

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 528

INTRODUCER: Judiciary Committee and Senator Polsky

SUBJECT: Value of Motor Vehicles Exempt from Legal Process

DATE: February 21, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 528 creates an exemption that will protect an individual debtor's interest in a single motor vehicle, up to \$5,000 in value, in actions arising under the federal Bankruptcy Code. This provision applies to any bankruptcy action that is filed on or after July 1, 2022.

**II. Present Situation:**

The Florida Constitution protects a homestead, used as a residence, and personal property which does not exceed \$1,000, from the forced sale by creditors.<sup>1</sup> The purpose of the homestead exemption is a matter of public policy - to maintain the home as a shelter for a family and prevent the family from becoming dependent on public assistance.<sup>2</sup>

In a similar manner, the Florida Statutes protect certain assets from the claims of creditors. Chapter 222 exempts, or protects, the following items:

- A life insurance policy.<sup>3</sup>
- The cash surrender value of a life insurance policy and the proceeds of an annuity contract.<sup>4</sup>
- Disability income benefits.<sup>5</sup>

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<sup>1</sup> FLA. CONST. art. X, s. 14.

<sup>2</sup> 28A Fla. Jur 2d Homesteads s. 3. (2021).

<sup>3</sup> Section 222.13(1), F.S.

<sup>4</sup> Section 222.14, F.S.

<sup>5</sup> Section 222.18, F.S.

- Pension money and funds placed in certain tax-exempt accounts.<sup>6</sup>
- Assets held in qualified tuition programs, health savings and medical savings accounts, Coverdell education savings accounts which are also known as an educational IRA, and hurricane savings accounts.<sup>7</sup>
- Certain wages, unless the person has agreed in writing to waive the exemption.<sup>8</sup>
- Personal property when properly inventoried and filed with a court.<sup>9</sup>
- Professionally prescribed health aids for the debtor or his or her dependent.<sup>10</sup>
- Items exempted under the federal Bankruptcy Reform Act of 1978 including a social security benefit, unemployment compensation, or a local public assistance benefit; a veterans' benefit; a disability, illness, or unemployment benefit; alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and his or her dependent; and payments under a stock bonus, pension, profitsharing, annuity, or similar plan under specified circumstances.<sup>11</sup>
- A debtor's interest in a single motor vehicle which does not exceed \$1,000 in value.<sup>12</sup>

### III. Effect of Proposed Changes:

The bill amends s. 222.25, F.S. by creating a new exemption from claims of creditors in bankruptcy proceedings. Under the exemption, a debtor may exempt from creditors' claims his or her interest in a single motor vehicle, the value of which may not exceed \$5,000. The exemption applies to bankruptcy proceedings initiated on or after July 1, 2022.

The bill takes effect on July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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<sup>6</sup> Section 221.21, F.S.

<sup>7</sup> Section 222.22, F.S.

<sup>8</sup> Section 222.11, F.S.

<sup>9</sup> Section 222.061, F.S.

<sup>10</sup> Section 222.25, F.S.

<sup>11</sup> Section 222.201, F.S. and 11 U.S. Code s. 522(d)(10).

<sup>12</sup> Section 222.25(1), F.S.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By increasing the value of a debtor's motor vehicle that is protected in a federal bankruptcy proceeding, a debtor would be able to maintain an asset of greater value and possibly greater dependability to him or her.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 222.25 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 7, 2022:**

The committee substitute limits the maximum exemption amount for a single motor vehicle to \$5,000 in bankruptcy proceedings that are filed on or after July 1, 2022. For cases involving attachment, garnishment, or other legal process, the amount a debtor may protect in a single motor vehicle remains at a maximum value of \$1,000.

B. Amendments:

None.