

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 361

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10 47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

11 AN ACT

12 RELATING TO PROPERTY; INCREASING AMOUNTS EXEMPTED; PROVIDING
13 FOR TRIENNIAL ADJUSTMENT OF DOLLAR AMOUNTS; AMENDING AND
14 ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. Section 42-10-1 NMSA 1978 (being Laws 1971,
17 Chapter 215, Section 1, as amended) is amended to read:

18 "42-10-1. EXEMPTIONS OF MARRIED PERSONS OR HEADS OF
19 HOUSEHOLDS. -- Personal property in the amount of [~~five hundred~~
20 ~~dollars (\$500)~~] five thousand dollars (\$5,000), tools of the
21 trade in the amount of [~~fifteen hundred dollars (\$1,500)~~] three
22 thousand five hundred dollars (\$3,500), one motor vehicle in
23 the amount of [~~four thousand dollars (\$4,000)~~] ten thousand
24 dollars (\$10,000), jewelry in the amount of [~~twenty-five~~
25 ~~hundred dollars (\$2,500)~~] five thousand dollars (\$5,000),

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1 clothing, furniture, books, medical-health equipment being used
2 for the health of the person and not for [~~his~~] the person's
3 profession and any interest in or proceeds from a pension or
4 retirement fund of every person supporting another person is
5 exempt from receivers or trustees in bankruptcy or other
6 insolvency proceedings, fines, attachment, execution or
7 foreclosure by a judgment creditor. Property exempted shall be
8 valued at the market value of used chattels. The dollar
9 amounts listed in this section are subject to adjustment
10 pursuant to Section 42-10-14 NMSA 1978."

11 Section 2. Section 42-10-2 NMSA 1978 (being Laws 1971,
12 Chapter 215, Section 2, as amended) is amended to read:

13 "42-10-2. EXEMPTIONS OF PERSONS WHO SUPPORT ONLY
14 THEMSELVES. -- Personal property other than money in the amount
15 of [~~five hundred dollars (\$500)~~] five thousand dollars
16 (\$5,000), tools of the trade in the amount of [~~fifteen hundred~~
17 ~~dollars (\$1,500)~~] three thousand five hundred dollars (\$3,500),
18 one motor vehicle in the amount of [~~four thousand dollars~~
19 ~~(\$4,000)~~] ten thousand dollars (\$10,000), jewelry in the amount
20 of [~~twenty-five hundred dollars (\$2,500)~~] five thousand dollars
21 (\$5,000), clothing, furniture, books, medical-health equipment
22 being used for the health of the person and not for [~~his~~] the
23 person's profession and any interest in or proceeds from a
24 pension or retirement fund of every person supporting only
25 himself is exempt from receivers or trustees in bankruptcy or

1 other insolvency proceedings, executors or administrators in
 2 probate, fines, attachment, execution or foreclosure by a
 3 judgment creditor. Property exempted shall be valued at the
 4 market value of used chattels. The dollar amounts listed in
 5 this section are subject to adjustment pursuant to Section
 6 42-10-14 NMSA 1978. "

7 Section 3. Section 42-10-9 NMSA 1978 (being Laws 1971,
 8 Chapter 215, Section 6, as amended) is amended to read:

9 "42-10-9. HOMESTEAD EXEMPTION. -- Each person shall have
 10 exempt a homestead in a dwelling house and land occupied by him
 11 or in a dwelling house occupied by him although the dwelling is
 12 on land owned by another, provided that the dwelling is owned,
 13 leased or being purchased by the person claiming the exemption.
 14 Such a person has a homestead of [~~thirty thousand dollars~~
 15 ~~(\$30,000)~~] sixty thousand dollars (\$60,000) exempt from
 16 attachment, execution or foreclosure by a judgment creditor and
 17 from any proceeding of receivers or trustees in insolvency
 18 proceedings and from executors or administrators in probate.
 19 If the homestead is owned jointly by two persons, each joint
 20 owner is entitled to an exemption of [~~thirty thousand dollars~~
 21 ~~(\$30,000)~~] sixty thousand dollars (\$60,000). The dollar
 22 amounts listed in this section are subject to adjustment
 23 pursuant to Section 42-10-14 NMSA 1978. "

24 Section 4. Section 42-10-10 NMSA 1978 (being Laws 1971,
 25 Chapter 215, Section 7, as amended by Laws 1979, Chapter 9,

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1 Section 2 and also by Laws 1979, Chapter 182, Section 4) is
2 amended to read:

3 "42-10-10. EXEMPTION IN LIEU OF HOMESTEAD. --

4 A. Any resident of this state who does not own a
5 homestead shall in addition to other exemptions hold exempt
6 real or personal property in the amount of [~~two thousand~~
7 ~~dollars (\$2,000)~~] five thousand dollars (\$5,000) in lieu of the
8 homestead exemption. This amount is subject to adjustment
9 pursuant to Section 42-10-14 NMSA 1978.

10 B. Where the resident does not own a homestead, the
11 sheriff or any other person or officer seeking to attach,
12 execute or foreclose by judgment on property shall provide the
13 resident with written notification of the resident's right to
14 exemption in lieu of homestead as described in Subsection A of
15 this section, together with a simple form by which the resident
16 may designate that he is aware of the exemption and does or
17 does not desire to claim the exemption. Where the resident
18 refuses to make the election provided for in this section, the
19 sheriff, other person or officer shall proceed to attach,
20 execute or foreclose on the resident's property. Where the
21 resident claims his exemption in lieu of homestead, the
22 sheriff, other person or officer making attachment, execution
23 or foreclosure by judgment shall file as part of his return a
24 description, including the resident's stated value, of the
25 property claimed as exempt, bearing the resident's signature

1 witnessed by the sheriff, other person or officer seeking to
2 attach, execute or foreclose. "

3 Section 5. A new Section 42-10-14 NMSA 1978 is enacted to
4 read:

5 "42-10-14. [NEW MATERIAL] ADJUSTMENT OF DOLLAR AMOUNTS. --

6 A. On April 1, 2008 and on three-year intervals
7 thereafter, each dollar amount in effect pursuant to Sections
8 42-10-1, 42-10-2, 42-10-9 and 42-10-10 NMSA 1978 shall be:

9 (1) adjusted to reflect the change in the
10 consumer price index for all urban consumers for all items,
11 published by the United States department of labor, for the
12 most recent three-year average for the period ending December
13 31 preceding the adjustment date; and

14 (2) rounded to the nearest twenty-five dollars
15 (\$25.00).

16 B. By March 1, 2008 and on three-year intervals
17 thereafter, the secretary of finance and administration shall
18 publish each dollar amount that will be in effect on April 1 of
19 that year pursuant to Sections 42-10-1, 42-10-2, 42-10-9 and
20 42-10-10 NMSA 1978. "

21 Section 6. DELAYED REPEAL. --Section 5 of this 2005 act is
22 repealed effective July 1, 2009.

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