House of Representatives

General Assembly

File No. 412

January Session, 2015

Substitute House Bill No. 6772

House of Representatives, April 2, 2015

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT EXTENDING CREDITOR PROTECTION TO AMOUNTS PAYABLE TO A PARTICIPANT OF OR BENEFICIARY UNDER AN ANNUITY PURCHASED TO FUND EMPLOYEE OR RETIREE RETIREMENT BENEFITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 52-321a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) (1) Except as provided in subsection (b) of this section, any interest in or amounts payable to a participant or beneficiary from **[**(1) any**]** the following shall be exempt from the claims of all creditors of such participant or beneficiary: (A) Any trust, custodial account, annuity or insurance contract established as part of a Keogh plan or a retirement plan established by a corporation which is qualified under Section 401, 403, 404 or 409 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended; **[**, (2)**]** (B) any individual retirement account which is qualified under Section 408 of said internal revenue code to the extent funded, including income and appreciation, [(A)] (i) as a roll-over from a qualified retirement plan, as provided in [subdivision (1) of this section] subparagraph (A) of this subdivision, pursuant to Section 402(a)(5), 403(a) or 408(d)(3) of said internal revenue code, or [(B)] (ii) by annual contributions which do not exceed the maximum annual limits set forth in Section 219(b) of said internal revenue code, determined without regard to any reduction or limitation for active participants required by Section 219(g) of said internal revenue code; [, (3) (A)] (C) (i) any simple retirement account established and funded pursuant to Section 408(p) of said internal revenue code, [(B)] (ii) any simple plan established and funded pursuant to Section 401(k)(11) of said internal revenue code, [(C)] (iii) any Roth IRA established and funded pursuant to Section 408A of said internal revenue code, [(D)] (iv) any education individual retirement account established and funded pursuant to Section 530 of said internal revenue code, [(E)] (v) any account established pursuant to any qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code, or [(F)] (vi) any simplified employee pension established under Section 408(k) of said internal revenue code to the extent such pension is funded by annual contributions within the limits of Section 408(j) of said internal revenue code or roll-over contributions from a qualified plan, as provided in [subdivision (1) of this subsection] subparagraph (A) of this subdivision, pursuant to Section 402(a)(5), 403(a) or 408(d)(3) of said internal revenue code; [, (4)] (D) any medical savings account established under Section 220 of said internal revenue code, to the extent such account is funded by annual deductible contributions or a roll-over from any other medical savings account as provided in Section 220(f)(5) of said internal revenue code; [, or (5)] (E) any pension plan, annuity or insurance contract or similar arrangement not described in [subdivision (1) or (2) of this subsection] subparagraph (A) or (B) of this subdivision, established by federal or state statute for federal, state or municipal employees for the primary purpose of providing benefits upon retirement by reason of age, health or length of service; [, shall be exempt from the claims of all creditors of such participant or beneficiary] or (F) any allocated or unallocated group annuity contract issued to an employer or a pension plan for the purpose of providing retirement benefits to employees or retirees of such employer under a defined benefit plan, which retirement benefits were protected under the Employee Retirement Income Security Act of 1974 or the federal Pension Benefit Guaranty Corporation prior to the effective date of the group annuity contract and which group annuity contract benefits will not be protected under the Employee Retirement Income Security Act of 1974 or the federal Pension Benefit Guaranty Corporation on and after the effective date of the group annuity contract.

(2) Any such trust, account, contract, plan or other arrangement under subdivision (1) of this subsection shall be (A) conclusively presumed to be a restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under the laws of this state, and (B) considered a trust which has been created by or which has proceeded from a person other than such participant or beneficiary, even if such participant or beneficiary is a self-employed individual, a partner of the entity sponsoring the Keogh plan or a shareholder of the corporation sponsoring the retirement plan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2015*	52-321a(a)

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill alters certain conditions for group annuity contracts. As this concerns private transactions, there is no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
sHB 6772

AN ACT EXTENDING CREDITOR PROTECTION TO AMOUNTS PAYABLE TO A PARTICIPANT OF OR BENEFICIARY UNDER AN ANNUITY PURCHASED TO FUND EMPLOYEE OR RETIREE RETIREMENT BENEFITS.

SUMMARY:

This bill exempts from creditors' claims interests in, or amounts payable to, participants and beneficiaries of certain allocated or unallocated group annuity contracts. Employers may enter into group annuity contracts to fund employee retirement benefits or otherwise decrease the risk associated with managing a retirement plan.

To qualify for the exemption, a group annuity contract must be issued to an employer or pension plan to provide employees or retirees with defined retirement benefits. In addition, the:

1. original retirement benefits must be protected under the federal Employee Retirement Income Security Act (ERISA) or Pension Benefit Guaranty Corporation (PBGC); and
2. group annuity contract must not be protected by ERISA or the PBGC (see BACKGROUND).

By law, creditors cannot claim interests in and payments from certain accounts, including certain retirement accounts, simplified employee pension plans, and medical savings accounts.

EFFECTIVE DATE: October 1, 2015

BACKGROUND

ERISA AND PBGC

ERISA sets minimum standards for private pension plans, including standards for participation, vesting, benefit accrual, funding, and pension management responsibility.

Under ERISA, most private defined benefit pension plans are required to obtain pension benefit insurance through the PBGC. The PBGC provides payment of certain benefits if these plans are terminated (e.g., when the employer can no longer meet the plan's fiduciary obligations).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea	18	Nay	0	(03/17/2015)