

PROPERTY EXEMPT FROM EXECUTION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the Judicial Code to include additional exemptions from judgment executions.

Highlighted Provisions:

This bill:

- ▶ adds the following to the list of property exempt from judgment execution:
 - proceeds or benefits of any trust of which the debtor, spouse, or children are beneficiaries; and
 - proceeds and avails of any revocable grantor trust created by the debtor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-23-5, as last amended by Chapter 234, Laws of Utah 2005

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

Section 1. Section **78-23-5** is amended to read:

78-23-5. Property exempt from execution.

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

- (i) a burial plot for the individual and the individual's family;

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

32 (iii) benefits the individual or the individual's dependent have received or are entitled
33 to receive from any source because of:

34 (A) disability;

35 (B) illness; or

36 (C) unemployment;

37 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are
38 used by an individual or the individual's dependent to pay for that care;

39 (v) veterans benefits;

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

42 (vii) money or property received, and rights to receive money or property for alimony
43 or separate maintenance, to the extent reasonably necessary for the support of the individual
44 and the individual's dependents;

45 (viii) (A) one:

46 (I) clothes washer and dryer;

47 (II) refrigerator;

48 (III) freezer;

49 (IV) stove;

50 (V) microwave oven; and

51 (VI) sewing machine;

52 (B) all carpets in use;

53 (C) provisions sufficient for 12 months actually provided for individual or family use;

54 (D) all wearing apparel of every individual and dependent, not including jewelry or
55 furs; and

56 (E) all beds and bedding for every individual or dependent;

57 (ix) except for works of art held by the debtor as part of a trade or business, works of

58 art:

59 (A) depicting the debtor or the debtor and his resident family; or

60 (B) produced by the debtor or the debtor and his resident family;

61 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
62 result of bodily injury of the individual or of the wrongful death or bodily injury of another
63 individual of whom the individual was or is a dependent to the extent that those proceeds are
64 compensatory;

65 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable
66 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or
67 children of the debtor, provided that the contract or policy has been owned by the debtor for a
68 continuous unexpired period of one year;

69 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable
70 to the spouse or children of the debtor or any trust of which the spouse or children are
71 beneficiaries upon the death of the debtor, provided that the contract or policy has been in
72 existence for a continuous unexpired period of one year;

73 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the
74 debtor or any revocable grantor trust created by the debtor, excluding any payments made on
75 the contract during the one year immediately preceding a creditor's levy or execution;

76 (xiv) except as provided in Subsection (1)(b), any money or other assets held for or
77 payable to the individual as a participant or beneficiary from or an interest of the individual as
78 a participant or beneficiary in a retirement plan or arrangement that is described in Section
79 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), or 414(e), Internal Revenue
80 Code; and

81 (xv) the interest of or any money or other assets payable to an alternate payee under a
82 qualified domestic relations order as those terms are defined in Section 414(p), Internal
83 Revenue Code.

84 (b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

85 (i) an alternate payee under a qualified domestic relations order, as those terms are

86 defined in Section 414(p), Internal Revenue Code; or

87 (ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year
88 before the debtor files for bankruptcy. This may not include amounts directly rolled over from
89 other funds which are exempt from attachment under this section.

90 (2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds
91 and avails of any matured or unmatured life insurance contract assigned or pledged as collateral
92 for repayment of a loan or other legal obligation.

93 (3) Exemptions under this section do not limit items that may be claimed as exempt
94 under Section 78-23-8.