

- SUBJECT:** Specifying accounts exempt from seizure by a creditor to satisfy a debt
- COMMITTEE:** Pensions, Investments, and Financial Services — favorable, without amendment
- VOTE:** 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu
- 0 nays
- WITNESSES:** For — Craig Hopper, State Bar of Texas Real Estate Probate and Trust Law Section; (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities)
- Against — None
- BACKGROUND:** Under Property Code sec. 42.0021, certain accounts are exempt from attachment, execution, and seizure to satisfy a debt to the extent the account is exempt from federal income tax or to the extent the federal income tax is deferred until actual payment of benefits. These accounts include a stock bonus, pension, annuity, or deferred compensation plan; retirement plan; health savings account; and other similar accounts.
- Secs. 42.001 and 42.0022 exempt certain personal property, such as family heirlooms or farming equipment, and college savings plans from attachment, execution, or seizure for the satisfaction of debts.
- Sec. 42.005 states that child support liens do not qualify for exemption from attachment, execution, and seizure under the above statutes.
- Some have suggested that laws should be clarified regarding the exemption of certain savings plans and other accounts from seizure by a creditor.
- DIGEST:** HB 2779 would specify that a qualified savings plan was exempt from attachment, execution, or other seizure for the satisfaction of debts.

"Qualified savings plan" would be defined as any stock bonus, pension, annuity, deferred compensation, profit-sharing, health, education, or similar plan or account, to the extent that the plan or account was exempt from federal income tax or that the federal income tax was deferred. The bill would list accounts and plans that would be considered qualified savings plans.

A plan or account would be considered to be exempt from federal income tax if it was subject to the tax solely under certain sections of the federal Internal Revenue Code of 1986.

HB 2779 would apply the exemption from attachment, execution, and seizure to a child support lien for certain prepaid higher education tuition program plans, higher education savings plans, or other qualified tuition programs from other states.

The bill would specify that a person's interest in a retirement plan that was solely an unfunded, unsecured promise by an employer to pay deferred compensation would not be exempt from attachment, execution, and seizure, unless otherwise exempt by law.

The bill would not apply to property that, as of the bill's effective date, was subject to a voluntary bankruptcy proceeding or to a valid claim of a holder of a final judgment who obtained rights superior to those that would have been held if a bankruptcy petition were pending against the debtor.

The bill would take effect September 1, 2019