

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 607
SENATE BILL 817

AN ACT TO PROTECT BONA FIDE PURCHASERS FOR VALUE OF REAL PROPERTY AGAINST JUDGMENTS FOR WHICH THE STATUTE OF LIMITATIONS IS SUSPENDED FOR THE PERIOD OF EXEMPTION BY REQUIRING THE ORDER DESIGNATING EXEMPT PROPERTY TO BE FILED IN THE REGISTER OF DEEDS OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1C-1603(c) reads as rewritten:

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

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

The form for the statement must be substantially as follows:

NORTH CAROLINA		IN THE GENERAL COURT
..... COUNTY		OF JUSTICE DISTRICT
		COURT DIVISION
		CvD
Judgment Creditor)	SCHEDULE OF DEBTOR'S
)	PROPERTY
vs.)	AND REQUEST TO
)	SET ASIDE EXEMPT
Judgment Debtor)	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 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. 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.

Address

Names of Owners of Record

Estimated Value

Amount of Liens

Amount of Debtor's Interest

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

Address

(3) Name..... Current Balance

Address.....

(4) If others, attach additional pages.

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

Name of Insurer	Policy Number	Face Value	Beneficiary(ies)
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.....
.....
.....

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

Item	Purpose	Person using item
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.....
.....

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

Item	Estimated Value
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.....
.....

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

I understand that I am entitled to personal property worth the sum of \$2,500. I understand that I am also entitled to \$500 for each person dependent on me for support, but not to exceed \$2,000 for dependents. I further understand that I am entitled to this

amount after deduction from the value of the property the amount of any valid lien or purchase money security interest and that property purchased within 90 days of this proceeding is not exempt.

Item (or class) of Property	Amount of Lien or Security Interest	Location	Estimated Value of Debtor's Interest
.....
.....
.....

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 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 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
.....

14. That I wish to claim as exempt the following compensation which I received for the personal injury of myself or a person upon whom I was dependent for support or compensation which 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 resulted in the payment of the compensation to me.

- (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 of compensation if received in lump or installments
- (e) unpaid debts arising out of the injury or death giving rise to compensation

Name and Address	Services Rendered	Amount of Debt
.....
.....

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 or I made no claim for a residential exemption under section (8) above. I understand that I am entitled to \$2,500 in any property only if I made no claim under section (8) above and that if I make a claim under section (8) above, that I am entitled to \$2,500 in any property minus any amount I claimed under section (8). (Examples: claim of \$1,000 under section (8), \$1,500 allowed here; claim of \$2,450 under section (8), \$50 allowed

here; claim of \$2,600 under section (8), no claim allowed here.) I further understand that the amount of my claim under this section is after the deduction from the value of this property of the amount of any valid lien or purchase money security interests and that tangible personal property purchased within 90 days of this proceeding is not exempt.

<u>Property Location</u>	<u>Amount of Liens or Purchase Money Security Interests</u>	<u>Estimated Value of Debtor's Interest</u>
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PERSONAL PROPERTY:

<u>Property Location</u>	<u>Amount of Liens or Purchase Money Security Interests</u>	<u>Value of Debtor's Interest</u>
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.....
.....

REAL 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
Address

(3) Name..... Current Balance
Address.....

(4) If others, attach additional pages.

16. That the following is a complete listing of all of my assets which I have not claimed as exempt under any of the preceding paragraphs:

Item Location Estimated value

This the day of, 19.....

Judgment Debtor

Sworn to and Subscribed before
me this day of, 19.....

.....
Notary Public My Commission Expires: _____".

Sec. 2. G.S. 1C-1604 reads as rewritten:

"§ 1C-1604. Effect of exemption.

(a) Property allocated to the debtor as exempt is free of the enforcement of the claims of creditors for indebtedness incurred before or after the exempt property is set aside, other than claims exempted by G.S. 1C-1601(e), for so long as the debtor owns it. When the property is conveyed to another, the exemption ceases as to liens attaching prior to the conveyance. Creation of a security interest in the property does not constitute a conveyance within the meaning of this section, but a transfer in satisfaction of, or for the enforcement of, a security interest is a conveyance. When exempt property is conveyed, the debtor may have other exemptions allotted. ~~The statute of limitation on judgments is suspended for the period of exemption, as to the property which is exempt.~~

(a1) The statute of limitations on judgments is suspended for the period of exemption as to the property which is exempt. However, the statute of limitations is not suspended as to the exempt property unless the judgment creditor shall have, prior to the expiration of the statute of limitations, recorded a copy of the order designating exempt property in the office of the register of deeds in the county where the exempt real property is located.

(b) Exempt property which passes by bequest, devise, intestate succession or gift to a dependent spouse, child or person to whom the debtor stands in loco parentis,

continues to be exempt while held by that person. The exemption is terminated if the spouse remarries, or, with regard to a dependent, when the court determinates that dependency no longer exists."

Sec. 3. This act becomes effective October 1, 1991. For one year from October 1, 1991, upon application of either the judgment debtor or judgment creditor, the clerk of superior court may amend any order previously entered for the purpose of more specifically describing exempt property. If the statute of limitations expires on a judgment lien as to exempt property and, but for the provisions of this act, it would not have expired, the statute of limitations is suspended for one year from October 1, 1991, to allow a judgment creditor to file with the register of deeds a copy of an order designating exempt property.

In the General Assembly read three times and ratified this the 9th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives