

SB 758

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THE STATE SENATE
Tuesday, February 22, 2005

Senate Bill No. 758

As Amended

SENATE BILL NO. 758 - By: JOLLEY of the Senate and MORGAN (Fred) of the House.

[homestead and exemptions - exempt property - modifying - Administrative Director of the Courts - 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;
- 3. All household and kitchen furniture held primarily for the personal, family, educational or household use of such person or a

1 dependent of such person, including a personal computer and related
2 equipment;

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

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

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

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

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

15 9. The person's interest, not to exceed Five Thousand Dollars
16 (\$5,000.00) in aggregate value, in wedding and anniversary rings;

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

19 ~~10.~~ 11. Five milk cows and their calves under six (6) months
20 old, that are held primarily for the personal, family or household
21 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,~~ Guns that ~~is~~ are held primarily for the
11 personal, family or household use of such person or a dependent of
12 such person, **provided that nothing in this subsection shall be**
13 **construed to allow a person to exempt guns which are used mainly as**
14 **an investment or nonpersonal, family or household use;**

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

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

21 ~~17.~~ 18. All provisions and forage on hand, or growing for home
22 consumption, and for the use of exempt stock for one (1) year;

1 ~~18.~~ 19. Seventy-five percent (75%) of all current wages or
2 earnings for personal or professional services earned during the
3 last ninety (90) days, except as provided in Title 12 of the
4 Oklahoma Statutes in garnishment proceedings for collection of child
5 support;

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

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

1 insurance, annuity contracts and other properties and rights
2 constituting a part thereof. By way of example and not by
3 limitation, retirement plans or retirement arrangements qualified
4 for tax exemption or deferment purposes permitted under present Acts
5 of Congress include defined contribution plans and defined benefit
6 plans as defined under the Internal Revenue Code ("IRC"), individual
7 retirement accounts, individual retirement annuities, simplified
8 employee pension plans, Keogh plans, IRC Section 403(a) annuity
9 plans, IRC Section 403(b) annuities, Roth individual retirement
10 accounts created pursuant to IRC Section 408A, educational
11 individual retirement accounts created pursuant to IRC Section 530
12 and eligible state deferred compensation plans governed under IRC
13 Section 457. This provision shall be in addition to and not a
14 limitation of any other provision of the Oklahoma Statutes which
15 grants an exemption from attachment or execution and every other
16 species of forced sale for the payment of debts. This provision
17 shall be effective for retirement plans and arrangements in
18 existence on, or created after April 16, 1987;

19 ~~21.~~ 22. Such person's interest in a claim for personal bodily
20 injury, death or workers' compensation claim, for a net amount not
21 in excess of Fifty Thousand Dollars (\$50,000.00), but not including
22 any claim for exemplary or punitive damages;

1 ~~22.~~ 23. Funds in an individual development account established
2 pursuant to the provisions of Section 251 et seq. of Title 56 of the
3 Oklahoma Statutes;

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

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

10 ~~25.~~ 24. Any amount received pursuant to the federal earned
11 income tax credit; and

12 ~~26.~~ 25. Any interest in an Oklahoma College Savings Plan
13 account established pursuant to the provisions of Section 3970.1 et
14 seq. of Title 70 of the Oklahoma Statutes.

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

21 C. 1. In no event shall any property under paragraph 5 ~~or 6~~ of
22 subsection A of this section, the total value of which exceeds **Five**

1 **Thousand Dollars (\$5,000.00)**, of any person residing in this state
2 be deemed exempt.

3 2. In no event shall any property under paragraph 6 of
4 subsection A of this section, the total value of which exceeds Ten
5 Thousand Dollars (\$10,000.00), of any person residing in this state
6 be deemed exempt, provided in no event shall any combination of
7 property under paragraphs 5 and 6 of subsection A of this section,
8 the total value of which exceeds Ten Thousand Dollars (\$10,000.00),
9 of any person residing in this state be deemed exempt.

10 D. The amounts listed under paragraphs 9 and 14 of subsection A
11 of this section and under subsection C of this section shall be
12 indexed according to inflation on January 1 of each year. Beginning
13 on January 1, 2007, the Administrative Director of the Courts shall
14 determine the rate of inflation to be used to index such amounts
15 based upon the increase in the consumer price index as published by
16 the Bureau of Labor Statistics of the U.S. Department of Labor.

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

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