

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.)

Prepared By: The Professional Staff of the Committee on Rules

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>	Fav/CS
2.	<u>Davis</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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.¹ 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.²

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

¹ FLA. CONST. art. X, s. 14.

² 28A Fla. Jur 2d Homesteads s. 3. (2021).

³ Section 222.13(1), F.S.

⁴ Section 222.14, F.S.

⁵ Section 222.18, F.S.

- Pension money and funds placed in certain tax-exempt accounts.⁶
- 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.⁷
- Certain wages, unless the person has agreed in writing to waive the exemption.⁸
- Personal property when properly inventoried and filed with a court.⁹
- Professionally prescribed health aids for the debtor or his or her dependent.¹⁰
- 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.¹¹
- A debtor's interest in a single motor vehicle which does not exceed \$1,000 in value.¹²

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.

⁶ Section 221.21, F.S.

⁷ Section 222.22, F.S.

⁸ Section 222.11, F.S.

⁹ Section 222.061, F.S.

¹⁰ Section 222.25, F.S.

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

¹² 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.