

TITLE 11
ENFORCEMENT OF JUDGMENTS IN CIVIL ACTIONS

CHAPTER 6
EXEMPTION OF PROPERTY FROM ATTACHMENT OR LEVY

11-601. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Individual" means a natural person and not an artificial person such as a corporation, partnership, or other entity created by law.

(2) "Dependent" means an individual who derives support primarily from another individual.

[11-601, added 1978, ch. 348, sec. 1, p. 909.]

11-602. PROTECTION OF PROPERTY OF RESIDENTS AND NONRESIDENTS. (1) Residents of this state are entitled to the exemptions provided by this act. Nonresidents are entitled to the exemptions provided by the law of the jurisdiction of their residence.

(2) The term "resident" means an individual who intends to maintain his home in this state.

[11-602, added 1978, ch. 348, sec. 1, p. 909.]

11-603. PROPERTY EXEMPT WITHOUT LIMITATION. An individual is entitled to exemption of the following property:

(1) A burial plot for the individual and his family;

(2) Health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;

(3) Benefits the individual is entitled to receive under federal social security, or veteran's benefits, except the restrictions under this subsection shall not apply to enforcement of an order for the support of any person by execution, garnishment, or wage withholding under [chapter 12, title 7](#), Idaho Code;

(4) Benefits the individual is entitled to receive under federal, state, or local public assistance legislation;

(5) Benefits payable for medical, surgical, or hospital care and the amount in a medical savings account as that term is defined in section [63-3022K](#), Idaho Code;

(6) State unemployment compensation to the extent provided for in section [72-1375](#), Idaho Code.

[11-603, added 1978, ch. 348, sec. 1, p. 909; am. 1982, ch. 326, sec. 1, p. 808; am. 1985, ch. 159, sec. 7, p. 425; am. 1986, ch. 221, sec. 3, p. 587; am. 2009, ch. 121, sec. 1, p. 386.]

11-604. PROPERTY EXEMPT TO EXTENT REASONABLY NECESSARY FOR SUPPORT. (1) An individual is entitled to exemption of the following property to the extent reasonably necessary for the support of him and his dependents:

(a) benefits paid or payable by reason of disability or illness;

(b) money or personal property received, and rights to receive money or personal property for alimony, support, or separate maintenance;

(c) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrong-

ful death or bodily injury of another individual of whom the individual was or is a dependent; and

(d) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured.

(2) The phrase "property to the extent reasonably necessary for the support of him and his dependents" means property required to meet the present and anticipated needs of the individual and his dependents, as determined by the court after consideration of the individual's responsibilities and all the present and anticipated property and income of the individual, including that which is exempt.

[11-604, added 1978, ch. 348, sec. 1, p. 910; am. 1982, ch. 326, sec. 2, p. 808; am. 1996, ch. 309, sec. 1, p. 1014; am. 2017, ch. 303, sec. 8, p. 803.]

11-604A. PENSION MONEY EXEMPT. (1) It is the policy of the state of Idaho to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Idaho under 11 U.S.C. section 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Idaho as a pension from the government of the United States, whether the money be in the actual possession of a citizen or be deposited or loaned, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. When a debtor dies, or absconds, and leaves his family any money exempted by this subsection, the money shall be exempt to the family as provided in this subsection. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Idaho under any employee benefit plan, and any fund created by the benefit plan or arrangement, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b), 408, 408A or 457 of the Internal Revenue Code of 1986, as amended, or section 409 of the Internal Revenue Code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means:

(a) Assets held, payments made, and amounts payable under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract,

providing benefits by reason of age, illness, disability, or length of service;

(b) Any plan or arrangement, whether funded by a trust, an annuity contract, an insurance contract, or an individual account, that is described in sections 401(a), 403(a), 403(b), 408, 408A or 457 of the Internal Revenue Code of 1986, as amended, or section 409 of the Internal Revenue Code as in effect before January 1, 1984. The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance pursuant to a college savings program described in [chapter 54, title 33](#), Idaho Code.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the beneficiary and the trustee or custodian of the plan, or the ability of the debtor to withdraw, borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b), 408, 408A or 457 of the Internal Revenue Code of 1986, as amended, or section 409 of the Internal Revenue Code as in effect before 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides home maintenance or support.

(6) Unless contrary to applicable federal law, nothing contained in subsection (3), (4) or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an individual retirement account held in the name of, or on account of, the other spouse, the "account holder spouse." At the death of the nonaccount holder spouse, the account holder spouse may transfer or distribute the community property interest of the nonaccount holder spouse in the account holder spouse's individual retirement account to the nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonaccount holder spouse, or the law of intestate succession if applicable, and that distributee may, but shall not be required to, obtain an order from a court of competent jurisdiction, including a nonjudicial dispute resolution agreement, or other order, entered to confirm the distribution. For purposes of subsection (3) of this section, the distributee of the nonaccount holder spouse's community property interest in an individual retirement account shall be considered a person entitled to the full protection of subsection (3) of this section. The nonaccount holder spouse's consent to a beneficiary designation by the account holder spouse with respect to an individual retirement account shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation or transfer of the nonaccount holder spouse's community property interest in an individual retirement account. For purposes of this subsection, the term "nonaccount holder spouse" means the spouse of the person in whose name the individual retirement account is maintained. The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the Internal Revenue Code of 1986, as amended, a Roth individual retirement account as described in section 408A of the Internal Revenue Code of 1986, as amended, and an individual

retirement bond as described in section 409 of the Internal Revenue Code as in effect before January 1, 1984.

[11-604A, added 1996, ch. 309, sec. 2, p. 1015; am. 1999, ch. 305, sec. 1, p. 762; am. 2001, ch. 288, sec. 1, p. 1024; am. 2004, ch. 167, sec. 1, p. 544.]

11-605. EXEMPTIONS OF PERSONAL PROPERTY AND DISPOSABLE EARNINGS SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding one thousand dollars (\$1,000) on any one (1) item of property and not to exceed a total value of seven thousand five hundred dollars (\$7,500) for all items exempted under this subsection:

(a) Household furnishings, household goods, and appliances held primarily for the personal, family, or household use of the individual or a dependent of the individual;

(b) If reasonably held for the personal use of the individual or a dependent, wearing apparel, animals, books, and musical instruments; and

(c) Family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding one thousand dollars (\$1,000) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding ten thousand dollars (\$10,000) in aggregate value, of implements, professional books, business equipment and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding ten thousand dollars (\$10,000).

(4) An individual is entitled to an exemption of provisions of food or water, together with storage containers and shelving, sufficient for twelve (12) months for use of the individual or a dependent or dependents of the individual.

(5) All courthouses, jails, public offices and buildings, schoolhouses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(6) An individual is entitled to an exemption of all arms, uniforms and accoutrements required for the use of an individual as a peace officer, a member of the national guard or military service.

(7) An individual is entitled to an exemption of a water right not to exceed one hundred sixty (160) inches of water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of five thousand dollars (\$5,000).

(8) An individual is entitled to exemption of one (1) firearm valued at one thousand five hundred dollars (\$1,500), or less.

(9) An individual is entitled to an exemption of any life insurance contract owned by an individual, other than a credit life insurance contract, including, but not limited to, any accrued dividend or interest under, loan value of, or cash surrender value of, such life insurance contract owned by the individual, excluding accrued dividends, interest, loan value, and/or cash surrender value resulting from premiums paid into the life insurance contract within six (6) months prior to the filing of a bankruptcy petition, as defined in 11 U.S.C. 101, or the date of attachment or levy on execution, as defined in section [11-201](#), Idaho Code, whichever is applicable.

(10) An individual is entitled to an exemption of the individual's aggregate interest in any tangible personal property, not to exceed the value of one thousand five hundred dollars (\$1,500).

(11) An individual is entitled to an exemption for his disposable earnings as defined in subsection 2. of section [11-206](#), Idaho Code, wages, salaries, and compensation for personal services rendered, to the extent such earnings, wages, salaries, and compensation have been earned but have not been paid to the individual, not to exceed two thousand five hundred dollars (\$2,500) in a calendar year. This exemption shall not affect the application or operation of the garnishment restrictions set forth in section [11-207](#), Idaho Code.

[11-605, added 1978, ch. 348, sec. 1, p. 910; am. 1983, ch. 16, sec. 1, p. 50; am. 1985, ch. 175, sec. 1, p. 457; am. 1990, ch. 275, sec. 1, p. 776; am. 1999, ch. 307, sec. 1, p. 764; am. 2000, ch. 231, sec. 2, p. 649; am. 2008, ch. 57, sec. 1, p. 147; am. 2010, ch. 223, sec. 1, p. 498; am. 2015, ch. 112, sec. 1, p. 279; am. 2020, ch. 232, sec. 1, p. 684.]

11-606. TRACING EXEMPT PROPERTY. (1) If property, or a part thereof, that could have been claimed as exempt, such as, a burial plot under subsection (1) of section [11-603](#), Idaho Code, a health aid under subsection (2) of section [11-603](#), Idaho Code, or personal property subject to a value limitation under paragraph (a) or (b) of subsection (1) or subsection (3) of section [11-605](#), Idaho Code, has been taken by condemnation, or has been lost, damaged, or destroyed, and the owner has been indemnified therefore, the individual is entitled to an exemption of proceeds that are traceable for three (3) months after the proceeds are received. The exemption of proceeds under this subsection does not entitle the individual to claim an aggregate exemption in excess of the value limitation otherwise allowable under section [11-605](#), Idaho Code.

[11-606, added 1978, ch. 348, sec. 1, p. 911.]

11-607. CLAIMS ENFORCEABLE AGAINST EXEMPT PROPERTY. (1) Notwithstanding other provisions of this act:

(a) A creditor may make a levy against exempt property except property described in section [11-603](#), Idaho Code, to enforce a claim for:

1. Alimony, support, or maintenance;
2. Unpaid earnings of up to one (1) month's compensation or the full-time equivalent of one (1) month's compensation for personal services of an employee;
3. State or local taxes;

4. Civil damages for offenses punishable by imprisonment in the state penitentiary, or for malicious or intentional injury to persons or property, or for damages resulting from the operation of a motor vehicle for which the defendant is convicted of reckless driving, driving while under the influence of intoxicating liquor or drugs, or driving while driver's license has been suspended or revoked, or claims for obtaining money or property by false pretenses or on credit by intentionally making materially false statements in writing respecting financial condition; or

5. Rent for any kind of dwelling place; claims for food and lodging; and

(b) A creditor may make a levy against exempt property to enforce a claim for:

1. The purchase price of the property or a loan made for the express purpose of enabling an individual to purchase property and used for that purpose; and

2. Labor or materials furnished to make, repair, improve, preserve, store, or transport the property.

(c) The department of health and welfare, bureau of child support enforcement may make a levy against exempt property described in subsection (6) of section [11-603](#), Idaho Code, to enforce a claim for child support or spousal support as defined in [chapter 12, title 7](#), Idaho Code.

(2) This act does not affect any statutory lien or security interest in exempt property. Such a security agreement shall not be invalidated in or affected by any legal proceedings, including those under the federal bankruptcy act, involving the debtor.

[11-607, added 1978, ch. 348, sec. 1, p. 912; am. 1981, ch. 81, sec. 1, p. 114; am. 1985, ch. 159, sec. 8, p. 425; am. 1986, ch. 221, sec. 4, p. 587; am. 1989, ch. 88, sec. 58, p. 197.]

11-608. CLAIM OF EXEMPTION. Any person entitled to an exemption under this chapter may claim such exemption in the manner provided in section [11-203](#), Idaho Code.

[11-608, added 1978, ch. 348, sec. 1, p. 912; am. 1991, ch. 165, sec. 11, p. 405.]

11-609. NONAUTHORIZATION OF FEDERAL BANKRUPTCY EXEMPTIONS. In any federal bankruptcy proceeding, an individual debtor may exempt from property of the estate only such property as is specified under the laws of this state.

[11-609, added 1981, ch. 81, sec. 2, p. 114.]