

SENATE BILL NO. 2206

Introduced by

Senators Piepkorn, Klein, Weber

Representatives Louser, Mitskog, Ostlie

1 A BILL for an Act to amend and reenact ~~section~~sections 28-22-03.1, 47-18-01, 47-18-04, and
2 47-18-14 of the North Dakota Century Code, relating to insurance cash value exemptions and
3 homestead exemption.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 28-22-03.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **28-22-03.1. Additional exemptions for residents.**

8 In addition to the exemptions from all attachment or process, levy and sale upon execution,
9 and any other final process issued from any court, otherwise provided by law, a resident of the
10 state may select:

- 11 1. In lieu of the homestead exemption, up to ~~ten~~twenty-five thousand dollars. This
12 exemption is not available if the resident exemption claimant, the spouse of the
13 resident exemption claimant, or other head of the family of the resident exemption
14 claimant has chosen the homestead exemption provided for under subsection 7 of
15 section 28-22-02.
- 16 2. A motor vehicle exemption in one vehicle not to exceed ~~two~~ten thousand ~~nine hundred~~
17 ~~fifty~~ dollars in value over security interests and liens upon that vehicle, or a motor
18 vehicle exemption in one vehicle not to exceed ~~thirty-two~~fifty thousand dollars for a
19 motor vehicle that has been modified at a cost of not less than one thousand five
20 hundred dollars to accommodate an individual with a permanent physical disability
21 who is the owner of that motor vehicle.
- 22 3. The debtor's aggregate interest, not to exceed ~~one~~ten thousand ~~five hundred~~
23 dollars in value, in any tools, implements, or professional books of the trade of the debtor or the
24 trade of a dependent of the debtor.

- 1 4. Any unmatured life insurance contract owned by the debtor, other than a credit life
2 insurance contract.
- 3 5. The debtor's aggregate interest, not to exceed in value ~~eight~~ one hundred thousand
4 dollars less any amount of property transferred in the manner specified in 11 U.S.C.
5 542(d), in any accrued dividend or interest under, or loan value of, any unmatured life
6 insurance contract owned by the debtor under which the insured is the debtor or an
7 individual of whom the debtor is a dependent ~~Any benefits, including cash value and~~
8 ~~proceeds of an insurance policy, to be provided to an insured or beneficiary under an~~
9 ~~insurance policy or annuity contract issued by a life, health, or accident insurance~~
10 ~~company, annuity, or benefit plan used by an employer or individual insured~~
11 ~~exclusively to the benefit of that individual.~~ Any cash deposit not previously scheduled
12 to be made into a life insurance policy or non-qualified annuity over the previous
13 twelve months is not exempt. Benefits are not exempt from enforcement of any order
14 to pay spousal support, child support, or a qualified domestic order under section
15 15-39.1-12.2, 39-03-14.2, and 54-52-17.6.
- 16 6. Professionally prescribed health aids for the debtor or a dependent of the debtor.
- 17 7. Retirement funds that have been in effect for at least one year, to the extent those
18 funds are in a fund or account that is exempt from taxation under section 401, 403,
19 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of
20 those assets exempted may not exceed ~~one~~ two hundred thousand dollars for any one
21 account or ~~two~~ four hundred thousand dollars in aggregate for all accounts. The dollar
22 limit does not apply to the extent this property is reasonably necessary for the support
23 of the resident and that resident's dependents. Retirement funds are not exempt from
24 enforcement of any order to pay spousal support or child support, or a qualified
25 domestic relations order under sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6.
26 As used in this subsection, "reasonably necessary for the support" means required to
27 meet present and future needs, as determined by the court after consideration of the
28 resident's responsibilities and all the present and anticipated property and income of
29 the resident, including that which is exempt.
- 30 8. The debtor's right to receive:

- 1 a. A social security benefit, except that the benefit is not exempt for enforcement of
2 any order for the support of a dependent child.
- 3 b. Veteran's disability pension benefits, not including military retirement pay, except
4 that the benefits are not exempt from process levy or sale for enforcement of any
5 order for the support of a dependent child.
- 6 c. A disability, illness, or unemployment benefit.
- 7 d. Alimony, support, or separate maintenance, but not property settlements, to the
8 extent reasonably necessary for the support of the debtor and any dependent of
9 the debtor.
- 10 e. A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan
11 or contract on account of illness, disability, death, age, or length of service, to the
12 extent reasonably necessary for the support of the debtor and any dependent of
13 the debtor, unless:
- 14 (1) That plan or contract was established by or under the auspices of an insider
15 that employed the debtor at the time the debtor's rights under that plan or
16 contract arose;
- 17 (2) That payment is on account of age or length of service; and
- 18 (3) That plan or contract does not qualify under section 401(a), 403(a), 403(b),
19 or 408 of the Internal Revenue Code of 1986.
- 20 9. The debtor's right to receive, or property that is traceable to:
- 21 a. An award under a crime victim's reparation law.
- 22 b. A payment on account of the wrongful death of an individual of whom the debtor
23 was a dependent, to the extent reasonably necessary for the support of the
24 debtor and any dependent of the debtor.
- 25 c. A payment under a life insurance contract that insured the life of an individual of
26 whom the debtor was a dependent on the date of that individual's death, to the
27 extent reasonably necessary for the support of the debtor and any dependent of
28 the debtor.
- 29 d. A payment, not to exceed eighteen thousand four hundred fifty dollars, on
30 account of personal bodily injury, not including pain and suffering or

1 compensation for actual pecuniary loss, of the debtor or an individual of whom
2 the debtor is a dependent.

3 e. A payment in compensation of loss of future earnings of the debtor or an
4 individual of whom the debtor is or was a dependent, to the extent reasonably
5 necessary for the support of the debtor and any dependent of the debtor.

6 **SECTION 2. AMENDMENT.** Section 47-18-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **47-18-01. Homestead exemption - Area and value.**

9 The homestead of any individual, whether married or unmarried, residing in this state
10 consists of the land upon which the claimant resides, and the dwelling house on that land in
11 which the homestead claimant resides, with all its appurtenances, and all other improvements
12 on the land, the total not to exceed one hundred fifty thousand dollars in value, over and above
13 liens or encumbrances or both. The homestead shall be exempt from judgment lien and from
14 execution or forced sale, except as otherwise provided in this chapter. The homestead may not
15 embrace different lots or tracts of land unless the lots or tracts of land are contiguous. For
16 purposes of this section, "contiguous" means two or more tracts of real property which share a
17 common point or which would share a common point but for an intervening road or right of way.

18 **SECTION 3. AMENDMENT.** Section 47-18-04 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **47-18-04. When homestead subject to execution.**

21 A homestead is subject to execution or forced sale in satisfaction of judgments obtained in
22 the following cases:

- 23 1. On debts secured by mechanics', construction, or laborers' liens for work or labor done
24 or performed or material furnished exclusively for the improvement of the same.
- 25 2. On debts secured by mortgage on the premises executed and acknowledged by both
26 husband and wife, or an unmarried claimant.
- 27 3. On debts created for the purchase thereof and for all taxes accruing and levied
28 thereon.
- 29 4. On all other debts when, upon an appraisal as provided by section 47-18-06, it
30 appears that the value of the homestead is more than one hundred fifty thousand
31 dollars over and above liens or encumbrances on the homestead, and then only to the

1 extent of any value in excess of the sum total of the liens and encumbrances plus said
2 one hundred fifty thousand dollars.

3 **SECTION 4. AMENDMENT.** Section 47-18-14 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **47-18-14. Proceeds of sale exempt - Disposition.**

6 If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to
7 the amount of the homestead exemption must be paid to the claimant and the residue applied
8 to the satisfaction of the execution. When the execution is against a married claimant whose
9 spouse is living, the court may direct that the one hundred fifty thousand dollars be deposited in
10 court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the
11 protection against legal process and voluntary disposition by either spouse as did the original
12 homestead premises whether paid directly to the claimant or to the husband and wife jointly.