

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Wieckowski Analyst: Janet Jennings Bill Number: AB 198
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: March 21, 2013
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Debtor Exemptions / Bankruptcy

SUMMARY

This bill would increase the exemption amounts of certain assets for debtors in bankruptcy.

RECOMMENDATION

No position.

Summary of Amendments

The March 21, 2013, amendments modify both the standard and alternative exemptions available to debtors in bankruptcy filings provided for in the California Code of Civil Procedures and provides that neither the filing of a petition for bankruptcy or status as a debtor in bankruptcy constitutes a default of a debtor's obligations under a motor vehicle contract .

This is the department's first analysis of the bill. This analysis only addresses the provisions of the bill that impact the department's programs and operations.

REASON FOR THE BILL

The reason for this bill is to assist bankrupt debtors in their financial recovery from bankruptcy filing.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2014.

ANALYSIS

STATE LAW

Existing state law allows debtors in bankruptcy to keep certain assets up to specified dollar amounts. Debtors in bankruptcy must choose between two exemption schemes available under the Code of Civil Procedure commonly referred to as Section 703 and Section 704 exemptions.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR) and Executive Officer (Selvi Stanislaus) and Date (7/8/13).

THIS BILL

This bill would increase the bankruptcy exemption amount from \$300,000 to the aggregate of \$500,000 plus any amount reasonably necessary for the support of the debtor, debtor's spouse and dependents, in benefits from a matured life insurance policy and removes the definition of necessary support.

This bill would increase the homestead exemption as follows:

- \$200,000 from \$75,000 unless the debtor or spouse meets the requirements for a larger exemption.
- \$300,000 from \$100,000 if the debtor or spouse resides in the property and at the time of the attempted sale there is at least one member of the family unit who owns no interest in the property or whose only interest is community property with the debtor.
- \$400,000 from \$175,000 if the debtor or spouse of the debtor is age 55 or older, or mentally disabled and as of result of the disability is unable to engage in substantial gainful employment.

This bill would provide that a plan or contract covered by the alternative exemption for payments under a stock bonus, pension, profit sharing plan annuity or similar plan, as specified, would be exempt even if it did not qualify under the specified provisions of the federal Internal Revenue Code of 1986 so long as the sole basis for the failure to qualify is a technical defect.

This bill would extend to the spouse of a debtor the alternative exemption for payments or property traceable to wrongful death, personal bodily injury, and compensation of loss of future earnings.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's costs.

LEGISLATIVE HISTORY

AB 929 (Wieckowski, Chapter 678, Statutes of 2012) increased the bankruptcy exemption amounts.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

In *Florida* and *Illinois* a debtor must use the state specified exemption amount. In *Massachusetts, Michigan, Minnesota, and New York*, debtors may choose to apply the state or federal bankruptcy exemption amounts.

FISCAL IMPACT

Implementing this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Estimated Revenue Impact of AB198 As Amended March 21, 2013 For Collections Beginning On or After January 1, 2014 Assumed Enactment After June 30, 2013		
2012-13	2013-14	2014-15
-\$70,000	-\$300,000	-\$500,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some people could say this bill is needed because current bankruptcy exemptions leave debtors with too little to start their lives over again.

Opponents: Some people could say increasing the bankruptcy exemptions would unfairly harm a debtor's creditors.

LEGISLATIVE STAFF CONTACT

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