

HOUSE BILL No. 2883

By Committee on Judiciary

2-13

9 AN ACT concerning exemptions; relating to life insurance and earned
10 income credits; amending K.S.A. 40-414 and repealing the existing
11 section.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) Except as provided further, every person residing
15 in this state shall have exempt from seizure and sale upon any attachment,
16 execution or other process issued from any court in this state any claim
17 for or amount allowed as an earned income credit pursuant to section 32
18 of the federal internal revenue code of 1986, as amended, or allowed as
19 an earned income credit pursuant to K.S.A. 79-32,205, and amendments
20 thereto. The provisions of this section shall not apply to seizures or sales
21 by taxing authorities or for arrearages for child support.

22 (b) This section shall be part of and supplemental to article 23 of
23 chapter 60 of the Kansas Statutes Annotated.

24 Sec. 2. K.S.A. 40-414 is hereby amended to read as follows: 40-414.

25 (a) If a life insurance company or fraternal benefit society issues any policy
26 of insurance or beneficiary certificates upon the life of an individual and
27 payable at the death of the insured, or in any given number of years, to
28 any person or persons having an insurable interest in the life of the in-
29 sured, the policy and its reserves, or their present value, shall inure to
30 the sole and separate use and benefit of the beneficiaries named in the
31 policy and shall be free from:

32 (1) The claims of the insured or the insured's creditors and
33 representatives;

34 (2) the claims of any policyholder or the policyholder's creditors and
35 representatives, subject to the provisions of subsection (b);

36 (3) all taxes, subject to the provisions of subsection (d); and

37 (4) the claims and judgments of the creditors and representatives of
38 any person named as beneficiary in the policy of insurance.

39 (b) The nonforfeiture value of a life insurance policy shall not be
40 exempt from:

41 (1) Claims of the creditors of a policyholder who files a *voluntary*
42 bankruptcy petition *or against whom an involuntary petition is filed* under
43 11 U.S.C. § 101 et seq. on or within one year after the date the policy is

1 issued; or

2 (2) the claim of any creditor of a policyholder if execution on judg-
3 ment for the claim is issued on or within one year after the date that the
4 policy is issued.

5 (c) Nothing in this section shall be construed as restricting the right
6 of the insured to change the beneficiary if the policy reserves that right
7 to the insured.

8 (d) Nothing in this section shall be construed as exempting from tax-
9 ation any real estate which may at any time be carried by any life insurance
10 company as a part of its legal reserve.

11 (e) The provisions of subsection (b) shall apply only to life insurance
12 policies purchased on or after July 1, 1988.

13 (f) The provisions of subsection (b) shall not apply to that portion of
14 the nonforfeiture value of a life insurance policy, issued on or within one
15 year of the filing of a bankruptcy petition under 11 U.S.C. §101 et seq.
16 or an execution on judgment for the claim of the creditor, which is derived
17 from the surrender of a life insurance policy issued more than one year
18 prior to such bankruptcy petition or such execution.

19 Sec. 3. K.S.A. 40-414 is hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.