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# FISCAL IMPACT REPORT

SPONSOR	HTRC	ORIGINAL DATE LAST UPDATED		CS/CS/36/HTRCS /HJCS/aHFl#1
SHORT TITI	LE Exemptions For L	Exemptions For Legal Action Against Property S		
			ANALYS	Graeser/ Dick-Peddie

# **REVENUE** (dollars in thousands)

Estimated Revenue					Recurring or	Fund	
FY21	FY22	FY23	FY24	FY25	Nonrecurring	Affected	
	NFI				General Fund		

Parenthesis ( ) indicate revenue decreases

### **SOURCES OF INFORMATION**

LFC Files

### **SUMMARY**

### Synopsis of Floor Amendment #1

### Section 2

The House floor amendment to House Bill 36 provides that financial institution writs must exempt \$2,400 in financial and investment accounts for individuals and clarifies this exemption does not preclude individuals from claiming other exemptions. The amendment also clarifies "representations of the person executing the writ" can be used to determine if the exemption has already been satisfied by other accounts held by the defendant.

#### Section 3

The amendment caps the exemption on household goods and furnishings at \$75 thousand, strikes the word "band" and replaces it with the word "ring" in reference to exemptions on wedding rings and strikes language providing the exemption on wedding rings shall not exceed fair market value. The amendment adds clarifying language on the exemptions for art work if the work was done by the individual or the individual's family member, adds the word "equipment" to items that may be exempted up to \$15 thousand, and adds "recreational vehicle" to the definition of "domicile."

#### Section 8

Section 8 is stricken entirely, and a new section with minor language changes, as well as a new provision establishing an exemption claim must be filed within 30 days, is inserted. If the exemption is not filed within 30 days, the court must decide if it is in "the interest of justice "to waive the exemption. A new subsection is added to Section 8 mandating creditors to notify defendants of their exemption rights.

## CS/CS/House Bill 36/HTRCS/HJCS/aHFl#1 – Page 2

# 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:

# CS/CS/House Bill 36/HTRCS/HJCS/aHFl#1 – Page 3

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	100% exempt	
supporting another person		
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		\$15,000
occupation, or that of the personal's spouse		
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		100% exempt
excessive; section 401, 403, 408 or other similar pension schemes; refundable		
federal and state tax credits.		
Homestead Exemption		
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		\$120,000
years		\$120,000
Homestead exemption - principal residence over 55 year and annual income under		\$120,000
\$25,000 or \$50,000 married and joint occupancy.		
Physically or mentally disabled individual receiving SSI or SSDI		\$120,000
Exemption in Lieu of Homestead Exemption		
Real or tangible property		\$15,000

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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