

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0576.01 Jason Gelender

SENATE BILL 00-003

STATE OF COLORADO

BY SENATOR Perlmutter;
also REPRESENTATIVE Smith.

REENGROSSED

A BILL FOR AN ACT

101 CONCERNING EXEMPT ASSETS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Expands the range and increases the value of assets that are exempt from seizure in debt collection proceedings. Requires the automatic increase of the dollar limits on the amount of such exemptions for inflation every 3 years, as reflected by increases in the Denver-Boulder consumer price index, but does not require such dollar limits to be decreased if the Denver-Boulder consumer price index decreases. Specifies that for the purposes of any civil action, such dollar limits shall be the dollar limits in effect at the time the action was filed notwithstanding any subsequent inflation-based increase in such dollar amounts.

1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. 13-54-101 (3) and (4), Colorado Revised Statutes,
3 are amended to read:

4 13-54-101. Definitions. As used in this article, unless the context
5 otherwise requires:

6 (3) "Earnings" means:

7 (a) Wages, salaries, commissions, fees, and TAX OVERPAYMENTS

SENATE
3rd Reading Unamended
January 18, 2000

SENATE
Amended 2nd Reading
January 17, 2000

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

1 AND REFUNDS, INCLUDING BUT NOT LIMITED TO REFUNDED EARNED
2 INCOME CREDITS, THAT RESULT FROM THE PERSONAL LABOR OR SERVICES
3 OF A DEBTOR OR A DEPENDENT OF ANY SUCH DEBTOR; AND

4 (b) All crops, livestock, poultry, dairy products, and agricultural
5 products grown, raised, or produced by any debtor as a result of the
6 personal efforts of a debtor or any dependent of such debtor.

7 (4) "Household goods" means, by way of illustration, household
8 furniture, furnishings, dishes, utensils, cutlery, tableware, napery,
9 pictures, prints, appliances, stoves, MICROWAVE OVENS, beds and
10 bedding, freezers, refrigerators, washing machines, DRYERS, HOME
11 ELECTRONICS, INCLUDING BUT NOT LIMITED TO television sets, radio sets,
12 VIDEOCASSETTE RECORDERS, STEREOS, COMPUTERS, FACSIMILE MACHINES
13 AND TELEPHONES, CAMERAS, EXERCISE EQUIPMENT, musical instruments,
14 bicycles, sewing machines, and toys.

15 **SECTION 2.** The introductory portion to 13-54-102 (1),
16 13-54-102 (1) (a), (1) (b), (1) (c), (1) (e), (1) (f), (1) (g), (1) (i), (1) (j) (I),
17 (1) (j) (II) (A), (1) (k), and (1) (o), Colorado Revised Statutes, are
18 amended, and the said 13-54-102 is further amended BY THE
19 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

20 **13-54-102. Property exempt.** (1) EXCEPT AS OTHERWISE
21 PROVIDED IN SUBSECTION (5) OF THIS SECTION, the following property is
22 exempt from levy and sale under writ of attachment or writ of execution:

23 (a) The necessary wearing apparel of the debtor and each
24 dependent to the extent of ~~seven hundred fifty~~ ONE THOUSAND FIVE
25 HUNDRED dollars in value;

26 (b) Watches, jewelry, and articles of adornment of the debtor and

1 each dependent to the extent of ~~five hundred~~ ONE THOUSAND dollars in
2 value;

3 (c) The library, family pictures, and school books of the debtor
4 and ~~his~~ THE DEBTOR'S dependents to the extent of ~~seven hundred fifty~~ ONE
5 THOUSAND FIVE HUNDRED dollars in value; except that this paragraph (c)
6 shall not apply to any such property constituting all or part of the stock
7 in trade of the debtor;

8 (e) The household goods owned and used by the debtor and used
9 by ~~his~~ THE DEBTOR'S dependents to the extent of ~~fifteen hundred~~ THREE
10 THOUSAND dollars in value;

11 (f) Provisions and fuel on hand for the use or consumption of the
12 debtor or ~~his~~ THE DEBTOR'S dependents to the extent of ~~three~~ SIX hundred
13 dollars in value;

14 (g) In the case of every debtor engaged as ~~his principal~~
15 ~~occupation, in agriculture or livestock or poultry raising, livestock and~~
16 ~~poultry not exceeding in the aggregate a value of three thousand dollars,~~
17 ~~and horses, mules, wagons, carts, machinery, harness, implements, and~~
18 ~~tools not exceeding in the aggregate a value of two thousand dollars;~~ IN
19 AGRICULTURE AS THE DEBTOR'S PRINCIPAL OCCUPATION, INCLUDING BUT
20 NOT LIMITED TO FARMING, RANCHING, DAIRY PRODUCTION, AND THE
21 RAISING OF LIVESTOCK OR POULTRY, ALL LIVESTOCK, POULTRY, OR OTHER
22 ANIMALS, AND ALL TRACTORS, FARM IMPLEMENTS, TRUCKS USED IN
23 AGRICULTURAL OPERATIONS, HARVESTING EQUIPMENT, SEED, AND
24 AGRICULTURAL MACHINERY AND TOOLS IN THE AGGREGATE VALUE OF
25 TWENTY-FIVE THOUSAND DOLLARS;

26 (i) The stock in trade, supplies, fixtures, maps, machines, tools,

1 ELECTRONICS, equipment, books, and business materials of any debtor
2 used and kept for the purpose of carrying on any gainful occupation in the
3 aggregate value of ~~fifteen hundred~~ TEN THOUSAND dollars;

4 (j) (I) One or more motor vehicles OR BICYCLES kept and used by
5 any debtor for the purpose of carrying on any gainful occupation in the
6 aggregate value of ~~one~~ THREE thousand dollars;

7 (II) (A) One OR MORE motor ~~vehicle~~ VEHICLES kept and used by
8 any elderly or disabled debtor, OR BY ANY DEBTOR WITH AN ELDERLY OR
9 DISABLED SPOUSE OR DEPENDENT, for the purpose of obtaining medical
10 care for ~~himself~~ THE DEBTOR or ~~his~~ THE DEBTOR'S elderly or disabled
11 dependent. The value of the ~~vehicle~~ VEHICLES shall not exceed ~~three~~ SIX
12 thousand dollars.

13 (k) The library of any debtor who is a professional person,
14 including a minister or priest of any faith, kept and used by ~~him~~ THE
15 DEBTOR in carrying on his OR HER profession, in the value of ~~fifteen~~
16 ~~hundred~~ THREE THOUSAND dollars; except that exemptions with respect
17 to any of the property described in this paragraph (k) may not also be
18 claimed under paragraph (i) of this subsection (1);

19 (o) ~~(I) One house trailer or trailer coach to the extent of three~~
20 ~~thousand five hundred dollars in value while used and occupied as a place~~
21 ~~of residence by the owner;~~

22 ~~(II) One mobile home to the extent of six thousand dollars while~~
23 ~~used and occupied as a place of residence by the owner;~~

24 (1.5) EXCEPT AS OTHERWISE PROVIDED BY LAW, A DEBTOR MAY
25 CLAIM PROPERTY AS EXEMPT FROM LEVY AND SALE UNDER WRIT OF
26 ATTACHMENT OR WRIT OF EXECUTION PURSUANT TO ANY APPLICABLE

1 CATEGORIES OF EXEMPTIONS SPECIFIED IN SUBSECTION (1) OF THIS
2 SECTION.

3 (1.7) IN ADDITION TO ANY EXEMPTIONS ALLOWED PURSUANT TO
4 SUBSECTION (1) OF THIS SECTION, IN ANY BANKRUPTCY PROCEEDING
5 CONDUCTED PURSUANT TO TITLE 11 OF THE UNITED STATES CODE, A
6 DEBTOR SHALL BE ENTITLED TO EXEMPT FROM LEVY AND SALE UNDER
7 WRIT OF ATTACHMENT OR EXECUTION THE DEBTOR'S AGGREGATE INTEREST
8 IN ANY PROPERTY TO THE EXTENT OF FIVE HUNDRED DOLLARS IN VALUE
9 PLUS UP TO FIVE THOUSAND DOLLARS OF THE UNUSED AMOUNT OF ANY
10 HOMESTEAD EXEMPTION.

11 (5) (a) ANY DOLLAR LIMITATION ON THE AMOUNT OF PROPERTY TO
12 BE EXEMPTED FROM LEVY AND SALE UNDER WRIT OF ATTACHMENT OR
13 WRIT OF EXECUTION SET FORTH IN SUBSECTION (1) OR (1.7) OF THIS
14 SECTION AND ANY DOLLAR LIMITATION ON THE AMOUNT OF PROPERTY TO
15 BE EXEMPTED FROM EXECUTION AND ATTACHMENT ARISING FROM ANY
16 DEBT, CONTRACT, OR CIVIL OBLIGATION SET FORTH IN SECTION 38-41-201
17 OR 38-41-201.6, C.R.S., SHALL BE ADJUSTED ON JULY 1, 2003, AND ON
18 JULY 1 OF EACH THIRD SUCCEEDING YEAR IN ACCORDANCE WITH ANY
19 AGGREGATE INCREASE OR DECREASE IN THE UNITED STATES DEPARTMENT
20 OF LABOR BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR THE
21 DENVER-BOULDER CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR
22 THE PRECEDING THREE CALENDAR YEARS AS REFLECTED IN THE FINAL
23 CONSUMER PRICE INDEX FOR THE DENVER-BOULDER CONSOLIDATED
24 METROPOLITAN STATISTICAL AREA CALENDAR FOR THE CALENDAR YEAR
25 IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE
26 ADJUSTMENT IS TO BE MADE. THE LIMITATION SHALL NOT BE INCREASED

1 IF SUCH FINAL CONSUMER PRICE INDEX DOES NOT REFLECT AN AGGREGATE
2 INCREASE IN THE CONSUMER PRICE INDEX FOR THE PRECEDING THREE
3 CALENDAR YEARS AND SHALL NOT BE DECREASED IF SUCH FINAL
4 CONSUMER PRICE INDEX DOES NOT REFLECT AN AGGREGATE DECREASE IN
5 THE CONSUMER PRICE INDEX FOR THE PRECEDING THREE CALENDAR
6 YEARS. THE AMOUNT OF ANY DOLLAR LIMITATION ADJUSTED PURSUANT TO
7 THIS PARAGRAPH (a) SHALL BE ROUNDED TO THE NEAREST ONE HUNDRED
8 DOLLARS.

9 (b) FOR THE PURPOSES OF ANY CIVIL ACTION IN WHICH THE
10 PROPERTY EXEMPTION PROVISIONS OF THIS SECTION OR SECTION 38-41-201
11 OR 38-41-201.6, C.R.S., ARE APPLIED, THE DOLLAR LIMITATIONS ON THE
12 AMOUNT OF PROPERTY TO BE EXEMPTED FROM LEVY AND SALE UNDER
13 WRIT OF ATTACHMENT OR WRIT OF EXECUTION SET FORTH IN SUBSECTION
14 (1) OR (1.7) OF THIS SECTION AND THE DOLLAR LIMITATION ON THE
15 AMOUNT OF PROPERTY TO BE EXEMPTED FROM EXECUTION AND
16 ATTACHMENT ARISING FROM ANY DEBT, CONTRACT, OR CIVIL OBLIGATION
17 SET FORTH IN SECTION 38-41-201 OR 38-41-201.6, C.R.S., SHALL BE THE
18 DOLLAR LIMITATIONS IN EFFECT AT THE TIME THE ACTION WAS FILED
19 NOTWITHSTANDING ANY SUBSEQUENT INCREASE OR DECREASE IN SUCH
20 DOLLAR AMOUNTS MADE PURSUANT TO PARAGRAPH (a) OF THIS
21 SUBSECTION (5).

22 **SECTION 3.** 38-41-201, Colorado Revised Statutes, is amended
23 to read:

24 **38-41-201. Homestead exemption.** Every homestead in the state
25 of Colorado occupied as a home by the owner thereof or his OR HER
26 family shall be exempt from execution and attachment arising from any

1 debt, contract, or civil obligation not exceeding in value the sum of ~~thirty~~
2 FORTY-FIVE thousand dollars in actual cash value in excess of any liens
3 or encumbrances on the homesteaded property in existence at the time of
4 any levy of execution thereon.

5 **SECTION 4.** 38-41-201.6, Colorado Revised Statutes, is
6 amended to read:

7 **38-41-201.6. Mobile home, manufactured home, trailer, and**
8 **trailer coach homestead exemption.** A manufactured home as defined
9 in section 38-29-102 (6), which includes a mobile home or manufactured
10 home as defined in section 38-12-201.5 (2), 5-1-301 (9.7), or 42-1-102
11 (106) (b), C.R.S., A TRAILER AS DEFINED IN SECTION 42-1-102 (105),
12 C.R.S., OR A TRAILER COACH AS DEFINED IN SECTION 42-1-102 (106) (a),
13 C.R.S., that has been purchased by an initial user or subsequent user and
14 for which a certificate of title OR REGISTRATION has been issued in
15 accordance with section 38-29-110 or pursuant to section 38-29-108 OR
16 42-3-103, C.R.S., is a homestead and ~~notwithstanding the provisions of~~
17 ~~section 13-54-102 (1) (o) (H), C.R.S.~~, is entitled to the same exemption
18 as enumerated in section 38-41-201, except for any loans, debts, or
19 obligations incurred prior to ~~January 1, 1983~~ JULY 1, 2000. For purposes
20 of this homestead exemption, the term "house" as used in section
21 38-41-205 shall be deemed to include mobile homes or manufactured
22 homes.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.