

Representative Keven J. Stratton proposes the following substitute bill:

EXEMPTIONS FROM COLLECTION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to exemptions.

Highlighted Provisions:

This bill:

- ▶ addresses the value of a homestead exemption;
- ▶ includes certain savings plans; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

78B-5-505, as last amended by Laws of Utah 2016, Chapter 262

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

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



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

29 (1) For purposes of this section:

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

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

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

37 (d) "Property" means:

38 (i) a primary personal residence;

39 (ii) real property; or

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

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

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

46 (ii) [~~\$30,000~~] \$42,000 in value if the property claimed is the primary personal residence
47 of the individual.

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

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

52 (ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not
53 exceed [~~\$60,000~~] \$84,000 per household.

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

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

56 or

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

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

60 (e) (i) As used in this Subsection (2)(e), "index number" means the average of the most
61 recent four quarter index numbers for the not seasonally adjusted, purchase-only house price
62 index for the state of Utah as published in the Third Quarter Report by the Federal Housing
63 Finance Agency in the year previous to the calendar year that is calculated in Subsections
64 (2)(e)(iii) and (vi).

65 (ii) The dollar amounts in Subsection (2)(a) and (b) are for May 14, 2019, through
66 December 31, 2019.

67 (iii) For the calendar year 2020, the state auditor shall calculate new dollar amounts for
68 Subsections (2)(a) and (b) by multiplying the dollar amount in Subsections (2)(a) and (b) by the
69 index number, dividing the result by 400, and rounding to the nearest 100 dollars.

70 (iv) For a calendar year after the calendar year 2020, the state auditor shall calculate
71 new dollar amounts for Subsections (2)(a) and (b) by multiplying the dollar amount calculated
72 in the previous calendar year for Subsections (2)(a) and (b) by the index number, dividing the
73 result by 400, and rounding to the nearest 100 dollars.

74 (v) For the calendar year 2020 and a calendar year after the calendar year 2020, the
75 state auditor shall publish on the Office of the State Auditor website the new dollar amounts
76 calculated under Subsection (2)(e)(iii) or (vi) no later than January 1 of the applicable calendar
77 year.

78 (3) A homestead is exempt from judicial lien and from levy, execution, or forced sale
79 except for:

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

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

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

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

86 (4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in the
87 form of corporate stock or otherwise, owned by the homestead claimant are exempt from

88 execution to the extent that those rights and interests are necessarily employed in supplying
89 water to the homestead for domestic and irrigating purposes.

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

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

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

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

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

103 Section 2. Section **78B-5-505** is amended to read:

104 **78B-5-505. Property exempt from execution.**

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

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

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

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

111 (A) disability;

112 (B) illness; or

113 (C) unemployment;

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

116 (v) veterans benefits;

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

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

122 (viii) (A) one:

123 (I) clothes washer and dryer;

124 (II) refrigerator;

125 (III) freezer;

126 (IV) stove;

127 (V) microwave oven; and

128 (VI) sewing machine;

129 (B) all carpets in use;

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

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

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

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

136 (A) depicting the debtor or the debtor and [~~his~~] the debtor's resident family; or

137 (B) produced by the debtor or the debtor and [~~his~~] the debtor's resident family;

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

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

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

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

153 (xiv) except as provided in Subsection (1)(b), any money or other assets held for or
 154 payable to the individual as a participant or beneficiary from or an interest of the individual as
 155 a participant or beneficiary in a retirement plan or arrangement that is described in Section
 156 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal
 157 Revenue Code;

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

161 (xvi) unpaid earnings of the household of the filing individual due as of the date of the
 162 filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family
 163 income for the household size of the filing individual as determined by the Utah State Annual
 164 Median Family Income reported by the United States Census Bureau and as adjusted based
 165 upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid
 166 earnings are paid more often than once a month or, if unpaid earnings are not paid more often
 167 than once a month, then in the amount of 1/12 of the Utah State annual median family income
 168 for the household size of the individual as determined by the Utah State Annual Median Family
 169 Income reported by the United States Census Bureau and as adjusted based upon the Consumer
 170 Price Index for All Urban Consumers; ~~and~~

171 (xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of
 172 the following:

173 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

174 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

175 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000
 176 rounds~~[-]; and~~

177 (xviii) money, not exceeding \$200,000, ~~in the aggregate,~~ that an individual
 177a deposits, more than 18
 178 months before the day on which the individual files a petition for bankruptcy, in ~~all~~ ~~all~~
 179 tax-advantaged ~~accounts~~ ~~accounts~~ ~~for saving for higher education costs on behalf of a~~
 179a particular
 180 individual that meets the requirements of Section 529, Internal Revenue Code.

- 181 (b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
- 182 (i) an alternate payee under a qualified domestic relations order, as those terms are
- 183 defined in Section 414(p), Internal Revenue Code; or
- 184 (ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year
- 185 before the debtor files for bankruptcy~~[-This may not include]~~, except amounts directly rolled
- 186 over from other funds [~~which~~] that are exempt from attachment under this section.
- 187 (2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds
- 188 and avails of any matured or unmatured life insurance contract assigned or pledged as collateral
- 189 for repayment of a loan or other legal obligation.
- 190 (3) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits,
- 191 as described in Subsection (1)(a)(v), may be garnished on behalf of a child victim if the person
- 192 receiving the benefits has been convicted of a felony sex offense against a child and ordered by
- 193 the convicting court to pay restitution to the victim. The exemption from execution under this
- 194 section shall be reinstated upon payment of the restitution in full.
- 195 (4) Exemptions under this section do not limit items that may be claimed as exempt
- 196 under Section [78B-5-506](#).