

SB 736

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Wednesday, March 2, 2005

Senate Bill No. 736
As Amended

SENATE BILL NO. 736 - By: EASON McINTYRE of the Senate and SHUMATE and GILBERT of the House.

An Act relating to homestead and exemptions; amending 31 O.S. 2001, Section 1, as amended by Section 1, Chapter 152, O.S.L. 2003 (31 O.S. Supp. 2004, Section 1), which relates to exempted 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, as amended by Section 1, Chapter 152, O.S.L. 2003 (31 O.S. Supp. 2004, 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;

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

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

6 5. Implements of husbandry necessary to farm the homestead;

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

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

12 8. The person's interest, not to exceed Four Thousand Dollars
13 (\$4,000.00) in aggregate value, in wearing apparel that is held
14 primarily for the personal, family or household use of such person
15 or a dependent of such person;

16 9. The person's interest, not to exceed **Five Thousand Dollars**
17 **(\$5,000.00)** in value, in such person's wedding or anniversary ring;

18 10. All professionally prescribed health aids for such person
19 or a dependent of such person;

20 ~~10.~~ 11. Five milk cows and their calves under six (6) months
21 old, that are held primarily for the personal, family or household
22 use of such person or a dependent of such person;

1 ~~11.~~ 12. One hundred chickens, that are held primarily for the
2 personal, family or household use of such person or a dependent of
3 such person;

4 ~~12.~~ 13. Two horses and two bridles and two saddles, that are
5 held primarily for the personal, family or household use of such
6 person or a dependent of such person;

7 ~~13.~~ 14. Such person's interest, not to exceed ~~Three Thousand~~
8 ~~Dollars (\$3,000.00)~~ **Seven Thousand Five Hundred Dollars (\$7,500.00)**
9 in value, in one motor vehicle;

10 ~~14.~~ 15. One gun, that is held primarily for the personal,
11 family or household use of such person or a dependent of such
12 person;

13 ~~15.~~ 16. Ten hogs, that are held primarily for the personal,
14 family or household use of such person or a dependent of such
15 person;

16 ~~16.~~ 17. Twenty head of sheep, that are held primarily for the
17 personal, family or household use of such person or a dependent of
18 such person;

19 ~~17.~~ 18. All provisions and forage on hand, or growing for home
20 consumption, and for the use of exempt stock for one (1) year;

21 ~~18.~~ 19. Seventy-five percent (75%) of all current wages or
22 earnings for personal or professional services earned during the
23 last ninety (90) days, except as provided in Title 12 of the

1 Oklahoma Statutes in garnishment proceedings for collection of child
2 support;

3 ~~19.~~ 20. Such person's right to receive alimony, support,
4 separate maintenance or child support payments to the extent
5 reasonably necessary for the support of such person and any
6 dependent of such person;

7 ~~20.~~ 21. Subject to the Uniform Fraudulent Transfer Act, Section
8 112 et seq. of Title 24 of the Oklahoma Statutes, any interest in a
9 retirement plan or arrangement qualified for tax exemption purposes
10 under present or future Acts of Congress; provided, such interest
11 shall be exempt only to the extent that contributions by or on
12 behalf of a participant were not subject to federal income taxation
13 to such participant at the time of such contributions, plus earnings
14 and other additions thereon; provided further, any transfer or
15 rollover contribution between retirement plans or arrangements which
16 avoids current federal income taxation shall not be deemed a
17 transfer which is fraudulent as to a creditor under the Uniform
18 Fraudulent Transfer Act. "Retirement plan or arrangement qualified
19 for tax exemption purposes" shall include without limitation,
20 trusts, custodial accounts, insurance, annuity contracts and other
21 properties and rights constituting a part thereof. By way of
22 example and not by limitation, retirement plans or arrangements
23 qualified for tax exemption purposes permitted under present Acts of

1 Congress include defined contribution plans and defined benefit
2 plans as defined under the Internal Revenue Code ("IRC"), individual
3 retirement accounts, individual retirement annuities, simplified
4 employee pension plans, Keogh plans, IRC Section 403(a) annuity
5 plans, IRC Section 403(b) annuities, and eligible state deferred
6 compensation plans governed under IRC Section 457. This provision
7 shall be in addition to and not a limitation of any other provision
8 of the Oklahoma Statutes which grants an exemption from attachment
9 or execution and every other species of forced sale for the payment
10 of debts. This provision shall be effective for retirement plans
11 and arrangements in existence on, or created after April 16, 1987;

12 ~~21.~~ 22. Such person's interest in a claim for personal bodily
13 injury, death or workers' compensation claim, for a net amount not
14 in excess of Fifty Thousand Dollars (\$50,000.00), but not including
15 any claim for exemplary or punitive damages;

16 ~~22.~~ 23. Funds in an individual development account established
17 pursuant to the provisions of Section 251 et seq. of Title 56 of the
18 Oklahoma Statutes;

19 ~~23.~~ 24. Any interest in a Roth individual retirement account
20 created pursuant to the provisions of Section 408A of the Internal
21 Revenue Code, 26 U.S.C., Section 408A;

1 ~~24.~~ 25. Any interest in an education individual retirement
2 account created pursuant to the provisions of Section 530 of the
3 Internal Revenue Code, 26 U.S.C., Section 530;

4 ~~25.~~ 26. Any amount received pursuant to the federal earned
5 income tax credit; and

6 ~~26.~~ 27. Any interest in an Oklahoma College Savings Plan
7 account established pursuant to the provisions of Section 3970.1 et
8 seq. of Title 70 of the Oklahoma Statutes.

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

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

19 SECTION 2. This act shall become effective November 1, 2005.

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-15-05 - DO
21 PASS, As Amended and Coauthored.