

SENATE BILL NO. 2206
with House Amendments
SENATE BILL NO. 2206

Introduced by

Senators Piepkorn, Klein, Weber

Representatives Louser, Mitskog, Ostlie

1 A BILL for an Act to amend and reenact sections 28-22-03.1, 47-18-01, 47-18-04, and 47-18-14
2 of the North Dakota Century Code, relating to insurance cash value exemptions and homestead
3 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 ~~twenty-five~~ ten 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 ~~twenty~~ 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~~ twenty 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 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 cash deposit not previously
8 scheduled to be made into a life insurance policy or non-qualified annuity over the
9 previous twelve months is not exempt. Benefits are not exempt from enforcement of
10 any order to pay spousal support, child support, or a qualified domestic order under
11 section 15-39.1-12.2, 39-03-14.2, and 54-52-17.6.
- 12 6. Professionally prescribed health aids for the debtor or a dependent of the debtor.
- 13 7. Retirement funds that have been in effect for at least one year, to the extent those
14 funds are in a fund or account that is exempt from taxation under section 401, 403,
15 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of
16 those assets exempted may not exceed ~~one~~two hundred thousand dollars for any one
17 account or ~~two~~four hundred thousand dollars in aggregate for all accounts. The dollar
18 limit does not apply to the extent this property is reasonably necessary for the support
19 of the resident and that resident's dependents. Retirement funds are not exempt from
20 enforcement of any order to pay spousal support or child support, or a qualified
21 domestic relations order under sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6.
22 As used in this subsection, "reasonably necessary for the support" means required to
23 meet present and future needs, as determined by the court after consideration of the
24 resident's responsibilities and all the present and anticipated property and income of
25 the resident, including that which is exempt.
- 26 8. The debtor's right to receive:
 - 27 a. A social security benefit, except that the benefit is not exempt for enforcement of
28 any order for the support of a dependent child.
 - 29 b. Veteran's disability pension benefits, not including military retirement pay, except
30 that the benefits are not exempt from process levy or sale for enforcement of any
31 order for the support of a dependent child.

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

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

3 **47-18-01. Homestead exemption - Area and value.**

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

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

15 **47-18-04. When homestead subject to execution.**

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

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

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

1 **47-18-14. Proceeds of sale exempt - Disposition.**

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