

La. R.S. 13:3881 (2006)

§ 13:3881. General exemptions from seizure

A. The following income or property of a debtor is exempt from seizure under any writ, mandate, or process whatsoever, except as otherwise herein provided:

(1) (a) Seventy-five percent of his disposable earnings for any week, but in no case shall this exemption be less than an amount in disposable earnings which is equal to thirty times the federal minimum hourly wage in effect at the time the earnings are payable or a multiple or fraction thereof, according to whether the employee's pay period is greater or less than one week. However, the exemption from disposable earnings for the payment of a current or past due support obligation, or both, for a child or children is fifty percent of disposable earnings, and the exemption from seizure of the disposable earnings for the payment of a current or past due support obligation, or both, for a spouse or former spouse is sixty percent of the disposable earnings. For purposes of this Subsection, if the Department of Social Services is providing support enforcement services to the spouse and a judgment or order for support includes an obligation for both a child or children and a spouse or former spouse, or in any case wherein the judgment or order does not clearly indicate which amount is attributable to support of the child or children and which amount is attributable to support of the spouse or former spouse, the support obligation shall be treated as if it is exclusively for the support of a child or children.

(b) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld and which amounts are reasonable and are being deducted in the usual course of business at the time the garnishment is served upon the employer for the purpose of providing benefits for retirement, medical insurance coverage, life insurance coverage and which amounts are legally due or owed to the employer in the usual course of business at the time the garnishment is served.

(2) That property necessary to the exercise of a trade, calling, or profession by which he earns his livelihood, which shall be limited to the following:

(a) Tools.

(b) Instruments.

(c) Books.

(d) One utility trailer.

(e) One firearm with a maximum value of five hundred dollars.

(3) The personal servitude of habitation and the usufruct under Article 223 of the Civil Code.

(4) (a) The clothing, bedding, linen, chinaware, nonsterling silverware, glassware, living room, bedroom, and dining room furniture, cooking stove, heating and cooling equipment, one noncommercial sewing machine, equipment for required therapy, kitchen utensils, pressing irons, washers, dryers, refrigerators, deep freezers, electric or otherwise, used by him or a member of his family.

(b) The family portraits.

(c) His arms and military accoutrements.

(d) The musical instruments played or practiced on by him or a member of his family.

(e) The poultry, fowl, and one cow kept by him for the use of his family.

(f) All dogs, cats, and other household pets.

(5) Any wedding or engagement rings worn by either spouse, provided the value of the ring does not exceed five thousand dollars.

(6) Federal earned income tax credit, except for seizure by the Department of Revenue or arrears in child support payments.

(7) Seven thousand five hundred dollars in equity value for one motor vehicle per household which vehicle is substantially modified, equipped, or fitted for the purposes of adapting its use to the physical disability of the debtor or his family and is used by the debtor or his family for the transporting of such disabled person for any use.

(8) Seven thousand five hundred dollars in equity value for one motor vehicle per household used by the debtor and his family household for any purpose. The equity value of the motor vehicle shall be based on the NADA retail value for the particular year, make, and model.

(9) The proceeds from a property insurance policy received as a result of damage caused by a gubernatorial declared disaster to an asset considered exempt under this Section and that are held separately in an escrow account identified as insurance proceeds paid from the damage of an exempt asset shall be considered exempt to the same extent that the value of the underlying asset is considered exempt.

B. (1) In cases instituted under the provisions of Title 11 of the United States Code, entitled "Bankruptcy", there shall be exempt from the property of the estate of an individual debtor only that property and income which is exempt under the laws of the state of Louisiana and under federal laws other than Subsection (d) of Section 522 of said Title 11 of the United States Code.

(2) No property upon which a debtor has voluntarily granted a lien shall, to the extent of the balance due on the debt secured thereby, be subject to the provisions of this Chapter or be exempt from forced sale under process of law.

(3) Proceeds from the involuntary sale or distribution of personal property that is exempt from seizure under the laws of this state, made at or after the filing of a petition under any Chapter of Title 11 of the United States Code, shall remain exempt for purposes of state law exemptions, as applicable under 11 U.S.C.A. § 522(b)(2)(A). For purposes of this Subsection, "involuntary sale" shall mean any non-consensual sale or disposition of property.

C. The state of Louisiana expressly waives any immunity from suit insofar as the garnishment of the nonexempt portion of the wages, salaries, commissions, or other compensation of public officials, whether elected or appointed, public employees, or contractors is concerned, of itself, its agencies, boards, commissions, political subdivisions, public corporations, and municipal corporations.

D. (1) Except as provided in Paragraph (2) of this Subsection, the following shall be exempt from all liability for any debt except alimony and child support: all pensions, all tax-deferred arrangements, annuity contracts, and all proceeds of and payments under all tax-deferred arrangements and annuity contracts, as defined in Paragraph (3) of this Subsection.

(2) No contribution to a tax-deferred arrangement or to an annuity contract, as defined in Paragraph (3) of this Subsection, shall be exempt if made less than one calendar year of the date of filing for bankruptcy, whether voluntary or involuntary, or the date writs of seizure are filed against the tax-deferred arrangement or annuity contract. A transfer from one tax-deferred arrangement to another or from one annuity contract to another shall not be considered a contribution for purposes of this Paragraph.

(3) The term "tax-deferred arrangement" includes all individual retirement accounts or individual retirement annuities of any variety or name, whether authorized now or in the future in the Internal Revenue Code of 1986, or the corresponding provisions of any future United States income tax law, including balances rolled over from any other tax-deferred arrangement as defined herein, money purchase pension plans, defined benefit plans, defined contribution plans, Keogh plans, simplified employee pension (SEP) plans, simple retirement account (SIMPLE) plans, Roth IRAs, or any other plan of any variety or name, whether authorized now or in the future in the Internal Revenue Code of 1986, or the corresponding provisions of any future United States income tax law, under which United States income tax on the tax-deferred arrangement is deferred. The term "annuity contract" shall have the same definition as defined in R.S. 22:647(B).