

REFERENCE TITLE: exempt property; tax credit; proceeds

State of Arizona
Senate
Fifty-fifth Legislature
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SB 1222

Introduced by
Senators Bowie: Boyer, Gonzales, Livingston, Marsh, Otondo, Stahl
Hamilton, Terán; Representatives Dalessandro, Epstein, Espinoza, Hernandez
M, Jermaine

AN ACT

AMENDING SECTION 33-1126, ARIZONA REVISED STATUTES; RELATING TO PERSONAL
PROPERTY EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1126, Arizona Revised Statutes, is amended to
3 read:

4 33-1126. Money benefits or proceeds; exception

5 A. The following property of a debtor is exempt from execution,
6 attachment or sale on any process issued from any court:

7 1. All money received by or payable to a surviving spouse or child
8 on the life of a deceased spouse, parent or legal guardian, not exceeding
9 ~~twenty thousand dollars~~ \$20,000.

10 2. The earnings of the minor child of a debtor or the proceeds of
11 these earnings by reason of any liability of the debtor not contracted for
12 the special benefit of the minor child.

13 3. All monies received by or payable to a person entitled to
14 receive child support or spousal maintenance pursuant to a court order.

15 4. All money, proceeds or benefits of any kind to be paid in a lump
16 sum or to be rendered on a periodic or installment basis to the insured or
17 any beneficiary under any policy of health, accident or disability
18 insurance or any similar plan or program of benefits in use by any
19 employer, except for premiums payable on the policy or debt of the insured
20 secured by a pledge, and except for collection of any debt or obligation
21 for which the insured or beneficiary has been paid under the plan or
22 policy and except for payment of amounts ordered for support of a person
23 from proceeds and benefits furnished in lieu of earnings that would have
24 been subject to that order and subject to any exemption applicable to
25 earnings so replaced.

26 5. All money arising from any claim for the destruction of, or
27 damage to, exempt property and all proceeds or benefits of any kind
28 arising from fire or other insurance on any property exempt under this
29 article.

30 6. The cash surrender value of life insurance policies where for a
31 continuous unexpired period of two years the policies have been owned by a
32 debtor. The policy shall have named as beneficiary the debtor's surviving
33 spouse, child, parent, brother or sister. The policy may have named as
34 beneficiary any other family member who is a dependent, in the proportion
35 that the policy names any such beneficiary, except that, subject to the
36 statute of limitations, the amount of any premium that is recoverable or
37 avoidable by a creditor pursuant to title 44, chapter 8, article 1, with
38 interest ~~thereon~~ ON THAT AMOUNT, is not exempt. The exemption provided by
39 this paragraph does not apply to a claim for the payment of a debt of the
40 insured or beneficiary that is secured by a pledge or assignment of the
41 cash value of the insurance policy or the proceeds of the policy. For the
42 purposes of this paragraph, "dependent" means a family member who is
43 dependent on the insured debtor for not less than half support.

44 7. An annuity contract where for a continuous unexpired period of
45 two years that contract has been owned by a debtor and has named as

1 beneficiary the debtor, the debtor's surviving spouse, child, parent,
2 brother or sister, or any other dependent family member, except that,
3 subject to the statute of limitations, the amount of any premium, payment
4 or deposit with respect to that contract is recoverable or avoidable by a
5 creditor pursuant to title 44, chapter 8, article 1 is not exempt. The
6 exemption provided by this paragraph does not apply to a claim for a
7 payment of a debt of the annuitant or beneficiary that is secured by a
8 pledge or assignment of the contract or its proceeds. For the purposes of
9 this paragraph, "dependent" means a family member who is dependent on the
10 debtor for not less than half support.

11 8. Any claim for damages recoverable by any person by reason of any
12 levy on or sale under execution of that person's exempt personal property
13 or by reason of the wrongful taking or detention of that property by any
14 person, and the judgment recovered for damages.

15 9. A total of ~~three hundred dollars~~ \$300 held in a single account
16 in any one financial institution as defined by section 6-101. The
17 property declared exempt by this paragraph is not exempt from normal
18 service charges assessed against the account by the financial institution
19 at which the account is carried.

20 10. An interest in a college savings plan under section 529 of the
21 internal revenue code of 1986, either as the owner or as the beneficiary.
22 This does not include money contributed to the plan within two years
23 before a debtor files for bankruptcy.

24 11. THE REFUNDABLE PORTION OF ANY FEDERAL PERSONAL INCOME TAX
25 CREDITS FROM THE FEDERAL EARNED INCOME TAX CREDIT AND ANY ADDITIONAL
26 REFUNDABLE PORTION OF THE FEDERAL CHILD TAX CREDIT. THE AMOUNT OF THE
27 EXEMPTION SHALL BE THE LESSER OF THE TOTAL TAX REFUND OR THE COMBINED
28 AMOUNT OF THE FEDERAL EARNED INCOME TAX CREDIT AND THE FEDERAL CHILD TAX
29 CREDIT CLAIMED ON THE RETURN.

30 B. Any money or other assets payable to a participant in or
31 beneficiary of, or any interest of any participant or beneficiary in, a
32 retirement plan under section 401(a), 403(a), 403(b), 408, 408A or 409 or
33 a deferred compensation plan under section 457 of the United States
34 internal revenue code of 1986, as amended, whether the beneficiary's
35 interest arises by inheritance, designation, appointment or otherwise, is
36 exempt from all claims of creditors of the beneficiary or
37 participant. This subsection does not apply to any of the following:

38 1. An alternate payee under a qualified domestic relations order,
39 as defined in section 414(p) of the United States internal revenue code of
40 1986, as amended. The interest of any and all alternate payees is exempt
41 from any and all claims of any creditor of the alternate payee.

42 2. Amounts contributed within one hundred twenty days before a
43 debtor files for bankruptcy.

44 3. The assets of bankruptcy proceedings filed before July 1, 1987.

1 C. Any person WHO IS AT LEAST eighteen years of age ~~or over~~,
2 married or single, who resides within this state and who does not exercise
3 the homestead exemption under article 1 of this chapter may claim as a
4 personal property homestead exempt from all process prepaid rent,
5 including security deposits as provided in section 33-1321, subsection A,
6 for the claimant's residence, not exceeding ~~two thousand dollars~~ \$2,000.

7 D. This section does not exempt property from orders that are the
8 result of a judgment for arrearages of child support or for a child
9 support debt.