee health savings account program, has been referred to the House Pensions and Investments Committee.