CHAPTER 41

Homestead and Other Exemptions

ARTICLE 1

Homestead and Other Exemptions

**SECTION 15‑41‑10.** Minimum bid when selling property subject to exemption.

 When selling property in which a debtor has an exemption as provided in Section 15‑41‑30, the sheriff or other officer conducting the sale, in the advertisement of the sale, also shall state that the minimum bid for the property must be in the amount of the exemption and no bid less than the amount of exemption may be accepted.

HISTORY: Former Section 15‑41‑10: 1962 Code Section 34‑1; 1952 Code Section 34‑1; 1942 Code Section 9085; 1932 Code Section 9085; Civ. C. '22 Section 5490; Civ. C. '12 Section 3711; Civ. C. '02 Section 2626; G. S. 1994; R. S. 2126; 1896 (22) 190; 1936 (39) 1594; Const. 1895, Art. 3, Section 28; 1988 Act No. 415, Section 1.

**SECTION 15‑41‑20.** Exempted amounts collected to be deposited with clerk of court.

 Any exempted amounts collected by the sheriff or other officer pursuant to Section 15‑41‑30 must be deposited with the clerk of court in the county where the amounts are collected. Any person requesting disbursement of these funds shall petition the court of common pleas.

HISTORY: Former Section 15‑41‑20: 1962 Code Section 34‑2; 1952 Code Section 34‑2; 1942 Code Section 9085; 1932 Code Section 9085; Civ. C. '22 Section 5490; Civ. C. '12 Section 3711; Civ. C. '02 Section 2626; G. S. 1994; R. S. 2126; 1896 (22) 190; 1936 (39) 1594; Const. 1895, Art. 3, Section 28; 1988 Act No. 415, Section 1.

**SECTION 15‑41‑30.** Property exempt from attachment, levy, and sale.

 (A) The following real and personal property of a debtor domiciled in this State is exempt from attachment, levy, and sale under any mesne or final process issued by a court or bankruptcy proceeding:

 (1)(a) The debtor's aggregate interest, not to exceed fifty thousand dollars in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, except that the aggregate value of multiple homestead exemptions allowable with respect to a single living unit may not exceed one hundred thousand dollars. If there are multiple owners of such a living unit exempt as a homestead, the value of the exemption of each individual owner may not exceed his fractional portion of one hundred thousand dollars.

 (b) In addition to the aggregate interest as provided in subsection (A)(1)(a), a surviving spouse may also exempt the aggregate interest to which the surviving spouse succeeded by inheritance, testamentary transfer, or nonprobate transfer on the death of the decedent spouse, not to exceed fifty thousand dollars. For purposes of this subsection, a surviving spouse means a spouse married to the decedent at the time of death, who is entitled to the homestead property tax exemption as provided in Section 12‑37‑250, who has not remarried, and who is living in the residence or cooperative that is used as a residence.

 (2) The debtor's interest, not to exceed five thousand dollars in value, in one motor vehicle.

 (3) The debtor's interest, not to exceed four thousand dollars in aggregate value in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

 (4) The debtor's aggregate interest, not to exceed one thousand dollars in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

 (5) The debtor's aggregate interest in cash and other liquid assets to the extent of a value not exceeding five thousand dollars, except that this exemption is available only to an individual who does not claim a homestead exemption. The term "liquid assets" includes deposits, securities, notes, drafts, unpaid earnings not otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

 (6) The debtor's aggregate interest, not to exceed one thousand five hundred dollars in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

 (7) The debtor's aggregate interest in any property, not to exceed five thousand dollars in value of an unused exemption amount to which the debtor is entitled pursuant to subsection (A), items (1) through (6).

 (8) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

 (9) The debtor's aggregate interest, not to exceed in value four thousand dollars less any amount of property of the estate transferred in the manner specified in Section 542(d) of the Bankruptcy Code of 1978, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

 (10) Professionally prescribed health aids for the debtor or a dependent of the debtor.

 (11) The debtor's right to receive or property that is traceable to:

 (a) a social security benefit, unemployment compensation, or a local public assistance benefit;

 (b) a veteran's benefit;

 (c) a disability benefit, except as provided in Section 15‑41‑33, or an illness or unemployment benefit;

 (d) alimony, support, or separate maintenance; or

 (e) a payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, unless:

 (i) the plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

 (ii) the payment is on account of age or length of service; and

 (iii) the plan or contract does not qualify under Sections 401(a), 403(a), 403(b), or 409 of the Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), or 409).

 (12) The debtor's right to receive or property that is traceable to:

 (a) an award under a crime victim's reparation law;

 (b) a payment on account of the bodily injury of the debtor or of the wrongful death or bodily injury of another individual of whom the debtor was or is a dependent; or

 (c) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

 (13) The debtor's right to receive individual retirement accounts as described in Sections 408(a) and 408A of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of the Internal Revenue Code. A claimed exemption may be reduced or eliminated by the amount of a fraudulent conveyance into the individual retirement account or other plan. For purposes of this item, "Internal Revenue Code" has the meaning provided in Section 12‑6‑40(A). The interest of an individual under a retirement plan shall be exempt from creditor process and is an exception to Section 15‑41‑35. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise.

 (14) The debtor's interest in a pension plan qualified under the Employee Retirement Income Security Act of 1974, as amended.

 (15) The debtor's aggregate interest, not to exceed three thousand dollars in value in any rifle, shotgun, pistol, or any combination not to exceed three firearms.

 (B) Beginning on July 1, 2008, and each even‑numbered year thereafter, each dollar amount in subsection (A), items (1) through (14), immediately before July first, must be adjusted to reflect the change in the Southeastern Consumer Price Index, All Urban Consumers, as published by the Department of Labor, Bureau of Labor Statistics, for the most recent year ending immediately before January first preceding July first, and to round to the nearest twenty‑five dollars, the dollar amount that represents this change. No later than March first of each even‑numbered year, the Economic Research Division of the Revenue and Fiscal Affairs Office shall publish in the State Register the dollar amounts that will become effective on July first of each even‑numbered year.

HISTORY: Former Section 15‑41‑30: 1962 Code Section 34‑3; 1952 Code Section 34‑3; 1942 Code Section 9085; 1932 Code Section 9085; Civ. C. '22 Section 5490; Civ. C. '12 Section 3711; Civ. C. '02 Section 2626; G. S. 1994; R. S. 2126; 1896 (22) 190; 1936 (39) 1594; Const. 1895, Art. 3, Section 28; En as 15‑41‑200, 1981 Act No. 53, Section 2, renumbered as Section 15‑41‑30 by 1988 Act No. 415, Section 1; 1999 Act No. 60, Section 1; 2000 Act No. 333, Section 1; 2006 Act No. 300, Section 2, eff upon approval (became law without the Governor's signature on May 25, 2006); 2008 Act No. 225, Section 1, eff May 22, 2008; 2012 Act No. 153, Section 1, eff May 14, 2012; 2017 Act No. 63 (H.3176), Section 1, eff May 19, 2017; 2017 Act No. 69 (H.3429), Section 1, eff May 19, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

At the direction of the Code Commissioner, the amendments made by 2017 Act No. 63 and 2017 Act No. 69 were read together.

Pursuant to the directive to the Code Commissioner in 2018 Act No. 246, Section 10, "Revenue and Fiscal Affairs Office" was substituted for all references to "Office of Research and Statistics of the Revenue and Fiscal Affairs Office".

Editor's Note

2006 Act No. 300, Section 1, provides as follows:

"This act may be cited as the "Home Security Act". It is the intent of the General Assembly, because of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, to offer to the citizens of South Carolina protection for their homes in the event that financial difficulties, such as military deployment or extreme medical emergencies, occur for which bankruptcy filing may be the only available remedy."

2008 Act No. 225, Section 2, provides as follows:

"This act takes effect upon approval by the Governor and is immediately applicable to all attachments, levies, and sales under any mesne or final process issued by a court or bankruptcy proceeding."

Effect of Amendment

The 2006 amendment, in subsection (B) in the first sentence substituted "fifty thousand" for "five thousand" dollars and "one hundred thousand" for "ten thousand" dollars, and added the third and fourth sentences relating to adjustment of the exemptions.

The 2008 amendment, in paragraph (A)(1), deleted the third and fourth sentences; in paragraph (A)(2), substituted "five thousand dollars" for "one thousand two hundred dollars"; in paragraph (A)(3), substituted "four thousand dollars" for "two thousand five hundred dollars"; in paragraph (A)(4), substituted "one thousand dollars" for "five hundred dollars"; in paragraph (A)(5), substituted "five thousand dollars" for "one thousand dollars"; in paragraph (A)(6), substituted "one thousand five hundred dollars" for "seven hundred fifth dollars"; added paragraph (A)(7); redesignated paragraphs (A)(7) to (A)(13) as paragraphs (A)(8) to (A)(14); and added subsection (B) relating to adjustment of the amounts in paragraphs (A)(1) to (14).

The 2012 amendment in subsection (A)(13) deleted ", to the extent reasonably necessary for the support of the debtor and any dependent of the debtor" at the end of the first sentence, and added the last two sentences.

2017 Act No. 63, Section 1, in (A)(13), in the fourth sentence, deleted "to the same extent permitted in Section 522(d) under federal bankruptcy law".

2017 Act No. 69, Section 1, in (A), redesignated (1) as (1)(a), added (1)(b), providing that a surviving spouse may also exempt the aggregate interest to which the surviving spouse succeeded by inheritance, testamentary transfer, or nonprobate transfer, and added (15), relating to the debtor's aggregate interest in any combination of up to three firearms.

**SECTION 15‑41‑33.** Limits on applicability of exemption in Section 15‑41‑30(11)(C.

 The exemption for a disability benefit provided in Section 15‑41‑30(11)(C) does not apply with regard to a levy or execution of a judgment authorized by Section 17‑25‑323 or Section 17‑25‑325.

HISTORY: 2000 Act No. 333, Section 2.

Code Commissioner's Note

At the direction of the Code Commissioner, the reference to Section 15‑41‑30(10)(C) was changed to Section 15‑41‑30(11)(C).

**SECTION 15‑41‑35.** Exempt property.

 No individual may exempt from the property of the estate in any bankruptcy proceeding the property specified in 11 U.S.C. Section 522(d) except as may be expressly permitted by this chapter or by other provisions of law of this State.

HISTORY: 1990 Act No. 526, Section 1; 1996 Act No. 319, Section 1.