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AB-688 Enforcement of money judgments: exemptions. (2017-2018)

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Assembly Bill No. 688

CHAPTER 529

An act to amend, repeal, and add Section 4880 of the Welfare and Institutions Code, relating to money judgments.

[Approved by Governor October 06, 2017. Filed with Secretary of State October 06, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 688, Calderon. Enforcement of money judgments: exemptions.

Under existing law, certain property is exempted from enforcement of money judgments, including benefits from a disability or health insurance policy or program.

Existing federal law, the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), encourages and assists individuals and families to save private funds in a tax-advantaged savings account for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a qualified ABLE program established and maintained by a state, as specified. Existing law establishes the Qualified ABLE Program, administered by the California ABLE Act Board, in this state for purposes of implementing the federal ABLE Act. Under the Qualified ABLE Program, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, up to \$100,000, do not count toward determining eligibility for a state or local means-tested program.

This bill would, commencing September 1, 2018, also exempt those moneys in an ABLE account from enforcement of a money judgment without making a claim, except as specified.

This bill would incorporate additional changes to Section 4880 of the Welfare and Institutions Code proposed by AB 384 to be operative only if this bill and AB 384 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4880 of the Welfare and Institutions Code is amended to read:

4880. (a) Notwithstanding any other law, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall not count toward determining eligibility for a state or local means-tested program.

(b) This section shall become inoperative on September 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 1.5. Section 4880 of the Welfare and Institutions Code is amended to read:

4880. (a) Notwithstanding any other law, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall not count toward determining eligibility for a state or local means-tested program.

(b) Notwithstanding subdivision (a), Section 103 of Division B of Public Law 113-295 and Sections 17140.4 and 23711.4 of the Revenue and Taxation Code shall apply.

(c) This section shall become inoperative on September 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 2. Section 4880 is added to the Welfare and Institutions Code, to read:

4880. (a) Notwithstanding any other law, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall not count toward determining eligibility for a state or local means-tested program.

(b) (1) Notwithstanding any other law, moneys in an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall be exempt from enforcement of a money judgment without making a claim.

(2) A money judgment in favor of the State Department of Health Care Services shall not be subject to the exemption provided in paragraph (1) during any period of time in which federal law or guidance issued by the federal Centers for Medicare and Medicaid Services requires the department to recover funds from ABLE accounts for reimbursement of qualifying Medi-Cal expenditures.

(c) This section shall become operative on September 1, 2018.

SEC. 2.5. Section 4880 is added to the Welfare and Institutions Code, to read:

4880. (a) Notwithstanding any other law, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall not count toward determining eligibility for a state or local means-tested program.

(b) Notwithstanding subdivision (a), Section 103 of Division B of Public Law 113-295 and Sections 17140.4 and 23711.4 of the Revenue and Taxation Code shall apply.

(c) (1) Notwithstanding any other law, moneys in an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall be exempt from enforcement of a money judgment without making a claim.

(2) A money judgment in favor of the State Department of Health Care Services shall not be subject to the exemption provided in paragraph (1) during any period of time in which federal law or guidance issued by the federal Centers for Medicare and Medicaid Services requires the department to recover funds from ABLE accounts for reimbursement of qualifying Medi-Cal expenditures.

(d) This section shall become operative on September 1, 2018.

SEC. 3. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 4880 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 384. These sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 4880 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 384, in which case Sections 1 and 2 of this bill shall not become operative.