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UTAH EXEMPTIONS ACT AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

AN ACT RELATING TO UTAH EXEMPTIONS ACT; PROVIDING DEFINITIONS;
MODIFYING THE HOMESTEAD EXEMPTION FOR AN INDIVIDUAL; ADDING THE
ROTH IRA TO THE LIST OF PROPERTY EXEMPT FROM EXECUTION; MAKING
TECHNICAL CORRECTIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-23-3, as last amended by Chapter 138, Laws of Utah 1997

78-23-5, as last amended by Chapter 138, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-23-3** is amended to read:

**78-23-3. Homestead exemption -- Excepted obligations -- Water rights and interests
-- Conveyance of homestead -- Sale and disposition of homestead -- Property right for federal
tax purposes.**

(1) For purposes of this section:

(a) "household" means a group of persons related by blood or marriage living together in
the same dwelling as an economic unit, sharing furnishings, facilities, accommodations, and
expenses;

(b) "primary personal residence" means a dwelling or mobile home and the land
surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or
mobile home, in which the individual and the individual's household reside; and

(c) "property" includes an equitable interest in real property awarded to a person in a
divorce decree by a court.

[(+)] (2) (a) An individual is entitled to a homestead exemption consisting of property in

28 this state in an amount not exceeding:

29 (i) \$5,000 in value if the property consists in whole or in part of property which is not the
30 primary personal residence of the individual; or

31 (ii) \$10,000 in value if the property claimed is the primary personal residence of the
32 individual.

33 (b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a
34 homestead exemption; however[;]

35 (i) for property exempt under Subsection [(1)] (2)(a)(i), the maximum exemption may not
36 exceed [\$20,000] \$10,000 per household; or

37 (ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not
38 exceed \$20,000 per household.

39 [~~(c) For purposes of this Subsection (1), "primary personal residence" means a dwelling~~
40 ~~or mobile home and the land surrounding it, not exceeding one acre, as is reasonably necessary for~~
41 ~~the use of the dwelling or mobile home, in which the individual and the individual's household~~
42 ~~reside;]~~

43 [~~(d)~~] (c) A person may claim a homestead exemption in one or more parcels of real
44 property together with appurtenances and improvements.

45 [(2)] (3) A homestead is exempt from judicial lien and from levy, execution, or forced sale
46 except for:

47 (a) statutory liens for property taxes and assessments on the property;

48 (b) security interests in the property and judicial liens for debts created for the purchase
49 price of the property;

50 (c) judicial liens obtained on debts created by failure to provide support or maintenance
51 for dependent children; and

52 (d) consensual liens obtained on debts created by mutual contract.

53 [(3)] (4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in
54 the form of corporate stock or otherwise, owned by the homestead claimant are exempt from
55 execution to the extent that those rights and interests are necessarily employed in supplying water
56 to the homestead for domestic and irrigating purposes.

57 (b) Those water rights and interests are not exempt from calls or assessments and sale by
58 the corporations issuing the stock.

59 [~~(4)~~] (5) (a) When a homestead is conveyed by the owner of the property, the conveyance
60 may not subject the property to any lien to which it would not be subject in the hands of the owner.

61 (b) The proceeds of any sale, to the amount of the exemption existing at the time of sale,
62 is exempt from levy, execution, or other process for one year after the receipt of the proceeds by
63 the person entitled to the exemption.

64 [~~(5)~~] (6) The sale and disposition of one homestead does not prevent the selection or
65 purchase of another.

66 [~~(6)~~] (7) For purposes of any claim or action for taxes brought by the United States Internal
67 Revenue Service, a homestead exemption claimed on real property in this state is considered to
68 be a property right.

69 Section 2. Section **78-23-5** is amended to read:

70 **78-23-5. Property exempt from execution.**

71 (1) (a) An individual is entitled to exemption of the following property:

72 (i) a burial plot for the individual and his family;

73 (ii) health aids reasonably necessary to enable the individual or a dependent to work or
74 sustain health;

75 (iii) benefits the individual or his dependent have received or are entitled to receive
76 because of disability, illness, or unemployment from any source;

77 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are
78 used by an individual or his dependent to pay for that care;

79 (v) veterans benefits;

80 (vi) money or property received, and rights to receive money or property for child support;

81 (vii) one clothes washer and dryer, one refrigerator, one freezer, one stove, one microwave
82 oven, one sewing machine, all carpets in use, provisions sufficient for 12 months actually provided
83 for individual or family use, all wearing apparel of every individual and dependent, not including
84 jewelry or furs, and all beds and bedding for every individual or dependent;

85 (viii) works of art depicting the debtor or the debtor and his resident family, or produced
86 by the debtor or the debtor and his resident family, except works of art held by the debtor as part
87 of a trade or business;

88 (ix) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result
89 of bodily injury of the individual or of the wrongful death or bodily injury of another individual

90 of whom the individual was or is a dependent to the extent that those proceeds are compensatory;
 91 (x) except as provided in Subsection (1)(b), any money or other assets held for or payable
 92 to the individual as a participant or beneficiary from or an interest of the individual as a participant
 93 or beneficiary in a retirement plan or arrangement that is described in Section 401(a), 401(h),
 94 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), or 414(e) of the United States Internal Revenue
 95 Code of 1986, as amended; and

96 (xi) the interest of or any money or other assets payable to an alternate payee under a
 97 qualified domestic relations order as those terms are defined in Section 414(p) of the United States
 98 Internal Revenue Code of 1986, as amended.

99 (b) The exemption granted by Subsection (1)(a)(x) does not apply to:

100 (i) an alternate payee under a qualified domestic relations order, as those terms are defined
 101 in Section 414(p) of the United States Internal Revenue Code of 1986, as amended; or

102 (ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year
 103 before the debtor files for bankruptcy.

104 (2) Exemptions under this section do not limit items which may be claimed as exempt
 105 under Section 78-23-8.

106 **Section 3. Effective date.**

107 If approved by two-thirds of all the members elected to each house, this act takes effect
 108 upon approval by the governor, or the day following the constitutional time limit of Utah
 109 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
 110 date of veto override.

Legislative Review Note
as of 1-14-99 10:47 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel