House Engrossed Senate Bill

~~personal property exemptions; vehicles~~
(now: homestead; personal property; exemptions)

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

CHAPTER 111

SENATE BILL 1540

AN ACT

AMENDING SECTION 33-1101, ARIZONA REVISED STATUTES, AS AMENDED BY PROPOSITION 209, ELECTION OF NOVEMBER 8, 2022; REPEALING SECTION 33-1101, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 368, SECTION 3; AMENDING SECTION 33-1126, ARIZONA REVISED STATUTES, AS AMENDED BY PROPOSITION 209, ELECTION OF NOVEMBER 8, 2022; REPEALING SECTION 33-1126, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 346, SECTION 1; RELATING TO HOMESTEAD AND PERSONAL PROPERTY EXEMPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 33-1101, Arizona Revised Statutes, as amended by proposition 209, election of November 8, 2022, is amended to read:

33-1101. Homestead exemptions; persons entitled to hold homesteads; annual adjustment

A. Any person ~~the age of~~ WHO IS AT LEAST eighteen ~~or over~~ YEARS OF AGE, married or single, AND who resides within ~~the~~ THIS state may hold as a homestead exempt from attachment, execution and forced sale, not exceeding $400,000 in value, any one of the following:

1. The person's interest in real property in one compact body ~~upon~~ ON which exists a dwelling house in which the person resides.

2. The person's interest in one condominium or cooperative in which the person resides.

3. A mobile home, PARK MODEL TRAILER, MOTOR HOME, TRAVEL TRAILER, FIFTH WHEEL TRAILER, HOUSEBOAT, MANUFACTURED HOME OR OTHER FORM OF SHELTER in which the person resides PLUS THE LAND ON WHICH THAT SHELTER IS LOCATED.

~~4. A mobile home in which the person resides plus the land upon which that mobile home is located.~~

B. Only one homestead exemption may be held by a married couple or a single person under this section. The value as specified in this section refers to the equity of a single person or married couple. If a married couple lived together in a dwelling house, a condominium or cooperative~~,~~ OR a ~~mobile home or a mobile home plus land on which the mobile home~~ FORM OF SHELTER PRESCRIBED BY SUBSECTION A, PARAGRAPH 3 OF THIS SECTION PLUS THE LAND ON WHICH IT is located and are then divorced, the total exemption THAT IS allowed for that residence to either or both persons shall not exceed $400,000 in value.

C. The homestead exemption, not exceeding the value provided for in subsection A OF THIS SECTION, as adjusted by subsection D of this section, automatically attaches to the person's interest in identifiable cash proceeds from the voluntary or involuntary sale of the property. The homestead exemption in identifiable cash proceeds continues for eighteen months after the date of the sale of the property or until the person establishes a new homestead with the proceeds, whichever period is shorter. THE HOMESTEAD EXEMPTION DOES NOT ATTACH TO THE PERSON'S INTEREST IN IDENTIFIABLE CASH PROCEEDS FROM REFINANCING THE HOMESTEAD PROPERTY. Only one homestead exemption at a time may be held by a person under this section.

D. The homestead exemption provided by this section shall be adjusted annually beginning on January 1, 2024 and thereafter on January 1 of each successive year by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index (all urban consumers, United States city average for all items) or its successor index as published by the United States department of labor, bureau of labor statistics, or its successor agency, with the amount of the exemption rounded up to the nearest $100.

E. FOR THE PURPOSES OF DETERMINING THE AMOUNT OF EQUITY IN A HOMESTEAD PROPERTY THAT IS SOLD OR FOR DETERMINING WHETHER THE PROPERTY OWNER IS RECEIVING CASH BACK FROM REFINANCING THE HOMESTEAD PROPERTY, THE PARTIES MAY RELY ON THE VALUATION OF THE PROPERTY IN THE FINAL CLOSING DOCUMENT DISCLOSURE THAT IS USED FOR THAT TRANSACTION.

F. FOR ANY CASE FILED UNDER TITLE 11, UNITED STATES CODE, THE AMOUNT OF THE DEBTOR'S HOMESTEAD EXEMPTION INITIALLY SHALL BE DETERMINED AS OF THE DATE THE BANKRUPTCY PETITION IS FILED. IF THE VALUE IN THE HOMESTEAD IS LESS THAN OR EQUAL TO THE AMOUNT PRESCRIBED IN SUBSECTION A OF THIS SECTION AT THE TIME OF FILING, INCLUDING ANY INCREASE PRESCRIBED BY SUBSECTION D OF THIS SECTION, THE HOMESTEAD PROPERTY IS ONE HUNDRED PERCENT EXEMPT AND ANY INCREASE IN THE VALUE OF THE HOMESTEAD DURING THE PENDENCY OF THE BANKRUPTCY CASE IS ONE HUNDRED PERCENT EXEMPT WITHOUT REGARD TO WHETHER THE DEBTOR'S INTEREST INCREASES ABOVE THE AMOUNT PRESCRIBED BY SUBSECTION A OF THIS SECTION, INCLUDING ANY INCREASE PRESCRIBED BY SUBSECTION D OF THIS SECTION.

Sec. 2. Repeal

Section 33-1101, Arizona Revised Statutes, as amended by Laws 2021, chapter 368, section 3, is repealed.

Sec. 3. Section 33-1126, Arizona Revised Statutes, as amended by proposition 209, election of November 8, 2022, is amended to read:

33-1126. Money benefits or proceeds; exception

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

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

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

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

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

5. All money arising from any claim for the destruction of, or damage to, exempt property and all proceeds or benefits of any kind

arising from fire or other insurance on any property exempt under this article.

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

7. An annuity contract where for a continuous unexpired period of two years that contract has been owned by a debtor and has named as beneficiary the debtor, the debtor's surviving spouse, child, parent, brother or sister, or any other dependent family member, except that, subject to the statute of limitations, the amount of any premium, payment or deposit with respect to that contract is recoverable or avoidable by a creditor pursuant to title 44, chapter 8, article 1 is not exempt. The exemption provided by this paragraph does not apply to a claim for a payment of a debt of the annuitant or beneficiary that is secured by a pledge or assignment of the contract or its proceeds. For the purposes of this paragraph, "dependent" means a family member who is dependent on the debtor for not less than half support.

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

9. A total of $5,000 held in a single account in any one financial institution as defined by section 6-101. The property declared exempt by this paragraph is not exempt from normal service charges assessed against the account by the financial institution at which the account is carried. The exemption prescribed in this paragraph shall be adjusted annually beginning on January 1, 2024 and thereafter on January 1 of each successive year by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index (all urban consumers, United States city average for all items) or its successor index as published by the United States department of labor, bureau of labor statistics, or its successor agency, with the amount of the exemption rounded up to the nearest $100.

10. An interest in a college savings plan under section 529 of the internal revenue code of 1986, either as the owner or as the beneficiary.

This does not include money contributed to the plan within two years before a debtor files for bankruptcy.

11. ALL FEDERAL OR STATE PERSONAL INCOME TAX CREDITS FROM ANY FEDERAL OR STATE EARNED INCOME TAX CREDITS OR FEDERAL OR STATE CHILD TAX CREDITS. THE AMOUNT OF THE EXEMPTION SHALL BE THE LESSER OF THE TOTAL COMBINED AMOUNT OF FEDERAL AND STATE TAX REFUNDS OR THE TOTAL COMBINED AMOUNT OF ANY FEDERAL OR STATE EARNED INCOME TAX CREDITS AND ANY FEDERAL OR STATE CHILD TAX CREDITS CLAIMED ON THE RETURN.

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

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

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

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

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

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

Sec. 4. Repeal

Section 33-1126, Arizona Revised Statutes, as amended by Laws 2022, chapter 346, section 1, is repealed.

Sec. 5. Applicability

Section 33-1101, Arizona Revised Statutes, as amended by section 1 of this act, applies to any petition for bankruptcy proceedings that is filed after the effective date of this act.

APPROVED BY THE GOVERNOR MAY 2, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2025.