

THE FLORIDA SENATE
2022 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

SB 406 — Secured Transactions

by Senator Berman

When a consumer enters a security agreement – a contract in which a debtor offers assets as collateral (“security”) to guarantee repayment – the contract describes what assets are offered as security. Historically, a contract’s blanket offering of “all assets” as security has not been interpreted to include certain assets. The bill remedies issues arising from a recent federal court case which held that mere reference to “all assets” included certain property previously understood to be excluded from such an agreement.

The bill protects consumers from unknowingly pledging otherwise exempt assets by providing that certain accounts and entitlements are not adequately described in a security agreement by general reference to “all assets,” or similar, for the purpose of waiving constitutional and statutory protections from creditors.

The assets further protected by the bill include life insurance policies, cash surrender value of life insurance policies and annuity contracts; wages or reemployment assistance or unemployment compensation payments due deceased employees; disability income benefits; certain payments protected by the federal Bankruptcy Reform Act of 1978; pension money and tax exempt retirement accounts; and assets in qualified tuition programs, medical savings accounts, Coverdell education savings accounts, and hurricane savings accounts.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 113-0