

ORIGINAL HOUSE
BILL NO. HB0161

ENROLLED ACT NO. 70, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2015 GENERAL SESSION

AN ACT relating to civil procedure; amending retirement accounts that are exempt from execution and attachment as specified; providing limitations; providing definitions; specifying applicability; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 1-20-110(a)(intro), (i)(intro), (ii) through (iv), by creating a new paragraph (v) and by creating new subsections (b) through (d) is amended to read:

1-20-110. Exemption for retirement funds and accounts.

(a) The following are exempt from execution, attachment, garnishment or any other legal process: ~~issued by any court:~~

(i) ~~Any person's~~ The interest of an individual or beneficiary in a retirement plan; ~~pension or annuity, whether by way of a gratuity or otherwise, granted, paid or payable:~~

(ii) ~~Any retirement or annuity fund of any person, to the extent of payments made to the fund while solvent, but not exceeding the amount actually excluded or deducted as retirement funding for federal income tax purposes, and the appreciation thereon, the income therefrom and the benefits or annuity~~ Money or other assets payable ~~thereunder~~ to an individual from a retirement plan;

(iii) ~~Any retirement or annuity fund of any person, including individual retirement accounts (IRAs) Roth individual retirement accounts (Roth IRAs) and~~

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~~simplified employee pension individual retirement accounts (SEP IRAs), The interest of a beneficiary in a retirement plan if the beneficiary acquired the interest as the result of the death of an individual. The beneficiary's interest is exempt to the same extent payments are made to the fund while solvent, provided the earnings on the fund are protected from federal income tax or subject to deferral of federal income tax, or are not subject to federal income tax upon withdrawal, and the appreciation thereon, the income therefrom and the benefits or annuity payable thereunder; and that the individual's interest was exempt immediately before the death of the individual;~~

(iv) All property in this state of the judgment debtor where the judgment is in favor of any state or any political subdivision of any state for failure to pay that state's or political subdivision's income tax on benefits received from a pension or other retirement plan. This paragraph shall apply only to judgments obtained after the judgment debtor has established residency in Wyoming and has been domiciled in Wyoming for at least one hundred eighty (180) days; ~~and~~ and

(v) Money or other assets payable to a beneficiary from a retirement plan if the beneficiary acquired the money or other assets as the result of the death of an individual. The beneficiary's interest is exempt to the same extent that the individual's interest in the money or other assets was exempt immediately before the death of the individual.

(b) The exemptions in subsection (a) of this section do not apply to a contribution made by an individual to a retirement plan within ninety (90) days before the individual files for bankruptcy.

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(c) Any fund, plan or account specified in subsection (a) of this section is not exempt from the claim of an alternate payee under a qualified domestic relations order. However, the interest of an alternate payee under a qualified domestic relations order is exempt from all claims of any creditor of the alternate payee.

(d) As used in this section:

(i) "Alternate payee" means any spouse, former spouse, child or other dependent of an individual who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a retirement plan with respect to such individual;

(ii) "Beneficiary" includes a person, trust or trustee who has, before or after the death of an individual, a direct or indirect beneficial interest in a retirement plan;

(iii) "Beneficial interest" includes an interest that is acquired:

(A) As a designated beneficiary, survivor, co-annuitant, heir or legatee; or

(B) If excludable from gross income under the Internal Revenue Code as:

(I) A rollover under 26 U.S.C. section 408 or 408A;

(II) A distribution from one (1) retirement plan to another retirement plan;

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(III) A distribution under 26 U.S.C section 402 if the distributed amount is contributed to another retirement plan within sixty (60) days of the distribution; or

(IV) A distribution that is legally similar to a distribution under subdivision (I), (II) or (III) of this subparagraph.

(iv) "Individual" means a participant in, owner of or alternative payee of a retirement plan;

(v) "Qualified domestic relations order" means as that term is defined by 26 U.S.C. section 414(p);

(vi) "Retirement plan" means a plan, account or annuity that is qualified under 26 U.S.C. section 401, 403, 408, 408A, 409, 414 or 457 as amended.

Section 2. W.S. 1-20-110(a)(I)(A) and (B) is repealed.

Section 3. The provisions of W.S. 1-2-110 as amended by this act shall apply to any action filed on or after the effective date of this act.

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Section 4. This act is effective July 1, 2015.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk