

exemption because a debtor obtain the proceeds from the account by his voluntary choosing, then all exemptions are subject to a similar analysis. The legislature has allowed for exemptions for farm machinery and implements, but the debtor could become liquid by selling those items at auction. Similarly, the proceeds from the sale of a homestead can be exempted even though it remains in an account for purchase of a future homestead. If these accounts can be attacked then it will not be long before there is a similar attack on homesteads, because real estate can be sold and the debtor could reach those proceeds, at some point, should he so choose.

It is the legislatures judgment how to balance the interests of the debtor and creditors. The judgment of how to protect the debtors and society from the expected burdens of old age is a legislative judgment. The right to file bankruptcy is guaranteed in the Constitution. The courts should refrain from nibbling away at the corners of the code to rectify its perceived imbalance. With all due respect, the Bankruptcy courts ruling on this subject against this position is erroneous.

Dated: _____

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