Illinois Compiled Statutes - Spendthrift Assets

(Asset Protection)

(40 ILCS 5/15-185)

Sec. 15-185. Annuities, etc., exempt. The accumulated employee and employer contributions shall be held in trust for each participant and annuitant, and this trust shall be treated as a spendthrift trust. Except as provided in this Article, all cash, securities and other property of this system, all annuities and other benefits payable under this Article and all accumulated credits of participants and annuitants in this system and the right of any person to receive an annuity or other benefit under this Article, or a refund of contributions, shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process, in bankruptcy or otherwise, nor to sale, pledge, mortgage or other alienation, and shall not be assignable. The board, however, may deduct from the benefits, refunds and credits payable to the participant, annuitant or beneficiary, amounts owed by the participant or annuitant to the system. No attempted sale, transfer or assignment of any benefit, refund or credit shall prevent the right of the board to make the deduction and offset authorized in this Section. Any participant or annuitant may authorize the board to deduct from disability benefits or annuities, premiums due under any group hospital-surgical insurance program which is sponsored or approved by any employer; however, the deductions from disability benefits may not begin prior to 6 months after the disability occurs.

(735 ILCS 5/12-1001)

Sec. 12-1001. Personal property exempt. The following personal property, owned by the debtor, is exempt from judgment, attachment, or distress for rent:

(f) All proceeds payable because of the death of the insured and the aggregate net cash value of any or all life insurance and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent, or other person dependent upon the insured, whether the power to change the beneficiary is reserved to the insured or not and whether the insured or the insured's estate is a contingent beneficiary or not;

(735 ILCS 5/12-1006)

Sec. 12-1006. Exemption for retirement plans.

(a) A debtor's interest in or right, whether vested or not, to the assets held in or to receive pensions, annuities, benefits, distributions, refunds of contributions, or other payments under a retirement plan is exempt from judgment, attachment, execution, distress for rent, and seizure for the satisfaction of debts if the plan (i) is intended in good faith to qualify as a retirement plan under applicable provisions of the Internal Revenue Code of 1986, as now or hereafter amended, or (ii) is a public employee pension plan created under the Illinois Pension Code, as now or hereafter amended.

(b) "Retirement plan" includes the following:

(1) a stock bonus, pension, profit sharing, annuity, or similar plan or arrangement, including a retirement plan for self-employed individuals or a simplified employee pension plan;

(2) a government or church retirement plan or contract;

(3) an individual retirement annuity or individual retirement account; and

(4) a public employee pension plan created under the Illinois Pension Code, as now or hereafter amended.

(c) A retirement plan that is (i) intended in good faith to qualify as a retirement plan under the applicable provisions of the Internal Revenue Code of 1986, as now or hereafter amended, or (ii) a public employee pension plan created under the Illinois Pension Code, as now or hereafter amended, is conclusively presumed to be a spendthrift trust under the law of Illinois.

(d) This Section applies to interests in retirement plans held by debtors subject to bankruptcy, judicial, administrative or other proceedings pending on or filed after August 30, 1989.