

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60320-LD-114B (03/29)

Short Title: Property Exempt From Enforcement Actions. (Public)

Sponsors: Representatives Weiss, Glazier, Goodwin, and Harrison (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE CAP ON PROPERTY OF A JUDGMENT DEBTOR
3 THAT IS FREE OF THE ENFORCEMENT OF THE CLAIMS OF CREDITORS, TO
4 EXEMPT ADDITIONAL TYPES OF PROPERTY FROM ENFORCEMENT, TO
5 PROVIDE FOR FUTURE AUTOMATIC ADJUSTMENTS OF THESE CAPS ON
6 EXEMPT PROPERTY, AND TO MAKE CONFORMING CHANGES.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 1C-1601 reads as rewritten:

9 "§ 1C-1601. What property exempt; waiver; exceptions.

10 (a) Exempt property. – Each individual, resident of this State, who is a debtor is
11 entitled to retain free of the enforcement of the claims of creditors:

12 (1) The debtor's aggregate interest, not to exceed ~~ten thousand dollars~~
13 ~~(\$10,000)~~eighteen thousand five hundred dollars (\$18,500) in value, in
14 real property or personal property that the debtor or a dependent of the
15 debtor uses as a residence, in a cooperative that owns property that the
16 debtor or a dependent of the debtor uses as a residence, or in a burial plot
17 for the debtor or a dependent of the ~~debtor~~debtor; however, an
18 unmarried debtor who is 65 years of age or older is entitled to retain an
19 aggregate interest in such property twice the aforementioned value so
20 long as the property was previously owned by the debtor as a tenant by
21 the entirety or as a joint tenant with rights of survivorship and the
22 former co-owner of the property is deceased.

23 (2) The debtor's aggregate interest in any property, not to exceed ~~three~~
24 ~~thousand five hundred dollars (\$3,500)~~five thousand dollars (\$5,000) in
25 value ~~less any amount of the exemption used of any unused exemption~~

- 1 amount to which the debtor is entitled under subdivision ~~(4)~~(1) of this
2 subsection.
- 3 (3) The debtor's interest, not to exceed ~~one thousand five hundred dollars~~
4 ~~(\$1,500)~~three thousand five hundred dollars (\$3,500) in value, in one
5 motor vehicle.
- 6 (4) The debtor's aggregate interest, not to exceed ~~three thousand five~~
7 ~~hundred dollars (\$3,500)~~five thousand dollars (\$5,000) in value for the
8 debtor plus ~~seven hundred fifty dollars (\$750.00)~~one thousand dollars
9 (\$1,000) for each dependent of the debtor, not to exceed ~~three thousand~~
10 ~~dollars (\$3,000)~~four thousand dollars (\$4,000) total for dependents, in
11 household furnishings, household goods, wearing apparel, appliances,
12 books, animals, crops, or musical instruments, that are held primarily for
13 the personal, family, or household use of the debtor or a dependent of the
14 debtor.
- 15 (5) The debtor's aggregate interest, not to exceed ~~seven hundred fifty dollars~~
16 ~~(\$750.00)~~two thousand dollars (\$2,000) in value, in any implements,
17 professional books, or tools of the trade of the debtor or the trade of a
18 dependent of the debtor.
- 19 (6) The debtor's aggregate interest, not to exceed four thousand dollars
20 (\$4,000) in value, in any wedding and engagement rings of the debtor
21 and any jewelry of the debtor that is a family heirloom.
- 22 ~~(6)~~(7) Life insurance as provided in Article X, Section 5 of the Constitution of
23 North Carolina.
- 24 ~~(7)~~(8) Professionally prescribed health aids for the debtor or a dependent of the
25 debtor.
- 26 ~~(8)~~(9) Compensation for personal injury-injury, including compensation from
27 private disability policies or annuities, or compensation for the death of a
28 person upon whom the debtor was dependent for support, but such
29 compensation is not exempt from claims for funeral, legal, medical,
30 dental, hospital, and health care charges related to the accident or injury
31 giving rise to the compensation.
- 32 ~~(9)~~(10) Individual retirement plans as defined in the Internal Revenue Code and
33 any plan treated in the same manner as an individual retirement plan
34 under the Internal Revenue Code. For purposes of this subdivision,
35 "Internal Revenue Code" means Code as defined in G.S. 105-228.90.
36 Code, including individual retirement accounts and Roth retirement
37 accounts as described in section 408(a) and section 408A of the Internal
38 Revenue Code, individual retirement annuities as described in section
39 408(b) of the Internal Revenue Code, and accounts established as part of
40 a trust described in section 408(c) of the Internal Revenue Code.
- 41 (11) Funds in a college savings plan qualified under section 529 of the
42 Internal Revenue Code, not to exceed a cumulative limit of twenty-five
43 thousand dollars (\$25,000), but excluding any funds placed in such an
44 account within the preceding 12 months (except to the extent any such

1 contributions were made in the ordinary course of the debtor's financial
2 affairs and were consistent with the debtor's past pattern of
3 contributions) and only to the extent that such funds are for a child of the
4 debtor and will actually be used for the child's college or university
5 expenses.

6 (12) Retirement benefits under the retirement plans of other states and
7 governmental units of other states, to the extent that these benefits are
8 exempt under the laws of the state or governmental unit under which
9 such benefit plan is established.

10 (13) Alimony, support, separate maintenance, and child support payments or
11 funds which have been received or which the debtor is entitled to
12 receive, to the extent such payments or funds are reasonably necessary
13 for the support of the debtor or any dependent of the debtor.

14 (14) The earnings of the debtor for the debtor's personal services, at any time
15 within 60 days next preceding an order under G.S. 1-362, an execution,
16 or the filing of a petition for bankruptcy when it appears, by the debtor's
17 affidavit or otherwise, that these earnings are necessary for the use of the
18 debtor or a family supported wholly or in part by the debtor's labor.
19 Recent earnings exempt under this subdivision may only be waived
20 pursuant to subdivision (2) of subsection (c) of this section.

21 (b) Definition. "Value" as used in this Article~~Definitions.~~ – As used in this
22 section, the following definitions apply:

23 (1) "Internal Revenue Code" means Code as defined in G.S. 105-228.90.

24 (2) "Value" means fair market value of an individual's interest in property,
25 less valid liens superior to the judgment lien sought to be enforced.

26 (c) Waiver. – The exemptions provided in this Article and in Sections 1 and 2 of
27 Article X of the North Carolina Constitution, cannot be waived except by:

28 (1) Transfer of property allocated as exempt (and in that event only as to the
29 specific property ~~transferred~~, or transferred);

30 (2) Written waiver, after judgment, approved by the clerk or district court
31 judge. The clerk or district court judge must find that the waiver is made
32 freely, voluntarily, and with full knowledge of the debtor's rights to
33 exemptions and that he is not required to waive them; or

34 (3) Failure to assert the exemption after notice to do so pursuant to
35 G.S. 1C-1603. The clerk or district court judge may relieve such a
36 waiver made by reason of mistake, surprise or excusable neglect, to the
37 extent that the rights of innocent third parties are not affected.

38 (d) Recent purchases. – The exemptions provided in subdivisions (2), (3), ~~(4)~~(4),
39 and (5) of subsection (a) of this section are inapplicable with respect to tangible personal
40 property purchased by the debtor less than 90 days preceding the initiation of judgment
41 collection proceedings or the filing of a petition for ~~bankruptcy~~ bankruptcy, unless the
42 purchase of such property is directly traceable to the liquidation or conversion of
43 exemptible property of like kind and no additional property was transferred into or used to
44 acquire such replacement property.

1 (e) Exceptions. – The exemptions provided in this Article are inapplicable to
2 claims:

- 3 (1) Of the United States or its agencies as provided by federal law;
- 4 (2) Of the State or its subdivisions for taxes, appearance bonds or fiduciary
5 bonds;
- 6 (3) Of lien by a laborer for work done and performed for the person
7 claiming the exemption, but only as to the specific property affected;
- 8 (4) Of lien by a mechanic for work done on the premises, but only as to the
9 specific property affected;
- 10 (5) For payment of obligations contracted for the purchase of the specific
11 real property affected;
- 12 (6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1224, s. 6.
- 13 (7) For contractual security interests in the specific property affected;
14 provided, that the exemptions shall apply to the debtor's household
15 goods notwithstanding any contract for a nonpossessory, nonpurchase
16 money security interest in any such goods;
- 17 (8) For statutory liens, on the specific property affected, other than judicial
18 liens;
- 19 (9) For child support, alimony or distributive award order pursuant to
20 Chapter 50 of the General Statutes;
- 21 (10) For criminal restitution orders docketed as civil judgments pursuant to
22 G.S. 15A-1340.38.

23 (f) Federal Bankruptcy ~~Aet,Code~~. – The exemptions provided in The Bankruptcy
24 ~~Aet,Code~~, 11 U.S.C. § 522(d), are not applicable to residents of this State. The
25 exemptions provided by this Article and by other statutory or common law of this State
26 shall apply for purposes of The Bankruptcy ~~Aet,Code~~, 11 U.S.C. ~~§522(b)~~, § 522(b).

27 (g) Effect of exemptions. – Notwithstanding any other provision of law, a creditor
28 shall not obtain possession of a debtor's household goods and furnishings in which the
29 creditor holds a nonpossessory, nonpurchase money security interest until the creditor has
30 fully complied with the procedures required by G.S. 1C-1603."

31 **SECTION 2.** G.S. 1C-1603(a)(4) reads as rewritten:

32 "(4) After judgment, except as provided in G.S. 1C-1603(a)(3) or when
33 exemptions have already been designated, the clerk may not issue an
34 execution or writ of possession unless notice from the court has been
35 served upon the judgment debtor advising him of his rights. The
36 judgment creditor must cause the ~~notice~~ notice, which shall be
37 accompanied by the form for the statement by the debtor under
38 subsection (c) of this section, to be served on the debtor as provided in
39 G.S. 1A-1, Rule 4(j)(1). If the judgment debtor cannot be served as
40 provided above, the judgment creditor may serve him by mailing a copy
41 of the notice to the judgment debtor at his last known address. Proof of
42 service by certified or registered mail or personal service is as provided
43 in G.S. 1A-1, Rule 4. The judgment creditor may prove service by
44 mailing to last known address by filing a certificate that the notice was

1 served indicating the circumstances warranting the use of such service
2 and the date and address of service. The notice must be substantially in
3 the following form:

4 NORTH CAROLINA IN THE GENERAL COURT
5 COUNTY OF JUSTICE DISTRICT
6 COURT DIVISION
7 CvD

9 Judgment Creditor) NOTICE OF
10 vs.) PETITION (OR
11) MOTION) TO SET
12) OFF DEBTOR'S
13) EXEMPT PROPERTY

14 GREETINGS:

15 You have been named as a "judgment debtor" in a proceeding initiated by a "judgment
16 creditor". A "judgment debtor" is a person who a court has declared owes money to
17 another, the "judgment creditor". The purpose of this proceeding is to make arrangements
18 to collect that debt from you personally or from property you own.

19 It is important that you respond to this notice no later than 20 days after you receive it
20 because you may lose valuable rights if you do nothing. You may wish to consider hiring
21 an attorney to help you with this proceeding to make certain that you receive all the
22 protections to which you are entitled under the North Carolina Constitution and laws.

23 NOTICE TO JUDGMENT DEBTOR:

24 THERE ARE CERTAIN EXEMPTIONS UNDER STATE AND FEDERAL LAW
25 THAT YOU ARE ENTITLED TO CLAIM IN ADDITION TO THE EXEMPTIONS
26 LISTED ON THE "SCHEDULE OF DEBTOR'S PROPERTY AND REQUEST TO SET
27 ASIDE EXEMPT PROPERTY" THAT IS ENCLOSED WITH THIS NOTICE.

28 These exemptions may include social security benefits, unemployment benefits,
29 workers' compensation benefits, and earnings for your personal services rendered within
30 the last 60 days. There is available to you a prompt procedure for challenging an
31 attachment or levy on your property."

32 SECTION 3. G.S. 1C-1603(c) reads as rewritten:

33 "(c) Statement by the Debtor. - When proceedings are instituted, the debtor must
34 file with the court a schedule of:

- 35 (1) His assets, including their location;
36 (2) His debts and the names and addresses of his creditors;
37 (3) The property which that he desires designated as exempt.

38 The form for the statement must be substantially as follows:

39 NORTH CAROLINA IN THE GENERAL COURT
40 COUNTY OF JUSTICE DISTRICT
41 COURT DIVISION

CvD

1			
2			
3	Judgment Creditor)	SCHEDULE OF DEBTOR'S
4)	PROPERTY
5	vs.)	AND REQUEST TO
6)	SET ASIDE EXEMPT
7	Judgment Debtor)	PROPERTY

NOTICE TO JUDGMENT DEBTOR:

THERE ARE CERTAIN EXEMPTIONS UNDER STATE AND FEDERAL LAW THAT YOU ARE ENTITLED TO CLAIM IN ADDITION TO THE EXEMPTIONS LISTED BELOW.

These exemptions may include social security benefits, unemployment benefits, workers' compensation benefits, and earnings for your personal services rendered within the last 60 days. There is available to you a prompt procedure for challenging an attachment or levy on your property.

I, _____, being duly sworn do depose and say:
(fill in your name)

1. That I am a citizen and resident of _____ County, North Carolina;

2. That I was born on _____;
(date of birth)

3. That I am (married to _____)
(spouse's name)

(not married)

4. That the following persons live in my household and are in substantial need of my support:

NAME	RELATIONSHIP TO DEBTOR	AGE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use additional space, as necessary)

5. That (I own) (I am purchasing) (I rent) (choose one; mark out the other choices) a (house) (trailer) (apartment) (choose one; mark out the other choices) located at _____ which is my residence.
(address, city, zip code)

6. That I (do) (do not) own any other real property. If other real property is owned, list that property on the following lines; if no other real property is owned, mark "not applicable" on the first line.

7. That the following persons are, so far as I am able to tell, all of the persons or companies to whom I owe money:

8. That I wish to claim my interest in the following real or personal property property, or in a cooperative that owns property, that I use as a residence or my dependent uses as a residence. I also wish to claim my interest in the following burial plots for myself or my dependents. I understand that my total interest claimed in the residence and burial plots may not exceed \$7,500. \$18,500, except that if I am unmarried and am 65 years of age or older, I am entitled to claim a total exemption in the residence and burial plots not to exceed \$37,000 so long as the property was previously owned by me as a tenant by the entireties or as a joint tenant with rights of survivorship and the former co-owner of the property is deceased.

I understand that I am not entitled to this exemption if I take the homestead exemption provided by the Constitution of North Carolina in other property. I understand that if I wish to claim more than one parcel exempt I must attach additional pages setting forth the following information for each parcel claimed exempt.

Property Location:

County _____ Township _____

Street Address _____

Legal Description:

Number by which county tax assessor identifies property _____

Description (Attach a copy of your deed or other instrument of conveyance that describes the property and indicate here: _____ or describe the property in as much detail as possible.

Attach additional sheets if necessary.)

Record Owner(s) _____

Estimated Value: _____

Lienholders: _____

(1) Name _____ Current Balance _____

Address _____

(2) Name _____ Current Balance _____

1 Address _____
 2 (3) Name _____ Current Balance _____
 3 Address _____

4 (4) If others, attach additional pages.

5 If you are unmarried and 65 years of age or older, specify which, if any, property listed
 6 above was previously owned by you as a tenant by the entireties or as a joint tenant with
 7 rights of survivorship and as to which the former co-owner of the property is deceased:
 8 _____
 9 _____

10 9. That I wish to claim the following life insurance policies whose sole
 11 beneficiaries are (my wife) (my children) (my wife and children) as exempt:

12 Name of Insurer	Policy Number	Face Value	Beneficiary(ies)
13 _____	_____	_____	_____
14 _____	_____	_____	_____
15 _____	_____	_____	_____

16 10. That I wish to claim the following items of health care aid necessary for
 17 (myself) (my dependents) to work or sustain health:

18 Item	Purpose	Person using item
19 _____	_____	_____
20 _____	_____	_____
21 _____	_____	_____

22 11. That I wish to claim the following implements, professional books, or tools (not
 23 to exceed ~~\$500~~,\$2,000), of my trade or the trade of my dependent. I understand that such
 24 property purchased within 90 days of this proceeding ~~is not~~ may not be exempt:

25 Item	Estimated Value
26 _____	_____
27 _____	_____
28 _____	_____

29 12. That I wish to claim the following personal property consisting of household
 30 furnishings, household goods, wearing apparel, appliances, books, animals, crops or
 31 musical instruments as exempt from the claims of my creditors. I affirm, that these items
 32 of personal property are held primarily for my personal, family or household use or for
 33 such use by my dependents.

34 I understand that I am entitled to personal property worth the sum of ~~\$2,500~~ \$5,000. I
 35 understand that I am also entitled to ~~\$500~~ \$1,000 for each person dependent on me for
 36 support, but not to exceed ~~\$2,000~~ \$4,000 for dependents. I further understand that I am
 37 entitled to this amount after deduction from the value of the property the amount of any
 38 valid lien or purchase money security interest and that property purchased within 90 days
 39 of this proceeding ~~is not~~ may not be exempt.

40 Item (or class)	Amount of Lien	Location	Estimated
41 of Property	or Security		Value of
	Interest		Debtor's Interest
42 _____	_____	_____	_____
43 _____	_____	_____	_____
44 _____	_____	_____	_____

13. That I wish to claim my interest in the following motor vehicle as exempt from the claims of my creditors. I understand that I am entitled to my interest in a motor vehicle worth the sum of \$1,000\$3,500 after deduction of the amount of any valid liens or purchase money security interest. I understand that a motor vehicle purchased within 90 days of this proceeding is not may not be exempt.

Make and Model of Motor Vehicle	Year	Name(s) of Title Owner of Record	Name(s) of Lien Holder(s) of Record	Estimated Value of Debtor's Interest
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14. That I wish to claim as exempt the following compensation ~~which that~~ I received or to which I am entitled for the personal injury of myself or a person upon whom I was dependent for ~~support~~ support, including compensation from a private disability policy or an annuity, or compensation ~~which that~~ I received for the death of a person upon whom I was dependent for support. I understand that this compensation is not exempt from claims for funeral, legal, medical, dental, hospital or health care charges related to the accident or injury ~~which that~~ resulted in the payment of the compensation to me. I understand that if I wish to claim more than one amount of compensation exempt, I must attach additional pages setting forth the following information for each amount of compensation claimed exempt.

(a) amount of compensation _____
(b) method of payment: lump sum or installments _____
(If installments, state amount, frequency and duration of payments)

(c) name and relationship to debtor of person(s) injured or killed giving rise to compensation _____

(d) ~~location~~ location/source of compensation if received in lump or installments installments, including name and account number of any disability policy or annuity _____

(e) unpaid debts arising out of the injury or death giving rise to compensation _____

Name and Address	Services Rendered	Amount of Debt
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15. That I wish to claim the following property as exempt because I claimed residential real or personal property as exempt that is worth less than \$2,500\$18,500 or I made no claim for a residential exemption under section (8) above. I understand that I am entitled to \$2,500an exemption of up to \$5,000 in any property only if I made no claim under section (8) above and that if I make a claim or a claim that was less than \$18,500 under section (8) above, above. I understand that I am entitled to \$2,500claim any unused amount that I was permitted to make under section (8) above up to a maximum of \$5,000 in any property minus any amount I claimed under section (8) property. (Examples: (a) if

1 you claim of ~~\$1,000~~\$17,500 under section (8), ~~\$1,500~~\$1,000 allowed here; (b) if you
2 claim of ~~\$2,450~~\$13,500 under section (8), ~~\$50~~\$5,000 allowed here; (c) if you claim of
3 ~~\$2,600~~\$18,500 under section (8), no claim allowed here.) I further understand that the
4 amount of my claim under this section is after the deduction from the value of this
5 property of the amount of any valid lien or purchase money security interests and that
6 tangible personal property purchased within 90 days of this proceeding ~~is not~~may not be
7 exempt.

8 PERSONAL PROPERTY:

9 Property Location	10 Amount of Liens 11 or Purchase Money 12 Security Interests	13 Value of 14 Debtor's 15 Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____

16 REAL PROPERTY (I understand that if I wish to claim more than one parcel exempt, I
17 must attach additional pages setting forth the following information for each parcel
18 claimed exempt):

19 Property Location
20 County _____ Township _____
21 Street Address _____

22 Legal Description:
23 Number by which county tax assessor identifies property
24 _____
25 _____

26 Description (Attach a copy of your deed or other instrument of conveyance that
27 describes the property and indicate here: _____ or describe the
28 property in as much detail as possible.
29 Attach additional sheets if necessary.)
30 _____
31 _____
32 _____
33 _____
34 _____
35 _____

36 Record Owner(s): _____
37 _____
38 _____
39 _____

40 Estimated Value: _____

41 Lienholders:
42 (1) Name _____ Current Balance _____
43 Address _____
44 (2) Name _____ Current Balance _____

1 Address _____
 2 (3) Name _____ Current Balance _____
 3 Address _____

4 (4) If others, attach additional pages.

5 16. That I wish to claim as exempt the following retirement plans that I have that
 6 are individual retirement plans as described in the Internal Revenue Code or that are
 7 treated in the same manner as an individual retirement plan under the Internal Revenue
 8 Code, including individual retirement accounts and Roth retirement accounts as described
 9 in section 408(a) and section 408A of the Internal Revenue Code, individual retirement
 10 annuities as described in section 408(b) of the Internal Revenue Code, and accounts
 11 established as part of a trust described in section 408(c) of the Internal Revenue Code.

<u>Type of Retirement Account</u>	<u>Name of Account</u>	<u>Account Number</u>
_____	_____	_____
_____	_____	_____

16 17. That I wish to claim as exempt the following funds I hold in a college savings
 17 plan, not to exceed \$25,000. I understand that to qualify for this exemption, the college
 18 savings plan must qualify as a college savings plan under section 529 of the Internal
 19 Revenue Code, and the college savings plan must be for my child and must actually be
 20 used for my child's college or university expenses. I understand I may not exempt any
 21 funds I placed in this account within the preceding 12 months, except to the extent that
 22 any such contributions were made in the ordinary course of my financial affairs and were
 23 consistent with my past pattern of contributions.

<u>College Savings Plan</u>	<u>Account Number</u>	<u>Value</u>	<u>Name(s) of Child(ren) Beneficiaries</u>
_____	_____	_____	_____
_____	_____	_____	_____

28 18. That I wish to claim as exempt the following retirement benefits to which I am
 29 entitled to under the retirement plans of other states and governmental units of other
 30 states. I understand that these benefits are exempt only to the extent these benefits are
 31 exempt under the laws of the state or governmental unit under which the benefit plan was
 32 established.

<u>State/Governmental Unit</u>	<u>Name of Retirement Plan</u>	<u>Identifying Number</u>
_____	_____	_____
_____	_____	_____

38 19. That I wish to claim as exempt any alimony, support, separate maintenance, or
 39 child support payments or funds that I have received or that I am entitled to receive. I
 40 understand that these payments are exempt only to the extent that they are reasonably
 41 necessary for my support or for the support of a person dependent on me for support.

<u>Type of Support</u>	<u>Person Paying Support</u>	<u>Amount & Location of Funds</u>
_____	_____	_____
_____	_____	_____

20. That I wish to claim as exempt the following wedding and engagement rings and any jewelry of mine that is a family heirloom, not to exceed \$4,000 in value. I understand that I am entitled to this exemption after deduction of the amount of any valid liens or purchase money security interests.

<u>Item (or Class)</u> <u>of Property</u>	<u>Amount of Lien</u> <u>or Security Interest</u>	<u>Location</u>	<u>Estimated Value</u> <u>of Debtor's Interest</u>
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16.21. That the following is a complete listing of all of my assets which that I have not claimed as exempt under any of the preceding paragraphs:

<u>Item</u>	<u>Location</u>	<u>Estimated Value</u>
-------------	-----------------	------------------------

This the _____ day of _____, _____

Judgment Debtor

Sworn to and Subscribed before me this _____ day of _____, _____

Notary Public

My Commission Expires:"

SECTION 4. G.S. 1C-1603(e)(2) reads as rewritten:

"(2) If the judgment debtor does not file a motion to designate exemptions with a schedule of assets within 20 days after notice of his rights was served in accordance with G.S. 1C-1603(a)(4) or if he does not request a hearing before the clerk within 20 days after service of the notice of rights and appear at the requested hearing, the judgment debtor has waived the exemptions provided in this Article and in Sections 1 and 2 of Article X of the North Carolina Constitution. Constitution, except as provided in G.S. 1C-1601(a)(14) with regard to recent earnings. Upon request of the judgment creditor, the clerk shall issue a writ of execution or writ of possession."

SECTION 5. G.S. 1-362 reads as rewritten:

"§ 1-362. Debtor's property ordered sold.

The court or judge may order any property, whether subject or not to be sold under execution (except the homestead and personal property other exemptions of the judgment debtor), in the hands of the judgment debtor or of any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment; except that the earnings of the debtor for his personal services, at any time within 60 days next preceding the order, cannot be so applied when it appears, by the debtor's affidavit or otherwise, that these earnings are necessary for the use of a family supported wholly or partly by his labor. Wages of the judgment debtor shall not be garnished and applied towards the satisfaction of a judgment unless specifically authorized by statute."

1 **SECTION 6.** Article 16 of Chapter 1C of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 1C-1601.1. Automatic adjustment of value of certain exempt property; public**
4 **notice of automatic adjustment.**

5 (a) Effective April 1, 2009, and effective April 1 every three years thereafter, each
6 dollar amount under subsection (a) of G.S. 1C-1601 shall be automatically adjusted and
7 amended to a revised amount that:

8 (1) Reflects the change in the Consumer Price Index for All Urban
9 Consumers published by the United States Department of Labor for the
10 most recent three-year period ending immediately before January 1 that
11 immediately precedes the April 1 of the year in which the automatic
12 adjustment occurs, and

13 (2) Is then rounded to the nearest twenty-five dollars (\$25.00).

14 At the same time, G.S. 1C-1603(c)(3) is amended to make conforming changes to the
15 dollar amounts in the form of the notice from the court to the judgment debtor.

16 (b) No later than March 20 of the year in which the automatic adjustment under this
17 section occurs, the Administrative Office of the Courts shall give public notice that the
18 automatic adjustment will occur and the revised amounts that will come into effect that
19 April 1 and shall cause G.S. 1C-1601 and G.S. 1C-1603, reflecting the revised amounts, to
20 be published in the next available North Carolina Register prior to that April 1. The
21 Reviser of Statutes shall cause G.S. 1C-1601 and G.S. 1C-1603, reflecting the revised
22 amounts, to be printed at the next publication of the General Statutes or any supplement to
23 the General Statutes immediately following an automatic adjustment under this section."

24 **SECTION 7.** This act becomes effective January 1, 2006.