

HOUSE BILL NO. HB0161

Retirement account exemption from execution.

Sponsored by: Representative(s) Brown and Stubson and
Senator(s) Nicholas, P. and Ross

A BILL

for

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

6

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

8

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

13

14 **1-20-110. Exemption for retirement funds and**
15 **accounts.**

1

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

5

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

10

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

18

19 (iii) ~~Any retirement or annuity fund of any~~
20 ~~person, including individual retirement accounts (IRAs)~~
21 ~~Roth individual retirement accounts (Roth IRAs) and~~
22 ~~simplified employee pension individual retirement accounts~~
23 ~~(SEP IRAs),~~ The interest of a beneficiary in a retirement

1 plan if the beneficiary acquired the interest as the result
2 of the death of an individual. The beneficiary's interest
3 is exempt to the same extent ~~payments are made to the fund~~
4 ~~while solvent, provided the earnings on the fund are~~
5 ~~protected from federal income tax or subject to deferral of~~
6 ~~federal income tax, or are not subject to federal income~~
7 ~~tax upon withdrawal, and the appreciation thereon, the~~
8 ~~income therefrom and the benefits or annuity payable~~
9 ~~thereunder; and~~ that the individual's interest was exempt
10 immediately before the death of the individual;

11

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

21

22 (v) Money or other assets payable to a
23 beneficiary from a retirement plan if the beneficiary

1 acquired the money or other assets as the result of the
2 death of an individual. The beneficiary's interest is
3 exempt to the same extent that the individual's interest in
4 the money or other assets was exempt immediately before the
5 death of the individual.

6
7 (b) The exemptions in subsection (a) of this section
8 do not apply to a contribution made by an individual to a
9 retirement plan within ninety (90) days before the
10 individual files for bankruptcy.

11
12 (c) Any fund, plan or account specified in subsection
13 (a) of this section is not exempt from the claim of an
14 alternate payee under a qualified domestic relations order.
15 However, the interest of an alternate payee under a
16 qualified domestic relations order is exempt from all
17 claims of any creditor of the alternate payee.

18
19 (d) As used in this section:

20
21 (i) "Alternate payee" means any spouse, former
22 spouse, child or other dependent of an individual who is
23 recognized by a domestic relations order as having a right

1 to receive all, or a portion of, the benefits payable under
2 a retirement plan with respect to such individual;

3
4 (ii) "Beneficiary" includes a person, trust or
5 trustee who has, before or after the death of an
6 individual, a direct or indirect beneficial interest in a
7 retirement plan;

8
9 (iii) "Beneficial interest" includes an interest
10 that is acquired:

11
12 (A) As a designated beneficiary, survivor,
13 co-annuitant, heir or legatee; or

14
15 (B) If excludable from gross income under
16 the Internal Revenue Code as:

17
18 (I) A rollover under 26 U.S.C. section
19 408 or 408A;

20
21 (II) A distribution from one (1)
22 retirement plan to another retirement plan;

23

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

5
6 (IV) A distribution that is legally
7 similar to a distribution under subdivision (I), (II) or
8 (III) of this subparagraph.

9
10 (iv) "Individual" means a participant in, owner
11 of or alternative payee of a retirement plan;

12
13 (v) "Qualified domestic relations order" means
14 as that term is defined by 26 U.S.C. section 414(p);

15
16 (vi) "Retirement plan" means a plan, account or
17 annuity that is qualified under 26 U.S.C. section 401, 403,
18 408, 408A, 409, 414 or 457 as amended.

19
20 **Section 2.** W.S. 1-20-110(a)(I)(A) and (B) is
21 repealed.

22

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

4

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

6

7

(END)