

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0682.01 Richard Sweetman x4333

SENATE BILL 22-086

SENATE SPONSORSHIP

Winter,

HOUSE SPONSORSHIP

Gray,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING ASSETS EXEMPTED FROM SEIZURE IN CERTAIN
102 PROCEEDINGS, AND, IN CONNECTION THEREWITH, EXPANDING
103 THE AMOUNT AND APPLICATION OF THE HOMESTEAD
104 EXEMPTION TO INCLUDE PERSONAL PROPERTY THAT IS
105 ACTUALLY USED AS A RESIDENCE, INCREASING THE SCOPE AND
106 AMOUNT OF ASSETS THAT MAY BE EXEMPTED, ADDING CERTAIN
107 NEW EXEMPTIONS, RECREATING AND INCREASING AN
108 EXEMPTION FOR MONEY IN DEPOSITORY ACCOUNTS, AND
109 REMOVING A REQUIREMENT THAT A PERSON MUST DEPOSIT AND
110 NOT COMMINGLE FUNDS IN ORDER TO RENDER CHILD SUPPORT
111 PAYMENTS OR UNEMPLOYMENT BENEFITS EXEMPT FROM LEVY
112 TO PAY A DEBT.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill makes legislative findings and declarations. Colorado's statutory homestead exemption exempts a portion of a homestead from seizure to satisfy a debt, contract, or civil obligation.

Section 2 increases the amount of the homestead exemption:

- From \$75,000 to \$300,000 if the homestead is occupied as a home by an owner of the home or an owner's family; and
- From \$105,000 to \$400,000 if the homestead is occupied as a home by an owner who is elderly or disabled, an owner's spouse who is elderly or disabled, or an owner's dependent who is elderly or disabled.

Section 3 expands the meaning of "homestead" to expressly include a "dwelling", and **section 4** defines a dwelling as conventional housing and personal property that is actually used as a residence, including any vehicle, trailer, vessel, camper coach, mounted equipment, railway car, shipping or cargo container, or shed.

Section 5 increases the maximum amounts of existing exemptions from levy and sale under a writ of attachment or execution for certain types of property and creates new exemptions for:

- Firearms and hunting and fishing equipment;
- Economic impact payments;
- Health savings accounts; and
- Money placed into a life expectancy set-aside account or similar reserve fund, escrow, or impound account, which money is derived from reverse mortgage proceeds that are designated for specific uses.

Section 5 also recreates and increases an exemption for money in depository accounts.

Sections 5, 6, and 7 remove a requirement that a person must deposit child support payments in an account designated for the child and, with regard to child support payments and unemployment benefits, not commingle funds in order to claim an exemption for child support payments or an exemption for unemployment benefits.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 finds that:

2 (a) The recent rises in Colorado's population and home values
3 have made it more difficult for people to find affordable housing;

4 (b) This housing crisis affects a wide swath of the population,
5 putting more pressure on family budgets;

6 (c) The higher cost of housing has forced many of Colorado's
7 aging and less-wealthy individuals to reside in unconventional housing,
8 including tiny homes; recreational vehicles, campers, and other vehicles;
9 boats and other vessels; and other types of real and personal property;

10 (d) Unfortunately, individuals residing in such unconventional
11 housing do not enjoy protection from creditors under Colorado's
12 homestead exemption law because Colorado's definition of a "homestead"
13 applies to real property and to mobile homes, manufactured homes,
14 trailers, and trailer coaches but not to other types of unconventional
15 housing; and

16 (e) When creditors acquire and dispose of property that serves as
17 unconventional housing, the residents of such housing are often left
18 homeless.

19 (2) The general assembly also finds that:

20 (a) Section 1 of article XVIII of the state constitution requires the
21 general assembly to pass liberal homestead and exemption laws;

22 (b) Colorado courts have expressed a policy of broad and liberal
23 interpretation of the homestead exemption;

24 (c) In 1982, with the enactment of Senate Bill 82-27, and in 1983,
25 with the enactment of House Bill 83-1428, the general assembly
26 expanded the homestead exemption to apply to mobile homes and
27 manufactured homes, respectively;

1 (d) In 2000, with the enactment of Senate Bill 00-003, the general
2 assembly again expanded the homestead exemption to include trailers and
3 trailer coaches; and

4 (e) Nonetheless, in 2016, in the case of *In re Romero*, the United
5 States district court for the district of Colorado declined to interpret
6 Colorado's homestead exemption as applying to unconventional dwellings
7 and sleeping quarters that are not specifically described in the homestead
8 exemption statute.

9 (3) The general assembly also finds that:

10 (a) The original purpose of the homestead exemption was to
11 protect an amount of equity that is required to keep a roof over a family's
12 head;

13 (b) The increase in the cost of homes has left the current
14 homestead exemption outdated;

15 (c) For many individuals, home ownership is the cornerstone of
16 the American dream, yet as of November 5, 2021, the typical home value
17 in the United States is \$316,368, according to Zillow, and this value is
18 seasonally adjusted and includes only the middle-price tier of homes;

19 (d) Of course, home values are not uniform across the country,
20 and in some states a typical home costs far more than the national
21 average. According to Zillow, the value of a typical single-family home
22 in Colorado is \$442,766, which is higher than the national average as
23 reported by Microsoft's MS Money app.

24 (e) Based on these figures, Colorado's statutory homestead
25 exemption amount of \$75,000 protects only about 17% of the value of the
26 typical Colorado home and about 24% for homeowners who are elderly
27 or disabled; and

1 (f) According to the Denver Metro Association of Realtors, the
2 median closing price of a home in the Denver metro area was \$543,000
3 for November 2021.

4 (4) The general assembly therefore declares that it is in the best
5 interests of residents of the state for the general assembly to:

6 (a) Increase the amount of the homestead exemption;

7 (b) Expand the definition of "homestead" to expressly include a
8 broad range of real and personal property when such property is actually
9 used as a dwelling or place of residence;

10 (c) Increase the maximum amounts of existing exemptions for
11 depository accounts and certain types of property; and

12 (d) Create new exemptions for:

13 (I) Firearms and hunting and fishing equipment;

14 (II) Economic impact payments;

15 (III) Health savings accounts; and

16 (IV) Money placed into a life expectancy set-aside account or
17 similar reserve fund, escrow, or impound account, which money is
18 derived from reverse mortgage proceeds that are designated for specific
19 uses.

20 (e) Remove the requirement that a person not commingle funds in
21 order to claim an exemption for child support payments or unemployment
22 benefits.

23 **SECTION 2.** In Colorado Revised Statutes, **amend** 38-41-201 as
24 follows:

25 **38-41-201. Homestead exemption - definitions.** (1) Every
26 homestead in the state of Colorado shall be IS exempt from execution and
27 attachment arising from any debt, contract, or civil obligation not

1 exceeding in actual cash value in excess of any liens or encumbrances on
2 the homesteaded property in existence at the time of any levy of execution
3 thereon:

4 (a) The sum of ~~seventy-five~~ THREE HUNDRED thousand dollars if
5 the homestead is occupied as a home by an owner ~~thereof~~ or an owner's
6 family; or

7 (b) The sum of ~~one hundred five~~ FOUR HUNDRED thousand dollars
8 if the homestead is occupied as a home by an ~~elderly or disabled~~ owner
9 WHO IS ELDERLY OR DISABLED, an ~~elderly or disabled spouse of an owner~~
10 OWNER'S SPOUSE WHO IS ELDERLY OR DISABLED, or an ~~elderly or disabled~~
11 ~~dependent of an owner~~ OWNER'S DEPENDENT WHO IS ELDERLY OR
12 DISABLED.

13 (2) As used in this section, unless the context otherwise requires:

14 (a) "~~Disabled owner~~", "~~disabled spouse~~", or "~~disabled dependent~~"
15 "DISABLED" means ~~an owner, spouse, or dependent who has~~ HAVING a
16 physical or mental impairment that is disabling and that, because of other
17 factors such as age, training, experience, or social setting, substantially
18 precludes the ~~owner, spouse, or dependent~~ PERSON from engaging in a
19 useful occupation as a homemaker, a wage earner, or a self-employed
20 person in any employment that exists in the community and for which ~~he~~
21 ~~or she~~ THE PERSON has competence.

22 (b) "~~Elderly~~" owner", "~~elderly spouse~~", or "~~elderly dependent~~"
23 "ELDERLY" means ~~an owner, spouse, or dependent who is~~ sixty years of
24 age or older.

25 **SECTION 3.** In Colorado Revised Statutes, **amend** 38-41-205 as
26 follows:

27 **38-41-205. Of what homestead may consist.** (1) The homestead

1 mentioned in this part 2 may consist of:

- 2 (a) A DWELLING;
- 3 (b) A house and lot or lots; or
- 4 (c) ~~of~~ A farm consisting of any number of acres.

5 **SECTION 4.** In Colorado Revised Statutes, **add** 38-41-201.7 as
6 follows:

7 **38-41-201.7. Definition of "dwelling" - personal property**
8 **included.** (1) AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES, "DWELLING" MEANS CONVENTIONAL HOUSING AND PERSONAL
10 PROPERTY THAT IS ACTUALLY USED AS A RESIDENCE, INCLUDING:

- 11 (a) A VEHICLE, AS DEFINED IN SECTION 42-1-102 (112), INCLUDING
12 ANY TRAILER, AS DEFINED IN SECTION 42-1-102 (105);
- 13 (b) A VESSEL, AS DEFINED IN SECTION 33-13-102 (5);
- 14 (c) A CAMPER COACH, AS DEFINED IN SECTION 42-1-102 (13);
- 15 (d) MOUNTED EQUIPMENT, AS DEFINED IN SECTION 42-1-102 (60);
- 16 (e) A RAILWAY CAR; AND
- 17 (f) A SHIPPING OR CARGO CONTAINER OR SHED.

18 **SECTION 5.** In Colorado Revised Statutes, 13-54-102, **amend**
19 (1)(e), (1)(g), (1)(i), (1)(j)(I), (1)(j)(II)(A), (1)(o), (1)(s), (1)(u), (1)(v),
20 (1)(w), and (3); and **add** (1)(x), (1)(y), and (1)(z) as follows:

21 **13-54-102. Property exempt - definitions.** (1) The following
22 property is exempt from levy and sale under writ of attachment or writ of
23 execution:

- 24 (e) The household goods owned and used by the debtor or the
25 debtor's dependents to the extent of ~~three~~ SIX thousand dollars in value;
- 26 (g) (I) Except as otherwise provided in ~~subparagraph (II) of this~~
27 ~~paragraph (g)~~ SUBSECTION (1)(g)(II) OF THIS SECTION, in the case of every

1 debtor engaged in agriculture as the debtor's principal occupation,
2 including ~~but not limited to~~ farming, ranching, and dairy production OR
3 the raising of livestock or poultry, THE FOLLOWING, IN THE AGGREGATE
4 VALUE OF ONE HUNDRED THOUSAND DOLLARS:

5 (A) All livestock, poultry, or other animals;

6 (B) All crops, dairy products, and agricultural products grown,
7 raised, or produced; and

8 (C) All tractors, farm implements, trucks used in agricultural
9 operations, harvesting equipment, seed, and agricultural machinery and
10 tools. ~~in the aggregate value of fifty thousand dollars.~~

11 (II) Only one exemption in the aggregate value of ~~fifty~~ ONE
12 HUNDRED thousand dollars ~~shall be~~ IS allowed for a debtor and ~~his or her~~
13 THE DEBTOR'S spouse under ~~subparagraph (f) of this paragraph (g)~~
14 SUBSECTION (1)(g)(I) OF THIS SECTION. In the event that property is
15 claimed as exempt by a debtor or ~~his or her~~ THE DEBTOR'S spouse under
16 ~~subparagraph (f) of this paragraph (g)~~ SUBSECTION (1)(g)(I) OF THIS
17 SECTION, no exemption ~~shall be~~ IS allowed for ~~such~~ THE debtor or ~~his or~~
18 ~~her~~ THE DEBTOR'S spouse under ~~paragraph (i) of this subsection (1)~~
19 SUBSECTION (1)(i) OF THIS SECTION.

20 (i) (I) EXCEPT AS DESCRIBED IN SUBSECTION (1)(i)(II) OF THIS
21 SECTION, the stock in trade, supplies, fixtures, maps, machines, tools,
22 electronics, equipment, books, and business materials of a debtor THAT
23 ARE used and kept for the purpose of carrying on:

24 (A) The debtor's primary gainful occupation, in the aggregate
25 value of ~~thirty~~ SIXTY thousand dollars; or

26 (B) ~~used and kept for~~ Any other gainful occupation, in the
27 aggregate value of ~~ten~~ TWENTY thousand dollars.

1 (II) ~~except that~~ Exempt property described in this ~~paragraph (i)~~
2 SUBSECTION (1)(i) may not also be claimed as exempt pursuant to
3 ~~paragraph (j) of this subsection (1)~~ SUBSECTION (1)(j) OF THIS SECTION.

4 (j) (I) Up to two motor vehicles or bicycles kept and used by any
5 debtor, in the aggregate value of ~~seven thousand five hundred~~ FIFTEEN
6 THOUSAND dollars; or

7 (II) (A) Up to two motor vehicles or bicycles kept and used by any
8 ~~elderly or disabled~~ debtor WHO IS ELDERLY OR DISABLED or by any ~~debtor~~
9 ~~with an elderly or disabled~~ DEBTOR'S spouse or dependent WHO IS
10 ELDERLY OR DISABLED, in the aggregate value of ~~twelve thousand five~~
11 ~~hundred~~ TWENTY-FIVE THOUSAND dollars.

12 (o) The full amount of any federal or state income tax refund
13 attributed to an earned income tax credit or ~~a~~ ANY child tax credit,
14 WHETHER AS A REFUNDABLE TAX CREDIT OR AS A NONREFUNDABLE
15 REDUCTION IN TAX;

16 (s) Property, including funds, held in or payable from any pension
17 or retirement plan, ~~or~~ deferred compensation plan, AND HEALTH SAVINGS
18 ACCOUNTS, including those in which the debtor has received benefits or
19 payments, has the present right to receive benefits or payments, or has the
20 right to receive benefits or payments in the future and including pensions
21 or plans ~~which~~ THAT qualify under the federal "Employee Retirement
22 Income Security Act of 1974", as amended; ~~as an~~ ANY employee pension
23 benefit plan, as defined in 29 U.S.C. sec. 1002; any individual retirement
24 account, as defined in 26 U.S.C. sec. 408; any Roth individual retirement
25 account, as defined in 26 U.S.C. sec. 408A; and any plan, as defined in
26 26 U.S.C. sec. 401, and as these plans may be amended from time to time;

27 (u) Any court-ordered domestic support obligation or payment,

1 including a maintenance obligation or payment or a child support
2 obligation or payment; ~~if the child support obligation or payment meets~~
3 ~~the requirements of section 13-54-102.5;~~

4 (v) Any claim for public or private disability benefits due, or any
5 proceeds ~~thereof~~ OF SUCH A CLAIM, not otherwise provided for under law,
6 up to ~~four~~ FIVE thousand dollars per month. Any claim or proceeds in
7 excess of this amount is subject to garnishment in accordance with
8 section 13-54-104.

9 (w) ~~(f) Through June 1, 2021,~~ Up to ~~four~~ FIVE thousand dollars
10 cumulative in a depository account or accounts in the name of the debtor.

11 ~~(H) This subsection (1)(w) is repealed, effective September 1,~~
12 ~~2022.~~

13 (x) THE DEBTOR'S AGGREGATE INTEREST IN FIREARMS AND
14 HUNTING AND FISHING EQUIPMENT HELD FOR PERSONAL, FAMILY, OR
15 HOUSEHOLD USE OR FOR THE PERSONAL SAFETY OF THE DEBTOR AND
16 MEMBERS OF THE DEBTOR'S HOUSEHOLD, NOT TO EXCEED ONE THOUSAND
17 DOLLARS IN VALUE;

18 (y) (I) ANY ECONOMIC IMPACT PAYMENT HELD BY OR PAYABLE TO
19 A DEBTOR OR TO A DEBTOR'S DEPENDENTS IN ANY FORM.

20 (II) AS USED IN THIS SUBSECTION (1)(y) AND IN SUBSECTION (3) OF
21 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "ECONOMIC
22 IMPACT PAYMENT" MEANS A PAYMENT FROM A FEDERAL, STATE, OR LOCAL
23 GOVERNMENT TO A DEBTOR OR TO A DEBTOR'S DEPENDENTS TO ASSIST IN
24 MANAGING THE ECONOMIC CONSEQUENCES OF A NATIONAL OR STATEWIDE
25 EMERGENCY OR DISASTER. "ECONOMIC IMPACT PAYMENT" INCLUDES:

26 (A) ALL ECONOMIC IMPACT AND STIMULUS RECOVERY PAYMENTS
27 TO DEBTORS PURSUANT TO THE FEDERAL "CORONAVIRUS AID, RELIEF,

1 AND ECONOMIC SECURITY ACT", PUB.L. 116-136, AS AMENDED, OR
2 OTHERWISE RELATING TO THE COVID-19 PANDEMIC; AND

3 (B) ALL OTHER ECONOMIC IMPACT OR STIMULUS RECOVERY
4 PAYMENTS TO DEBTORS, WHICH PAYMENTS ARE AUTHORIZED TO ASSIST
5 WITH ECONOMIC RECOVERY FROM THE COVID-19 PANDEMIC OR FROM
6 ANY NATIONAL OR STATEWIDE EMERGENCY OR DISASTER. IT IS THE INTENT
7 OF THE GENERAL ASSEMBLY THAT THIS DEFINITION BE INTERPRETED IN THE
8 BROADEST POSSIBLE MANNER TO PROTECT SUCH PAYMENTS.

9 (z) ALL MONEY PLACED INTO A LIFE EXPECTANCY SET-ASIDE
10 ACCOUNT OR SIMILAR RESERVE FUND, ESCROW, OR IMPOUND ACCOUNT,
11 WHICH MONEY IS DERIVED FROM REVERSE MORTGAGE PROCEEDS THAT ARE
12 DESIGNATED FOR USE TO PAY FOR REAL ESTATE PROPERTY TAXES;
13 HOMEOWNER'S HAZARD, FLOOD, OR OTHER PROPERTY INSURANCE; OR
14 OTHER HOME MAINTENANCE EXPENSES.

15 (3) Notwithstanding ~~the provisions of paragraph (s) of subsection~~
16 ~~(†) SUBSECTIONS (1)(s) AND (1)(y) of this section,~~ any ECONOMIC IMPACT
17 PAYMENT AND ANY pension or retirement benefit or payment ~~shall be~~ IS
18 subject to attachment or levy in satisfaction of a judgment taken for
19 arrearages for child support or for child support debt, subject to the
20 limitations ~~contained~~ in section 13-54-104.

21 **SECTION 6.** In Colorado Revised Statutes, **amend** 13-54-102.5
22 as follows:

23 **13-54-102.5. Child support payments - exemption.** ~~(†)~~ Any
24 past or present child support obligation owed by a parent or child support
25 payment made by a parent that is required by a support order is exempt
26 from levy under writ of attachment or writ of execution for any debt owed
27 by either parent. ~~A child support payment is no longer exempt under the~~

1 provisions of this section if the recipient of the payment intermingles the
2 payment with any other moneys.

3 ~~(2) A child support payment is only exempt under the provisions~~
4 ~~of subsection (1) of this section after the payment is deposited in a bank,~~
5 ~~savings and loan, or credit union account if the account is a custodial~~
6 ~~account for the benefit of the child designated for child support payments~~
7 ~~and if no moneys other than child support payments made pursuant to a~~
8 ~~support order or interest earned on the moneys in the account are~~
9 ~~deposited into the account.~~

10 **SECTION 7.** In Colorado Revised Statutes, **amend** 8-80-103 as
11 follows:

12 **8-80-103. Assignment of benefits void - exemptions.** Any
13 assignment, pledge, or encumbrance of any right to benefits ~~which~~ THAT
14 are or may become due or payable under articles 70 to 82 of this title ~~shall~~
15 ~~be~~ TITLE 8 ARE void. Except as provided in the "Colorado Child Support
16 Enforcement Procedures Act", article 14 of title 14, ~~C.R.S.~~, such rights to
17 benefits ~~shall be~~ ARE exempt from levy, execution, attachment, or any
18 other remedy provided for the collection of debt. Benefits received by any
19 individual ~~so long as they are not mingled with other funds of the~~
20 ~~recipient, shall be~~ ARE exempt from any remedy for the collection of all
21 debts except debts incurred for necessities furnished to ~~such~~ THE
22 individual, ~~his~~ THE INDIVIDUAL'S spouse, or THE INDIVIDUAL'S dependents
23 during the time when ~~such~~ THE individual was unemployed or child
24 support debt or arrearages as specified in article 14 of title 14. ~~C.R.S.~~ Any
25 waiver of any exemption provided for in this section ~~shall be~~ IS void.

26 **SECTION 8. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.