

## ENROLLED

HB 469

2011 Legislature

1                   A bill to be entitled  
2           An act relating to individual retirement accounts;  
3           amending s. 222.21, F.S.; clarifying the exemption of  
4           inherited individual retirement accounts from legal  
5           processes; providing intent; providing for retroactive  
6           application; providing an effective date.

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8           WHEREAS, many residents of this state have individual  
9           retirement accounts, relying upon the Legislature's intent that  
10          individual retirement accounts be exempt from claims of  
11          creditors, and

12          WHEREAS, the Legislature clearly intended in s.  
13          222.21(2)(c), Florida Statutes, that inherited individual  
14          retirement accounts included in s. 402(c) of the Internal  
15          Revenue Code of 1986, as amended, be exempt from claims of  
16          creditors of the owner, beneficiary, or participant of the  
17          inherited individual retirement account, and

18          WHEREAS, in *Robertson v. Deeb*, 16 So. 3d 936 (Fla. 2d DCA  
19          2009) the appellate court, contrary to the Legislature's intent,  
20          held that an inherited individual retirement account was not  
21          exempt from the beneficiaries' creditors because such an account  
22          was not included in property described in s. 222.21, Florida  
23          Statutes, a decision that was followed in the Bankruptcy Court  
24          of the Middle District of Florida, *In re: Ard*, 435 B.R. 719  
25          (Bkrtcy. M.D. Fla. 2010), NOW, THEREFORE,

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27          Be It Enacted by the Legislature of the State of Florida:  
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29           Section 1. Paragraph (c) of subsection (2) of section  
30 222.21, Florida Statutes, is amended to read:

31           222.21 Exemption of pension money and certain tax-exempt  
32 funds or accounts from legal processes.—

33           (2)

34           (c) Any money or other assets or any interest in any fund  
35 or account that is ~~are~~ exempt from claims of creditors of the  
36 owner, beneficiary, or participant under paragraph (a) does ~~do~~  
37 not cease to be exempt after the owner's death to qualify for  
38 exemption by reason of a direct transfer or eligible rollover  
39 that is excluded from gross income under ~~s. 402(c)~~ of the  
40 Internal Revenue Code of 1986, including, but not limited to, a  
41 direct transfer or eligible rollover to an inherited individual  
42 retirement account as defined in s. 408(d)(3) of the Internal  
43 Revenue Code of 1986, as amended. This paragraph is intended to  
44 clarify existing law, is remedial in nature, and shall have  
45 retroactive application to all inherited individual retirement  
46 accounts without regard to the date an account was created.

47           Section 2. This act shall take effect upon becoming a law.