

UNITED STATES BANKRUPTCY COURT

District of Arizona



EXEMPTIONS IN ARIZONA

September 2013

IMPORTANT WARNINGS

Neither the Bankruptcy Court nor the Clerk's office can give you legal advice. This pamphlet is not intended to give you legal advice, nor is it a substitute for legal advice from a qualified attorney. There are many ways to find a qualified bankruptcy attorney. The State Bar of Arizona website, www.azbar.org, has information for the public on attorneys who practice bankruptcy who are certified specialists in bankruptcy. Local county bar associations, such as the Maricopa County Bar Association, have information on bankruptcy attorneys. Additionally, there are national and local organizations of consumer bankruptcy attorneys. The National Association of Consumer Bankruptcy Attorneys (NACBA) website, www.nacba.org, has attorney member information by geographic location. The Arizona Consumer Bankruptcy Counsel (ACBC) website, www.acbc.org, also has a list of attorney members who practice consumer bankruptcy law.

This pamphlet addresses only the filing of bankruptcy cases by individuals and married couples. It does not address the very different chapters, law and rules that apply to bankruptcy cases filed by corporations, partnerships and LLCs. If a corporation, partnership or LLC files bankruptcy in Arizona, it must have a lawyer.

GENERAL INFORMATION ABOUT EXEMPTIONS

Exemptions are important in bankruptcy. If property is “exempt”, it means the debtor may keep the property and does not have to turn it over to the bankruptcy trustee. All property—even property the debtor intends to keep—must be listed on the debtor’s bankruptcy schedules. A debtor claims property as “exempt” on the bankruptcy form called **Schedule C- Property Claimed as Exempt**. Federal bankruptcy law states a debtor may “exempt” some property under federal law or under the laws of the debtor’s home state. 11 U.S.C. § 522(b). Arizona requires its residents to use state law exemptions, instead of federal exemptions. Thus, debtors filing bankruptcy in Arizona are allowed the exemptions in the Arizona statutes and federal non-bankruptcy statutes. On the top of Schedule C, a debtor claiming Arizona exemptions should check the second box next to 11 U.S.C. § 522(b)(3).

Legal counsel should be consulted to determine what property can be claimed as exempt and how to apply the value limitations found in the Arizona statute. Arizona residents may claim the exemptions made available by Arizona law only if they lived in Arizona for all of the two years before the bankruptcy filing. If the debtor did not live in Arizona for all of those two years, then the debtor must claim the exemptions provided by the state where the debtor lived for the greater part of the six months between two years and two and a half years before the bankruptcy filing. 11 U.S.C. § 522(b)(3)(A). If the debtor is ineligible to claim exemptions provided by that state’s law, then the debtor may claim exemptions provided in Bankruptcy Code § 522(d), which are not listed in this pamphlet. Legal counsel must be consulted if the debtor was not an Arizona resident for all of the two years before filing bankruptcy.

Asset	Exemption Description	Statutory Provision
HOMESTEAD	Interest in real property upon which debtor's house sits, condominium or cooperative, mobile home, or mobile home in which debtor resides plus the land upon which the mobile home is located in the amount of \$150,000 . May not be doubled by husband and wife.	A.R.S. § 33-1101
PERSONAL PROPERTY <i>Husband and wife may double all personal property exemptions</i>	Household furniture and furnishings, household goods, including consumer electronic devices, and household appliances personally used by the debtor or a dependent of a debtor and not otherwise specifically prescribed in this chapter in an amount not greater than \$6,000 (total fair market value).	A.R.S. § 33-1123
	All food, fuel and provisions for debtor's individual or family use to last up to six months.	A.R.S. § 33-1124
	All wearing apparel used primarily for personal, family or household purposes with a fair market value not greater than \$500 .	A.R.S. § 33-1125(1)
	All musical instruments for debtor's individual or family use with a total fair market value not greater than \$400 .	A.R.S. § 33-1125(2)
	Domestic pets, horses, milk cows and poultry with a fair market value not greater than \$500 .	A.R.S. § 33-1125(3)
	All engagement and wedding rings with a total fair market value not greater than \$2,000 .	A.R.S. § 33-1125(4)

Asset	Exemption Description	Statutory Provision
PERSONAL PROPERTY (cont.)	Debtor's library, including books, manuals, published materials and personal documents with a fair market value not greater than \$250 .	A.R.S. § 33-1125(5)
	One watch with a fair market value not greater than \$150 .	A.R.S. § 33-1125(6)
	One typewriter, one computer, one bicycle, one sewing machine, a family bible, a burial plot, one shotgun or one rifle or one pistol, with a total fair market value not greater than \$1,000 .	A.R.S. § 33-1125(7)
	Equity in one car not greater than \$6,000 . If debtor (or debtor's dependent) is physically disabled, the fair market value of the motor vehicle must not be greater than \$12,000 . (Equity is the fair market value of the motor vehicle minus debt to secured creditor).	A.R.S. § 33-1125(8)
	Professional prescribed prostheses for debtor or a dependent of the debtor, including a wheelchair.	A.R.S. § 33-1125(9)
MONEY, BENEFITS OR PROCEEDS	Life insurance proceeds not greater than \$20,000 if payable to surviving spouse or child upon the life of a deceased spouse, parent or legal guardian.	A.R.S. § 33-1126(A)(1)
	Minor child's earnings unless debt to be discharged was contracted for the special benefit of the minor child.	A.R.S. § 33-1126(A)(2)
	Child support or spousal maintenance received pursuant to a court order.	A.R.S. § 33-1126(A)(3)
	All money, proceeds or benefits from employer health, accident, disability insurance benefits or similar employer benefit program.	A.R.S. § 33-1126(A)(4)

Asset	Exemption Description	Statutory Provision
MONEY, BENEFITS OR PROCEEDS (cont.)	All proceeds from destruction of or damage to exempt property and all proceeds or benefits arising from fire or other insurance on exempt property.	A.R.S. § 33-1126(A)(5)
	Cash surrender value of life insurance policies where for a continuous unexpired period of two years such policies have been owned by a debtor and have named as beneficiary the debtor's surviving spouse, child, parent, brother or sister, or any other dependent family member, except for the amount of any premium that is avoidable by a creditor as a fraudulent transfer.	A.R.S. § 33-1126(A)(6) and A.R.S. § 20-1131(D)
	An annuity contract where for a continuous unexpired period of two years such contract has been owned by a debtor and has named as beneficiary the debtor, debtor's surviving spouse, child, parent, brother or sister, or any other dependent family member, except for the amount of any premium that is avoidable by a creditor as a fraudulent transfer.	A.R.S. § 33-1126(A)(7)
	Any claim for damages for levy upon or sale under execution of exempt personal property or for wrongful taking or detention of exempt personal property. Does not apply to annuities, nor to cash surrender values increased by premium payments made within two years in excess of the average annual premium paid during the previous three years.	A.R.S. § 33-1126(A)(8)
	Bank deposit not to exceed \$300 . This sum is not exempt from normal service charges assessed by the bank holding the funds.	A.R.S. § 33-1126(A)(9)

Asset	Exemption Description	Statutory Provision
MONEY, BENEFITS OR PROCEEDS (cont.)	Benefits from ERISA-qualified retirement plan or deferred compensation plan except those amounts contributed within 120 days before a debtor files for bankruptcy. Does not apply to an alternate payee under a qualified domestic relations order. Does not apply to assets of bankruptcy proceedings filed before July 1, 1987. Not exempt from orders resulting from a judgment for child support arrearages or child support debt.	A.R.S. § 33-1126(B)
	Prepaid rent, including security deposits as provided in § 33-1321(A) for debtor's residence, not exceeding the lesser of \$2,000 where debtor has not claimed a homestead exemption. Not exempt from orders resulting from a judgment for child support arrearages or child support debt.	A.R.S. § 33-1126(C)
	Group life insurance policy or proceeds.	A.R.S. § 20-1132
SCHOOL EQUIPMENT	Library and philosophical and chemical or other apparatus used for instruction of youth in any university, college, seminary of learning, or school.	A.R.S. § 33-1127
FIRE FIGHTING EQUIPMENT	All fire engines, hooks and ladders, with the carts, trucks, carriages, hose, buckets, implements and apparatus, all furniture and uniforms of any fire company or department formed under Arizona law.	A.R.S. § 33-1128
PUBLIC PROPERTY	All court houses, jails, public offices, buildings, lots, grounds and personal property, the fixtures, furniture, books and papers and appurtenances belonging and pertaining to the jail and public offices belonging to any county or any city of this state and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or city or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under Arizona law.	A.R.S. § 33-1129

Asset	Exemption Description	Statutory Provision
TOOLS AND EQUIPMENT	Tools, equipment, instruments and books (including telephone numbers, client or customer contact information, or marketing tools such as websites, domain names or any other intangible work product) in the possession of debtor or debtor's spouse primarily used and necessary to carry or develop the commercial activity, trade, business or profession of debtor or debtor's spouse, with a fair market value not greater than \$5,000 . Tools DO NOT include a motor vehicle primarily used for personal, family or household purposes such as transportation to debtor's employment.	A.R.S. § 33-1130(1)
	Farm machinery, utensils, implements of husbandry, feed, seed, grain and animals belonging to debtor, with a value not to exceed \$2,500 , where debtor's primary income is derived from farming.	A.R.S. § 33-1130(2)
	All arms, uniforms and accoutrements required by law to be kept by a debtor.	A.R.S. § 33-1130(3)
WAGES, SALARY, COMPENSATION	Seventy-five percent (75%) of disposable earnings. Only one-half of disposable income may be claimed exempt in response to an order for support of any person. These exemptions do not apply in a Chapter 13 bankruptcy filing. "Disposable earnings" means that remaining portion of a debtor's wages, salary or compensation for his personal services, including bonuses and commissions, or otherwise, and includes payments pursuant to a pension or retirement program or deferred compensation plan, after deducting from such earnings those amounts required by law to be withheld.	A.R.S. § 33-1131(B), (C), (D)
WAIVER	Waiver of exemption rights void and unenforceable unless specifically provided in § 33-1122 and when done with notice.	A.R.S. § 33-1132
PENSIONS	Arizona Board of Regents members – benefits, annuities and employee and employer contributions established by the Arizona Board of Regents pursuant to A.R.S. § 15-1628.	A.R.S. § 15-1628(I)

Asset	Exemption Description	Statutory Provision
PENSIONS (cont.)	IRAs	<i>In re Herrscher</i> , 121 B.R. 29 (D. Ariz. 1990)
	Police Officers Pension. Exemption does not apply to court orders which are the result of a judgment for arrearages of child support or for a child support debt.	A.R.S. § 9-931
	Fire Fighters' Relief and Pension Fund and distributive portions therefrom. Exemption does not apply to court orders which are the result of a judgment for arrearages of child support or for a child support debt.	A.R.S. § 9-968
	Arizona State Retirement System – state employee's survivor benefits before retirement.	A.R.S. § 38-762
	Public Safety Personnel Retirement System – benefits, employee contributions or employer contributions, including interest, earnings and all other credits.	A.R.S. § 38-850(C)
	Arizona Rangers' Pension	A.R.S. § 41-955
PUBLIC BENEFITS	Unemployment compensation benefits are exempt where proceeds are not commingled with other funds, except debts incurred for necessities furnished to the individual or his or her spouse or dependents during the time when the individual was employed.	A.R.S. § 23-783
	Workers' compensation benefits	A.R.S. § 23-1068
	Welfare assistance benefits	A.R.S. § 46-208

Federal Non-bankruptcy Exemptions

Asset	Exemption Description	Statutory Provision
RETIREMENT BENEFITS	Government employees' retirement payments	5 U.S.C. § 8346(a)
	Annuities paid to members of the armed services, based on retirement or retainer pay.	10 U.S.C. § 1440
	Foreign service employees – Benefits, annuities, or payments to survivors of foreign service employees under the Foreign Service Retirement and Disability System.	22 U.S.C. § 4060(c)
	Special pensions awarded to persons on the Army, Navy, Air Force and Coast Guard Medal of Honor roll.	38 U.S.C. § 1562(c)
	Payments of benefits due or to become due under any law administered by the Veterans' Administration.	38 U.S.C. § 3101
	Retirement annuities paid pursuant to the Railroad Retirement Act of 1974, 45 U.S.C. §§ 231 et seq.	45 U.S.C. § 231m
	Social security benefits	42 U.S.C. § 407
	Central Intelligence Agency retirement benefit payments	50 U.S.C. § 403
SURVIVORS' BENEFITS	Military survivor annuities paid pursuant to the Survivor Benefits Plan	10 U.S.C. § 1450(i)

Asset	Exemption Description	Statutory Provision
SURVIVORS' BENEFITS (cont.)	Annuities paid to survivors of a Justice or judge of the United States, a Director of the Administrative Office of the United States Courts, a Director of the Federal Judicial Center, or an administrative assistant to the Chief Justice of the United States.	28 U.S.C. § 376(n)
	Benefits paid to surviving spouses of lighthouse service personnel.	33 U.S.C. § 775
DEATH & DISABILITY BENEFITS	Disability and death benefits paid to federal government employees as a result of work injuries.	5 U.S.C. § 8130
	75% of earned but unpaid wages	15 U.S.C. § 1673
	Death and disability payments paid pursuant to the Longshoremen's and Harbor Workers' Compensation Act.	33 U.S.C. § 916
	Compensation paid for injury or death resulting from a war risk hazard under the War Hazards Compensation Act, 42 U.S.C. § 1701 et seq.	42 U.S.C. § 1717
MONEY, BENEFITS, PROCEEDS	A United States service member's deposits in a savings institution while the depositor is on permanent duty outside of the United States.	10 U.S.C. § 1035(d)
	Benefits due or to become due under servicemen's group life insurance.	38 U.S.C. § 1970(g)
	Veterans' benefits	38 U.S.C. § 5301(a)

Asset	Exemption Description	Statutory Provision
	Exempts from offset by federal government agencies an amount not to exceed \$9,000 owing to a debtor under the Social Security Act, the Black Lung Benefits Act, or laws administered by the Railroad Retirement Board.	31 U.S.C. § 3716(c)(3)(A)
	The Secretary of Treasury “shall exempt from administrative offset ... payments under means-tested programs when requested by the head of the respective agency,” and the Secretary is given discretion to exempt from administrative offset such other payments that are requested for exemption by the “head of a payment certifying agency.”	31 U.S.C. § 3716(c)(3)(B)
	Railroad workers’ unemployment insurance benefits	45 U.S.C. § 352(e)
PERSONAL PROPERTY	Personal property exempted from levy for collection of federal taxes.	26 U.S.C. § 6334
	Property of organizations designated by the President of the United States as being entitled to the privileges, exemptions, and immunities provided by the International Organizations Immunities Act (22 U.S.C. §§ 288, et seq.).	28 U.S.C. §§ 1609-1611
MISCELLANEOUS	Credits given to members of the Klamath Indian tribes in Oregon by the Secretary of the Interior.	25 U.S.C. §§ 543, 545
	Money accruing from any lease or sale of lands held in trust by the United States for any Indian.	25 U.S.C. § 410
	Homesteads purchased out of the trust or restricted funds of individual Indians from taxation and title to such homesteads shall be held subject to restrictions against alienation or encumbrance except with the approval of the Secretary of the Interior.	25 U.S.C. § 412a
	Debts incurred by a seaman while on a voyage.	46 U.S.C. § 11111