

PROPERTY CODE

TITLE 5. EXEMPT PROPERTY AND LIENS

SUBTITLE A. PROPERTY EXEMPT FROM CREDITORS' CLAIMS

CHAPTER 42. PERSONAL PROPERTY

Sec. 42.001. PERSONAL PROPERTY EXEMPTION. (a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than \$100,000, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or

(2) the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than \$50,000, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

(b) The following personal property is exempt from seizure and is not included in the aggregate limitations prescribed by Subsection (a):

(1) current wages for personal services, except for the enforcement of court-ordered child support payments;

(2) professionally prescribed health aids of a debtor or a dependent of a debtor;

(3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; and

(4) a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property.

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor with a contractual landlord's lien or other security in the property to be seized.

(d) Unpaid commissions for personal services not to exceed 25 percent of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

(e) A religious bible or other book described by Subsection (b)(4) that is seized by a lessor of real property in the exercise of the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for the real property or abandons the real property may not be included in the aggregate limitations prescribed by Subsection (a).

Acts 1983, 68th Leg., p. 3522, ch. 576, Sec. 1, eff. Jan. 1, 1984.  
Amended by Acts 1991, 72nd Leg., ch. 175, Sec. 1, eff. May 24, 1991;  
Acts 1997, 75th Leg., ch. 1046, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 444 (H.B. 167), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 793 (H.B. 2706), Sec. 1, eff. September 1, 2015.

Sec. 42.002. PERSONAL PROPERTY. (a) The following personal property is exempt under Section 42.001(a):

- (1) home furnishings, including family heirlooms;
- (2) provisions for consumption;
- (3) farming or ranching vehicles and implements;
- (4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession;
- (5) wearing apparel;
- (6) jewelry not to exceed 25 percent of the aggregate limitations prescribed by Section 42.001(a);
- (7) two firearms;
- (8) athletic and sporting equipment, including bicycles;
- (9) a two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person;
- (10) the following animals and forage on hand for their consumption:
  - (A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each;

- (B) 12 head of cattle;
- (C) 60 head of other types of livestock; and
- (D) 120 fowl; and

(11) household pets.

(b) Personal property, unless precluded from being encumbered by other law, may be encumbered by a security interest under Subchapter B, Chapter 9, Business & Commerce Code, or Subchapter F, Chapter 501, Transportation Code, or by a lien fixed by other law, and the security interest or lien may not be avoided on the ground that the property is exempt under this chapter.

Acts 1983, 68th Leg., p. 3522, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., ch. 175, Sec. 1, eff. May 24, 1991; Acts 1993, 73rd Leg., ch. 216, Sec. 1, eff. May, 17, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.245, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 414, Sec. 2.36, eff. July 1, 2001; Acts 1999, 76th Leg., ch. 846, Sec. 1, eff. Aug. 30, 1999.

Sec. 42.0021. ADDITIONAL EXEMPTION FOR CERTAIN SAVINGS PLANS. (a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, annuity, deferred compensation, profit-sharing, or similar plan, including a retirement plan for self-employed individuals, or a simplified employee pension plan, an individual retirement account or individual retirement annuity, including an inherited individual retirement account, individual retirement annuity, Roth IRA, or inherited Roth IRA, or a health savings account, and under any annuity or similar contract purchased with assets distributed from that type of plan or account, is exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A, 457(b), or 501(a), Internal Revenue Code of 1986, including a government plan or church plan described by Section 414(d) or (e), Internal Revenue Code of 1986. For purposes of this subsection, the interest of a

person in a plan, annuity, account, or contract acquired by reason of the death of another person, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt to the same extent that the interest of the person from whom the plan, annuity, account, or contract was acquired was exempt on the date of the person's death. If this subsection is held invalid or preempted by federal law in whole or in part or in certain circumstances, the subsection remains in effect in all other respects to the maximum extent permitted by law.

(b) Contributions to an individual retirement account that exceed the amounts permitted under the applicable provisions of the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). In addition, amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).

(c) Amounts distributed from a plan, annuity, account, or contract entitled to an exemption under Subsection (a) are not subject to seizure for a creditor's claim for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution under Subsection (b).

(d) A participant or beneficiary of a plan, annuity, account, or contract entitled to an exemption under Subsection (a), other than an individual retirement account or individual retirement annuity, is not prohibited from granting a valid and enforceable security interest in the participant's or beneficiary's

right to the assets held in or to receive payments under the exempt plan, annuity, account, or contract to secure a loan to the participant or beneficiary from the exempt plan, annuity, account, or contract, and the right to the assets held in or to receive payments from the plan, annuity, account, or contract is subject to attachment, execution, and seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

(e) If Subsection (a) is declared invalid or preempted by federal law, in whole or in part or in certain circumstances, as applied to a person who has not brought a proceeding under Title 11, United States Code, the subsection remains in effect, to the maximum extent permitted by law, as to any person who has filed that type of proceeding.

(f) A reference in this section to a specific provision of the Internal Revenue Code of 1986 includes a subsequent amendment of the substance of that provision.

Added by Acts 1987, 70th Leg., ch. 376, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 1122, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 963, Sec. 1, eff. Aug. 28, 1995;

Acts 1999, 76th Leg., ch. 106, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 130 (H.B. 330), Sec. 1, eff. May 24, 2005.

Acts 2005, 79th Leg., Ch. 130 (H.B. 330), Sec. 2, eff. May 24, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 933 (S.B. 1810), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 91 (S.B. 649), Sec. 2, eff. September 1, 2013.

Sec. 42.0022. EXEMPTION FOR COLLEGE SAVINGS PLANS. (a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt from attachment, execution, and seizure for the satisfaction of debts:

(1) any fund or plan established under Subchapter F,

Chapter 54, Education Code, including the person's interest in a prepaid tuition contract;

(2) any fund or plan established under Subchapter G, Chapter 54, Education Code, including the person's interest in a savings trust account; or

(3) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986, as amended.

(b) If any portion of this section is held to be invalid or preempted by federal law in whole or in part or in certain circumstances, this section remains in effect in all other respects to the maximum extent permitted by law.

Added by Acts 2003, 78th Leg., ch. 113, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.003. DESIGNATION OF EXEMPT PROPERTY. (a) If the number or amount of a type of personal property owned by a debtor exceeds the exemption allowed by Section 42.002 and the debtor can be found in the county where the property is located, the officer making a levy on the property shall ask the debtor to designate the personal property to be levied on. If the debtor cannot be found in the county or the debtor fails to make a designation within a reasonable time after the officer's request, the officer shall make the designation.

(b) If the aggregate value of a debtor's personal property exceeds the amount exempt from seizure under Section 42.001(a), the debtor may designate the portion of the property to be levied on. If, after a court's request, the debtor fails to make a designation within a reasonable time or if for any reason a creditor contests that the property is exempt, the court shall make the designation. Acts 1983, 68th Leg., p. 3524, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., ch. 175, Sec. 1, eff. May 24, 1991.

Sec. 42.004. TRANSFER OF NONEXEMPT PROPERTY. (a) If a person uses the property not exempt under this chapter to acquire, obtain an interest in, make improvement to, or pay an indebtedness on personal property which would be exempt under this chapter with the intent to defraud, delay, or hinder an interested person from

obtaining that to which the interested person is or may be entitled, the property, interest, or improvement acquired is not exempt from seizure for the satisfaction of liabilities. If the property, interest, or improvement is acquired by discharging an encumbrance held by a third person, a person defrauded, delayed, or hindered is subrogated to the rights of the third person.

(b) A creditor may not assert a claim under this section more than two years after the transaction from which the claim arises. A person with a claim that is unliquidated or contingent at the time of the transaction may not assert a claim under this section more than one year after the claim is reduced to judgment.

(c) It is a defense to a claim under this section that the transfer was made in the ordinary course of business by the person making the transfer.

Acts 1983, 68th Leg., p. 3524, ch. 576, Sec. 1, eff. Jan. 1, 1984.  
Amended by Acts 1991, 72nd Leg., ch. 175, Sec. 1, eff. May 24, 1991.

Sec. 42.005. CHILD SUPPORT LIENS. Sections [42.001](#), [42.002](#), and [42.0021](#) of this code do not apply to a child support lien established under Subchapter G, Chapter [157](#), Family Code.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 4.07, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.56, eff. Sept. 1, 1997.