

Introduced by

1 A BILL for an Act to amend and reenact sections 28-22-02, 28-22-03, 28-22-03.1, 28-22-05,  
2 and 47-18-16 of the North Dakota Century Code, relating to exemptions from judicial process;  
3 and to repeal section 28-22-04 of the North Dakota Century Code, relating to alternative  
4 exemptions.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 28-22-02 is amended

7 **28-22-02. Absolute exemption.** The property mentioned in this section is absolutely  
8 exempt from all process, levy, or sale:

- 9 1. All family pictures.
- 10 2. A pew or other sitting in any house of worship.
- 11 3. A lot or lots in any burial ground.
- 12 4. The family Bible and all schoolbooks used by the family and all other books used  
13 as a part of the family library ~~not exceeding in value one hundred dollars.~~
- 14 5. All wearing apparel and clothing of the debtor and the debtor's family.
- 15 6. The provisions for the debtor and the debtor's family necessary for one year's  
16 supply, either provided or growing, or both, and fuel necessary for one year.
- 17 7. The homestead as created, defined, and limited by law.
- 18 8. All crops and grain, both threshed and unthreshed, raised by the debtor on not to  
19 exceed one hundred sixty acres [64.75 hectares] of land in one tract occupied by  
20 the debtor, either as owner or tenant, as the debtor's home, but the provisions of  
21 this subsection in no way affect seed, thresher, or landlord liens, and if the debtor  
22 takes advantage of this subsection the debtor may not take any additional  
23 alternative exemptions provided under this chapter.

9. All insurance benefits resulting from insurance covering any or all of the absolute exemptions.

10. ~~Any~~ In lieu of the homestead, and subject to the same value limitations that exist with respect to the homestead exemption, any housetrailer or mobile home occupied as a residence by the debtor or the debtor's family, except that it is not exempt from process, levy, or sale for taxes levied on it pursuant to chapter 57-55. This section does not preclude the debtor from claiming a mobile home as a dwelling house as part of the homestead.

**SECTION 2. AMENDMENT.** Section 28-22-03 is amended:

**28-22-03. Additional exemption for head of a family.** In addition to the absolute exemptions mentioned in section 28-22-02, except in subsection 8 thereof, the head of a family, personally or by that person's agent, may select from that person's other personal property, any goods, chattels, merchandise, money, and other personal property not exceeding in value the sum of ~~five~~ seven thousand five hundred dollars, which also is exempt from all attachment or mesne process, levy and sale upon execution, and any other final process issued from any court.

**SECTION 3. AMENDMENT.** Section 28-22-03.1 is amended:

**28-22-03.1. Additional exemptions for residents.** In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select:

1. ~~In lieu of the homestead exemption, up to seven thousand five hundred dollars.~~

2. A motor vehicle exemption in one vehicle not to exceed ~~one~~ two thousand ~~two~~ nine hundred fifty dollars, or a motor vehicle exemption in one vehicle not to exceed thirty-two thousand dollars for a motor vehicle that has been modified at a cost of not less than one thousand five hundred dollars to accommodate an individual with a permanent physical disability who is the owner of that motor vehicle.

~~3. 2. Pensions, annuity policies or plans, and life insurance policies that, upon the death of the insured, would be payable to the spouse, children, or any relative of the insured dependent, or likely to be dependent, upon the insured for support and which have been in effect for a period of at least one year; individual retirement accounts; Keogh plans, Roth individual retirement accounts under section 408A of~~

the Internal Revenue Code [Pub. L. 105-34; 111 Stat. 825; 26 U.S.C. 408A], and simplified employee pension plans; and all other plans qualified under section 401 of the Internal Revenue Code [Pub. L. 93-591; 68A Stat. 134; 26 U.S.C. 401], and section 408 of the Internal Revenue Code [Pub. L. 93-406; 88 Stat. 959; 26 U.S.C. 408], and pension or retirement plans sponsored by nonprofit corporations or associations organized and operated exclusively for one or more of the purposes specified in 26 U.S.C. 501(c)(3), and proceeds, surrender values, payments, and withdrawals from such pensions, policies, plans, and accounts, up to one hundred thousand dollars for each pension, policy, plan, and account with an aggregate limitation of two hundred thousand dollars for all pensions, policies, plans, and accounts. The debtor's aggregate interest, not to exceed one thousand five hundred dollars in value, in any tools, implements, or professional books of the trade of the debtor or the trade of a dependent of the debtor.

3. Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.

4. The debtor's aggregate interest, not to exceed in value eight thousand dollars less any amount of property transferred in the manner specified in 11 U.S.C. 542(d), in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

5. Professionally prescribed health aids for the debtor or a dependent of the debtor.

6. Retirement funds that have been in effect for at least one year, to the extent those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of those assets exempted may not exceed one hundred thousand dollars for any one account or two hundred thousand dollars in aggregate for all accounts. The dollar limit does not apply to the extent this property is reasonably necessary for the support of the resident and that resident's dependents, except that the pensions, policies, plans, and accounts or proceeds, surrender values, payments, and withdrawals. Retirement funds are not exempt from enforcement of any order to pay spousal support or child support, or a qualified domestic relations order

under sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6. As used in this subsection, "reasonably necessary for the support" means required to meet present and future needs, as determined by the court after consideration of the resident's responsibilities and all the present and anticipated property and income of the resident, including that which is exempt.

4. 7. The debtor's right to receive, ~~or property that is traceable to:~~

a. ~~A payment, not to exceed fifteen thousand dollars, on account of the wrongful death of an individual of whom the debtor was a dependent.~~

b. ~~A payment, not to exceed fifteen thousand dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.~~

e. A social security benefit, except that the benefit is not exempt for enforcement of any order for the support of a dependent child.

d. b. Veteran's disability pension benefits, not including military retirement pay, except that the benefits are not exempt from process levy or sale for enforcement of any order for the support of a dependent child.

c. A disability, illness, or unemployment benefit.

d. Alimony, support, or separate maintenance, but not property settlements, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

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, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless:

(1) That 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 that plan or contract arose;

(2) That payment is on account of age or length of service; and

(3) That plan or contract does not qualify under section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1986.

8. 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 wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
- 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.
- d. A payment, not to exceed eighteen thousand four hundred fifty dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.
- e. A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

**SECTION 4. AMENDMENT.** Section 28-22-05 is amended:

**28-22-05. Exemptions of a single person.** In addition to the absolute exemptions mentioned in section 28-22-02, except in subsection 8 thereof, a single person, in person or by that person's agent, may select from that person's other personal property, goods, chattels, merchandise, money, or other personal property not exceeding in value the sum of ~~two~~ three thousand ~~five~~ seven hundred fifty dollars, which is exempt.

**SECTION 5. AMENDMENT.** Section 47-18-16 is amended:

**47-18-16. Proceeds of sale exempt.** If a homestead is conveyed as provided in section 47-18-05 or sold for the satisfaction of any lien mentioned in section 47-18-04, the price thereof or the proceeds of the sale beyond the amount necessary to satisfy such lien, and not exceeding in either case the amount of the homestead exemption, ~~shall be~~ for a period of one year from the date of the conveyance, is entitled thereafter to the same protection against legal process as the law gives to the homestead.

**SECTION 6. REPEAL.** Section 28-22-04 is repealed.