

1 **§→ [—————HOMESTEAD] ←§ EXEMPTION AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Keven J. Stratton**

5 Senate Sponsor: Todd Weiler

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**7 LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to **§→ [homestead] ←§** exemptions.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ addresses the value of a homestead exemption; **§→ [and]**

12a ▶ **includes certain savings plans; and ←§**

13 ▶ makes technical changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **78B-5-503**, as last amended by Laws of Utah 2013, Chapter 192

20a **§→ 78B-5-505, as last amended by Laws of Utah 2016, Chapter 262 ←§**

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

23 Section 1. Section **78B-5-503** is amended to read:

24 **78B-5-503. Homestead exemption -- Definitions -- Excepted obligations -- Water**  
25 **rights and interests -- Conveyance -- Sale and disposition -- Property right for federal tax**  
26 **purposes.**

H.B. 153



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

31 (b) "Mobile home" [~~is as~~] means the same as that term is defined in Section 57-16-3.

32 (c) "Primary personal residence" means a dwelling or mobile home, and the land  
33 surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or  
34 mobile home, in which the individual and the individual's household reside.

35 (d) "Property" means:

36 (i) a primary personal residence;

37 (ii) real property; or

38 (iii) an equitable interest in real property awarded to a person in a divorce decree by a  
39 court.

40 (2) (a) An individual is entitled to a homestead exemption consisting of property in this  
41 state in an amount not exceeding:

42 (i) \$5,000 in value if the property consists in whole or in part of property [~~which~~] that is  
43 not the primary personal residence of the individual; or

44 (ii) [~~\$30,000~~] ~~H→~~ [~~\$200,000~~] \$45,000 ~~←H~~ in value if the property claimed is the primary  
44a personal  
45 residence of the individual.

46 (b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a  
47 homestead exemption[~~;~~ ~~however(i)~~], except that:

48 (i) for property exempt under Subsection (2)(a)(i), the maximum exemption may not  
49 exceed \$10,000 per household; or

50 (ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not  
51 exceed [~~\$60,000~~] ~~H→~~ [~~\$300,000~~] \$90,000 ~~←H~~ per household.

52 (c) A person may claim a homestead exemption in either or both of the following:

53 (i) one or more parcels of real property together with appurtenances and improvements;  
54 or

55 (ii) a mobile home in which the claimant resides.

56 (d) A person may not claim a homestead exemption for property that the person  
57 acquired as a result of criminal activity.

58 (3) A homestead is exempt from judicial lien and from levy, execution, or forced sale

59 except for:

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

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

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

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

66 (4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in the  
67 form of corporate stock or otherwise, owned by the homestead claimant are exempt from  
68 execution to the extent that those rights and interests are necessarily employed in supplying  
69 water to the homestead for domestic and irrigating purposes.

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

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

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

78 (6) The sale and disposition of one homestead does not prevent the selection or  
79 purchase of another.

80 (7) For purposes of any claim or action for taxes brought by the United States Internal  
81 Revenue Service, a homestead exemption claimed on real property in this state is considered to  
82 be a property right.

82a **§→ Section 2. Section 78B-5-505 is amended to read:**

82b **78B-5-505. Property exempt from execution.**

82c **(1) (a) An individual is entitled to exemption of the following property:**

82d **(i) a burial plot for the individual and the individual's family;**

82e **(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain**  
82f **health;**

82g **(iii) benefits the individual or the individual's dependent have received or are entitled to**  
82h **receive from any source because of:**

82i **(A) disability;**

82j **(B) illness; or**

82k **(C) unemployment;**

82l **(iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are used**  
82m **by an individual or the individual's dependent to pay for that care;**

82n **(v) veterans benefits; ☺**

- 82o           ⊕(vi) money or property received, and rights to receive money or property for child support;
- 82p           (vii) money or property received, and rights to receive money or property for alimony or
- 82q separate maintenance, to the extent reasonably necessary for the support of the individual and the
- 82r individual's dependents;
- 82s           (viii) (A) one:
- 82t           (I) clothes washer and dryer;
- 82u           (II) refrigerator;
- 82v           (III) freezer;
- 82w           (IV) stove;
- 82x           (V) microwave oven; and
- 82y           (VI) sewing machine;
- 82z           (B) all carpets in use;
- 82aa          (C) provisions sufficient for 12 months actually provided for individual or family use;
- 82ab          (D) all wearing apparel of every individual and dependent, not including jewelry or furs; and
- 82ac          (E) all beds and bedding for every individual or dependent;
- 82ad          (ix) except for works of art held by the debtor as part of a trade or business, works of art:
- 82ae          (A) depicting the debtor or the debtor and his resident family; or
- 82af          (B) produced by the debtor or the debtor and his resident family;
- 82ag          (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of
- 82ah bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom
- 82ai the individual was or is a dependent to the extent that those proceeds are compensatory;
- 82aj          (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the
- 82ak debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the
- 82al debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired
- 82am period of one year;
- 82an          (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the
- 82ao spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the
- 82ap death of the debtor, provided that the contract or policy has been in existence for a continuous
- 82aq unexpired period of one year;
- 82ar          (xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or
- 82as any revocable grantor trust created by the debtor, excluding any payments made on the contract
- 82at during the one year immediately preceding a creditor's levy or execution;
- 82au          (xiv) except as provided in Subsection (1)(b), any money or other assets held for or payable to
- 82av the individual as a participant or beneficiary from or an interest of the individual as a participant or
- 82aw beneficiary in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k),
- 82ax 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code;
- 82ay          (xv) the interest of or any money or other assets payable to an alternate payee under a
- 82az qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue
- 82ba Code;
- 82bb          (xvi) unpaid earnings of the household of the filing individual due as of the date of the filing⊕

82bc **of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for**  
82bd1 **the**  
82bd **household size of the filing individual as determined by the Utah State Annual Median Family Income**  
82be **reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index**  
82bf **for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a**  
82bg **month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of**  
82bh **the Utah State annual median family income for the household size of the individual as determined by**  
82bi **the Utah State Annual Median Family Income reported by the United States Census Bureau and as**  
82bj **adjusted based upon the Consumer Price Index for All Urban Consumers; ~~§~~ [and] ~~§~~**  
82bk **(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the**  
82bl **following:**  
82bm **(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;**  
82bn **(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and**  
82bo **(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds ~~§~~**  
82bp **[:] ; and**  
82bq **(xviii) a tax-advantaged method of saving for higher education costs on behalf of a particular**  
82br **individual that meets the requirements of Section 529, Internal Revenue Code. ~~§~~ ~~§~~**  
82bs **(b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:**  
82bt **(i) an alternate payee under a qualified domestic relations order, as those terms are defined in**  
82bu **Section 414(p), Internal Revenue Code; or**  
82bv **(ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year before**  
82bw **the debtor files for bankruptcy. This may not include amounts directly rolled over from other funds**  
82bx **which are exempt from attachment under this section.**  
82by **(2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds and avails**  
82bz **of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment**  
82ca **of a loan or other legal obligation.**  
82cb **(3) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as**  
82cc **described in Subsection (1)(a)(v), may be garnished on behalf of a child victim if the person receiving**  
82cd **the benefits has been convicted of a felony sex offense against a child and ordered by the convicting**  
82ce **court to pay restitution to the victim. The exemption from execution under this section shall be**  
82cf **reinstated upon payment of the restitution in full.**  
82cg **(4) Exemptions under this section do not limit items that may be claimed as exempt under**  
82ch **Section 78B-5-506. ~~§~~**

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Legislative Review Note  
Office of Legislative Research and General Counsel