STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2854 By: Ericson

AS INTRODUCED

An Act relating to bankruptcy; amending 31 O.S. 2001, Section 1, which relates to exemptions for property; modifying exemptions; and providing an effective date.

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

SECTION 1. AMENDATORY 31 O.S. 2001, 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~~ the person, provided that ~~such~~ the home is the principal residence of ~~such~~ the person;

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

3. All household and kitchen furniture, household goods, household appliances, household pets, musical instruments, jewelry, home computers and computer software, household utility deposits, electronic equipment, sporting and exercise equipment, and lawn care equipment held primarily for the personal, family or household use of ~~such~~ the person or a dependent of ~~such~~ the person;

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

5. ~~Implements~~ All implements of husbandry necessary to farm the homestead;

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

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

8. The ~~person's~~ interest of the person, 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~~ the person or a dependent of ~~such~~ the person;

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

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

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

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

13. ~~Such~~ ~~person's~~ The interest of the person, not to exceed Three Thousand Dollars ($3,000.00) in aggregate value, in ~~one~~ motor ~~vehicle~~ vehicles;

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

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

16. Twenty head of sheep, that are held primarily for the personal, family or household use of ~~such~~ the person or a dependent of ~~such~~ the 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~~ The right of the person 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~~, social security benefits, supplemental security income, federal income tax refunds, State of Oklahoma income tax refunds, unemployment compensation, workers' compensation benefits, welfare benefits, and veteran benefits;

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~~ the 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~~ the participant at the time of ~~such~~ the 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;

21. ~~Such person's~~ The interest of the person 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)~~ One Hundred Thousand Dollars ($100,000.00), but not including any claim for exemplary or punitive damages;

22. Funds in an individual development account established pursuant to the provisions of Section 251 et seq. of Title 56 of the Oklahoma Statutes;

23. Any interest in a Roth individual retirement account created pursuant to the provisions of Section 408A of the Internal Revenue Code, 26 U.S.C., Section 408A;

24. Any interest in an education individual retirement account created pursuant to the provisions of Section 530 of the Internal Revenue Code, 26 U.S.C., Section 530; ~~and~~

25. Any amount received pursuant to the federal earned income tax credit;

26. The aggregate interest in any property of the person, not to exceed Four Thousand Five Hundred Dollars ($4,500.00). This

exemption may be used together with or in conjunction with or added to the value of any other exemption in this act;

27. Any unmatured life insurance contract owned by the person; and

28. The right of the person to receive or property that is traceable to:

a. an award under a reparation law for a crime victim,

b. a payment under a life insurance contract that insured the life of an individual of whom the person was a dependent on the date of the death of the individual, or

c. a payment in compensation of loss of future earnings of the person or an individual of whom the person is or was a dependent.

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., Section 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~~ one particular item under paragraph 5 or 6 of subsection A of this section~~, the total value of which exceeds~~ exceed Five Thousand Dollars ($5,000.00)~~, of any person residing in this state be deemed exempt~~.

SECTION 2. This act shall become effective November 1, 2002.

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