

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 794

Short Title: Exempt Tobacco Settlement Payments.

(Public)

Sponsors: Senators Wellons; Albertson, Gulley, Harris, Jordan, Kerr, Lucas, Martin of Pitt, Purcell, and Warren.

Referred to: Judiciary I.

April 8, 1999

A BILL TO BE ENTITLED

1 AN ACT TO EXEMPT PAYMENTS UNDER PHASE I AND PHASE II OF THE
2 TOBACCO SETTLEMENT AGREEMENT FROM EXECUTION EXCEPT FOR
3 DEBTS INCURRED FOR FARMING OPERATIONS IN CALENDAR YEARS
4 1999 AND 2000.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 1C-1601(a) is amended by adding a new subdivision (10) to
8 read:

9 "(10) Payments distributed to an active tobacco farmer under the terms of the
10 master settlement agreement between tobacco manufacturers and the
11 states as ratified in North Carolina through a consent decree in the
12 action of State of North Carolina v. Philip Morris, et al., 98 CVS 14377
13 in the General Court of Justice, Superior Court Division, Wake County
14 (generally known as the 'Phase I' agreement), or from a national tobacco
15 trust fund established by tobacco manufacturers to compensate tobacco
16 farmers and quota holders for losses sustained as a result of the master
17 settlement agreement (generally known as the 'Phase II' agreement).
18 This exemption shall not apply to the enforcement of the claims of

creditors for annual operating loans obtained by farmers for crop year 1999 and crop year 2000. For purposes of this section:

a. 'Active tobacco farmer' means a farmer who owns or leases tobacco quota and who is engaged in the actual production of tobacco.

b. 'Annual operating loan' means a loan from a lending institution as defined in G.S. 122D-3(8) for seeds, plants, fertilizers, herbicides, pesticides, feed, and other inputs used by a farmer in the planting, cultivating, harvesting, or curing of crops, fruits, or berries, or in the production of dairy products, eggs, poultry, livestock, aquacultural crops, or other horticultural products."

Section 2. 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

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(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.

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)

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 2 Estimated Value:.....
 3 Lienholders:(1) Name Current Balance
 4 Address
 5 (2) Name Current Balance
 6 Address
 7 (3) Name Current Balance
 8 Address
 9 (4) If others, attach additional pages.

10 9. That I wish to claim the following life insurance policies whose sole beneficiaries
 11 are (my wife) (my children) (my wife and children) as exempt:
 12 Name of Insurer Policy Number Face Value Beneficiary(ies)

16 10. That I wish to claim the following items of health care aid necessary for (myself)
 17 (my dependents) to work or sustain health:
 18 Item Purpose Person using item

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

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

34 I understand that I am entitled to personal property worth the sum of \$2,500. I
 35 understand that I am also entitled to \$500 for each person dependent on me for support,
 36 but not to exceed \$2,000 for dependents. I further understand that I am entitled to this
 37 amount after deduction from the value of the property the amount of any valid lien or
 38 purchase money security interest and that property purchased within 90 days of this
 39 proceeding is not exempt.

40 Item (or class) Amount of Lien Location Estimated
 41 of Property or Security Value of
 42 Interest Debtor's Interest
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3 13. That I wish to claim my interest in the following motor vehicle as exempt from
4 the claims of my creditors. I understand that I am entitled to my interest in a motor
5 vehicle worth the sum of \$1,000 after deduction of the amount of any valid liens or
6 purchase money security interest. I understand that a motor vehicle purchased within 90
7 days of this proceeding is not exempt.

8	Make and	Year	Name(s) of	Name(s) of	Estimated
9	Model of		Title Owner	Lien Holder(s)	Value of
10	Motor Vehicle		of Record	of Record	Debtor's
11					Interest
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13 14. That I wish to claim as exempt the following compensation which I received for
14 the personal injury of myself or a person upon whom I was dependent for support or
15 compensation which I received for the death of a person upon whom I was dependent for
16 support. I understand that this compensation is not exempt from claims for funeral, legal,
17 medical, dental, hospital or health care charges related to the accident or injury which
18 resulted in the payment of the compensation to me.

- 19 (a) amount of compensation
- 20 (b) method of payment: lump sum or installments
- 21 (If installments, state amount, frequency and duration of payments)

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23 (c) name and relationship to debtor of person(s) injured or killed giving rise to
24 compensation

25 (d) location of compensation if received in lump or installments

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27 (e) unpaid debts arising out of the injury or death giving rise to compensation

29	Name and Address	Services Rendered	Amount of Debt
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32 15. That I wish to claim the following property as exempt because I claimed
33 residential real or personal property as exempt that is worth less than \$2,500 or I made no
34 claim for a residential exemption under section (8) above. I understand that I am
35 entitled to \$2,500 in any property only if I made no claim under section (8) above and
36 that if I make a claim under section (8) above, that I am entitled to \$2,500 in any property
37 minus any amount I claimed under section (8). (Examples: claim of \$1,000 under section
38 (8), \$1,500 allowed here; claim of \$2,450 under section (8), \$50 allowed here; claim of
39 \$2,600 under section (8), no claim allowed here.) I further understand that the amount of
40 my claim under this section is after the deduction from the value of this property of the
41 amount of any valid lien or purchase money security interests and that tangible personal
42 property purchased within 90 days of this proceeding is not exempt.

43 PERSONAL PROPERTY:

1	Property Location	Amount of Liens	Value of
2		or Purchase Money	Debtor's
3		Security Interests	Interest

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8 REAL PROPERTY (I understand that if I wish to claim more than one parcel exempt, I
9 must attach additional pages setting forth the following information for each parcel
10 claimed exempt):

11 Property Location
12 County Township
13 Street Address

14 Legal Description:
15 Number by which county tax assessor identifies property

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18 Description (Attach a copy of your deed or other instrument of conveyance that
19 describes the property and indicate here: or describe the
20 property in as much detail as possible.
21 Attach additional sheets if necessary.)

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29 Record Owner(s):

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33 Estimated Value:

34 Lienholders:
35 (1) Name Current Balance
36 Address
37 (2) Name Current Balance
38 Address
39 (3) Name Current Balance
40 Address
41 (4) If others, attach additional pages.

42 16. That I wish to claim as exempt the following payments I received pursuant to
43 the master settlement agreement between tobacco manufacturers and the states as ratified

1 in North Carolina through a consent decree in the action of State of North Carolina v.
2 Philip Morris, et al., 98 CVS 14377 in the General Court of Justice, Superior Court
3 Division, Wake County (generally known as the 'Phase I' agreement), or from a national
4 tobacco trust fund established by tobacco manufacturers to compensate tobacco farmers
5 and quota holders for losses sustained as a result of the master settlement agreement
6 (generally known as the 'Phase II' agreement). I understand that these payments are not
7 exempt from claims for annual operating loans for farm inputs for the 1999 crop year or
8 the 2000 crop year.

- 9 (a) amount of payments.....
10 (b) method of payments.....
11 (c) location of payments.....
12 (d) unpaid debts for annual operating loans.....

13 1999 CROP YEAR

Table with 3 columns: Name and Address, Loan Purpose Owed, Amount. Rows 14-19.

20 2000 CROP YEAR

Table with 3 columns: Name and Address, Loan Purpose Owed, Amount. Rows 21-26.

27 16-17. That the following is a complete listing of all of my assets which I
28 have not claimed as exempt under any of the preceding paragraphs:

29 Item Location Estimated value

33 This the day of, 19....

35 Judgment Debtor

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

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39 Notary Public

My Commission Expires:".

41 Section 3. This act is effective when it becomes law and expires January 1,
42 2002.