

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 this section, "qualified savings plan" means any stock bonus, pension, annuity, deferred compensation, profit-sharing, health, education, or similar plan or account, to the extent the plan or account is exempt from federal income tax or to the extent federal income tax on a person's interest in the plan or account is deferred until actual payment of benefits to the person. A plan or account that is subject to federal income tax is considered to be exempt from federal income tax for purposes of this section if the plan or account is subject to the tax solely under Sections 511 through 514, Internal Revenue Code of 1986. The term includes:

- (1) a retirement plan sponsored by a private employer, government, or church;
- (2) a retirement plan for self-employed individuals;
- (3) a simplified employee pension plan;
- (4) an individual retirement account or annuity, including an inherited individual retirement account or annuity;
- (5) a Roth IRA, including an inherited Roth IRA;
- (6) a health savings account;

- (7) a Coverdell education savings account;
- (8) a plan or account established under Subchapter F, Chapter 54, Education Code, including a prepaid tuition contract;
- (9) a plan or account established under Subchapter G, Chapter 54, Education Code, including a savings trust account;
- (10) a qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986;
- (11) a qualified ABLE program of any state that meets the requirements of Section 529A, Internal Revenue Code of 1986; and
- (12) an annuity or similar contract purchased with assets distributed from a plan or account described by this subsection.

(b) In addition to the exemption prescribed by Section 42.001 and except as provided by this section, a person's interest in and right to receive payments from a qualified savings plan, whether vested or not, is exempt from attachment, execution, and seizure for the satisfaction of debts.

(c) An interest or right in a qualified savings plan that was 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 or right of the decedent was exempt on the date of the decedent's death.

(d) Contributions to a qualified savings plan that are excess contributions under Section 4973, Internal Revenue Code of 1986, and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law.

(e) Amounts distributed from a qualified savings plan are exempt from attachment, execution, and seizure for a creditor's claim for 60 days after the date of distribution. If the amounts qualify as a rollover contribution under the Internal Revenue Code of 1986, whether taxable or nontaxable, the amounts will continue to be exempt thereafter under this section.

(f) A person's interest in a retirement plan that is solely an unfunded, unsecured promise by an employer to pay deferred compensation is not exempt under this section unless otherwise

exempt by law.

(g) A person is not prohibited by this section from granting a valid and enforceable security interest in the person's interest in or right to receive payments from a qualified savings plan to the extent permitted by, and in accordance with, the Internal Revenue Code of 1986 and the terms of the qualified savings plan to secure a loan to the person from the qualified savings plan. The person's interest in or right to receive payments from the plan is subject to attachment, execution, and seizure for the satisfaction of the security interest or lien granted by the person to secure the loan.

(h) If any provision of this section is held invalid or preempted by federal law, in whole or in part or in certain circumstances, the remaining provisions of this section remain in effect, to the maximum extent permitted by law.

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

Acts 2019, 86th Leg., R.S., Ch. 320 (H.B. [2779](#)), Sec. 1, eff. September 1, 2019.

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. (a) Except as provided by Subsection (b), Sections 42.001, 42.002, and 42.0021 do not

apply to a child support lien established under Subchapter G, Chapter 157, Family Code.

(b) The exemption from attachment, execution, and seizure for the satisfaction of debts provided under Section 42.0021 for a plan or account described by Section 42.0021(a)(8), (9), or (10) applies 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.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 320 (H.B. 2779), Sec. 2, eff. September 1, 2019.