

SHORT TITLE: Homestead and exemptions; exempting certain property from attachment, execution, or other forced sale; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 474

By: Herbert

AS INTRODUCED

An Act relating to homestead and exemptions; amending 31 O.S. 1991, Section 1, which relates to property exempt from attachment, execution, or other forced sale; modifying household and kitchen furniture exemption to exclude certain entertainment items; removing exemption of personal property pledged as collateral or security; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 31 O.S. 1991, Section 1, is amended to read as follows:

Section 1. A. Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:

1. The home of such person, provided that such home is the principal residence of such person;

2. A manufactured home, provided that such manufactured home is the principal residence of such person;

3. All household and kitchen furniture held primarily for the personal, family, or household use of such person or a dependent of

such person except items of entertainment not used in a trade or profession including, but not limited to, the following: musical instruments, stereos, more than one television, radios, computers, video-cassette recorders, video games, video-cassette libraries, compact discs, cassettes, albums, and camping, fishing, skiing, and hunting equipment;

4. Any lot or lots in a cemetery held for the purpose of sepulcher;

5. Implements of husbandry necessary to farm the homestead;

6. Tools, apparatus, and books used in any trade or profession of such person or a dependent of such person;

7. All books, portraits, and pictures that are held primarily for the personal, family, or household use of such person or a dependent of such person;

8. The person's interest, not to exceed Four Thousand Dollars (\$4,000.00) in aggregate value, in wearing apparel that is held primarily for the personal, family, or household use of such person or a dependent of such person;

9. All professionally prescribed health aids for such person or a dependent of such person;

10. Five milk cows and their calves under six (6) months old, that are held primarily for the personal, family, or household use of such person or a dependent of such person;

11. One hundred chickens, that are held primarily for the personal, family, or household use of such person or a dependent of such person;

12. Two horses and two bridles and two saddles, that are held primarily for the personal, family, or household use of such person or a dependent of such person;

13. Such person's interest, not to exceed Three Thousand Dollars (\$3,000.00) in value, in one motor vehicle;

14. One gun, that is held primarily for the personal, family, or household use of such person or a dependent of such person;

15. Ten hogs, that are held primarily for the personal, family, or household use of such person or a dependent of such person;

16. Twenty head of sheep, that are held primarily for the personal, family, or household use of such person or a dependent of such person;

17. All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year;

18. Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety (90) days, except as provided in Title 12 of the Oklahoma Statutes in garnishment proceedings for collection of child support;

19. Such person's right to receive alimony, support, separate maintenance, or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person;

20. Subject to the Uniform Fraudulent Transfer Act, Section 112 et seq. of Title 24 of the Oklahoma Statutes, any interest in a retirement plan or arrangement qualified for tax exemption purposes under present or future Acts of Congress; provided, such interest shall be exempt only to the extent that contributions by or on behalf of a participant were not subject to federal income taxation to such participant at the time of such contributions, plus earnings and other additions thereon; provided further, any transfer or rollover contribution between retirement plans or arrangements which avoids current federal income taxation shall not be deemed a transfer which is fraudulent as to a creditor under the Uniform Fraudulent Transfer Act. "Retirement plan or arrangement qualified for tax exemption purposes" shall include without limitation, trusts, custodial accounts, insurance, annuity contracts and other properties and rights constituting a part thereof. By way of

example and not by limitation, retirement plans or arrangements qualified for tax exemption purposes permitted under present Acts of Congress include defined contribution plans and defined benefit plans as defined under the Internal Revenue Code ("IRC"), individual retirement accounts, individual retirement annuities, simplified employee pension plans, Keogh plans, IRC Section 403(a) annuity plans, IRC Section 403(b) annuities, and eligible state deferred compensation plans governed under IRC Section 457. This provision shall be in addition to and not a limitation of any other provision of the Oklahoma Statutes which grants an exemption from attachment or execution and every other species of forced sale for the payment of debts. This provision shall be effective for retirement plans and arrangements in existence on, or created after the effective date of this act; and

21. Such person's interest in a claim for personal bodily injury, death, or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$50,000.00), but not including any claim for exemplary or punitive damages.

B. No natural person residing in this state may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978, Public Law 95-598, 11 U.S.C.A. 101 et seq., except as may otherwise be expressly permitted under this title or other statutes of this state.

C. In no event shall any property under paragraph 5 or 6 of subsection A of this section, the total value of which exceeds Five Thousand Dollars (\$5,000.00), of any person residing in this state be deemed exempt.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10 of Title 31, unless there is created a duplication in numbering, reads as follows:

Personal property mentioned in this chapter shall not be exempt from attachment, execution, or as a result of bankruptcy proceedings when the personal property is pledged as collateral for a loan or is used as security for a loan or advance of money. The pledge of collateral or security shall be signed by any owner of the personal property.

SECTION 3. This act shall become effective November 1, 1997.

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