



Synopsis of Original Bill

The House Tax and Revenue Committee substitute for the House Judiciary Committee substitute for House Bill 36 amends additional statutory sections related to the garnishment of earnings or accounts to clarify the exemption from garnishment (in all cases other than enforcement of an order for child support) is 75 percent of the defendant’s disposable earnings for any pay period, or an amount each week equal to 40 times the highest applicable hourly minimum wage, whichever is greater. Additionally, the substitute bill limits a financial institution holding money for the defendant to hold funds only in excess of \$2,400. The substitute also requires that property exemption claims must be filed within 30 days.

The bill proposes major changes to exemptions in bankruptcy or insolvency proceedings. It increases the exemption dollar limits for a number of classes of tangible and intangible property and removes qualifications from pension and other similar benefits. The provisions of the bill increase the homestead exemption from the current \$60 thousand to at least \$90 thousand or \$180 thousand if the property is owned jointly and \$120 thousand if the owner of the homestead is 65 years or older and under 65 with gross annual income of less than \$25 thousand or \$50 thousand if the property is held jointly by the residents. The bill also allows an exemption of \$15 thousand of real or personal property in lieu of the homestead exemption. All of these dollar value exemptions are to be indexed to the consumer price index for urban consumers (CPI/U).

Section 42-10-2. Exemptions of persons who support only themselves is repealed in favor of the more elaborate specifications in the amended 42-10-1 NMSA 1978.

The effective date is July 1, 2021, and the provisions are applicable to actions filed on or after July 1, 2021.

**FISCAL IMPLICATIONS**

There are no fiscal implications for state funds. The courts may incur additional training costs to adapt to the changes in exemption and the biannual indexing of exempt values.

The exemption amounts in 42-10-1 NMSA 1978 were last adjusted in 1983 for value of jewelry, but for the most part, the values have held constant since 1971. In that period of time, the CPI/U has increased almost 6.5 times.

CPI/U in 1971 was	40.5
CPI/U in 1983 was	99.6
CPI/U in 2020 was	258.9 6.394065

**SIGNIFICANT ISSUES**

A detailed side-by-side comparison of exempt property amounts in current statute and pursuant to the provisions of this bill follows:

Property	Current	Proposed
Personal Property	\$500	
Tools of trade	\$1,500	
One motor vehicle	\$4,000	
Clothing, furniture, books, medical health equipment used by the person and interest in or proceeds from a pension or retirement fund of every person supporting another person	100% exempt	
Household goods and furnishings (certain limitations apply)		100% exempt
Musical instruments not exceeding \$4,000 in aggregate		
Toys, games, sports, hobby and craft equipment not exceeding \$2,000		
Two firearms only		
Household goods does not include:		
Works of art or artwork except created by person or relative of the person, not exceeding \$2,500 in aggregate		
Electronic entertainment equipment with a FMV >\$1,500 per item		
Motor vehicles		\$10,000
Jewelry for use and not resale		\$5,000
Other personal property		\$15,000
Tools, implements, professional books, instruments, inventory, supplies and materials reasonably necessary for use in the person's trade, profession, business or occupation, or that of the personal's spouse		\$15,000
Person's right to receive social security benefits; veteran's benefits; disability, illness, unemployment or worker's compensation benefits; alimony, family or domestic support; payment pursuant to a stock bonus, profit sharing, etc. unless excessive; section 401, 403, 408 or other similar pension schemes; refundable federal and state tax credits.		100% exempt
<b>Homestead Exemption</b>		
Homestead exemption - principal residence, each person (2) joint	\$60,000	
Homestead exemption - principal residence single person		\$90,000
Homestead exemption - principal residence, widow or widower		\$90,000
Homestead exemption - principal residence with any occupying person over 65 years		\$120,000
Homestead exemption - principal residence over 55 year and annual income under \$25,000 or \$50,000 married and joint occupancy.		\$120,000
Physically or mentally disabled individual receiving SSI or SSDI		\$120,000
<b>Exemption in Lieu of Homestead Exemption</b>		
Real or tangible property		\$15,000

All values in sections 42-10-1, 42-10-4, 42-10-9 and 42-10-10 NMSA 1978 as listed in the table would be indexed.

LG/ADP/sb/al