

SPONSOR: Rep. Baumbach & Rep. Lambert & Rep. Dorsey Walker & Sen. Sokola
Reps. Bolden, Morrison; Sens. Hansen, Pinkney, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 318
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 AND TITLE 19 OF THE DELAWARE CODE RELATING TO EXEMPTIONS IN BANKRUPTCY AND DEBT PROCEEDINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4914, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4914. Exemptions in bankruptcy and insolvency.

(a) In accordance with § 522(b) of the Bankruptcy Reform Act of 1978 (11 U.S.C. § 522(b)), in any bankruptcy proceeding, an individual debtor domiciled in Delaware is not authorized or entitled to elect the federal exemptions as set forth in § 522(d) of the Bankruptcy Reform Act of 1978 (11 U.S.C. § 522(d)) and may exempt only that property from the estate as set forth in subsection (b) of this ~~section.~~ section or otherwise authorized by State law.

(b) In any federal bankruptcy or state insolvency proceeding, an individual debtor domiciled in Delaware shall be authorized to exempt from the bankruptcy or insolvency estate, in addition to the exemptions made in this subsection and in § 4915 of this title, personal property and/or equity in real property, other than the debtor's principal residence having an aggregate fair market value of not more than $25,000.

(c) In any federal bankruptcy or state insolvency proceeding, an individual debtor and/or such individual's spouse domiciled in Delaware shall be authorized to exempt from the bankruptcy or insolvency estate, in addition to the exemptions made in subsection (b) of this section and in § 4915 of this title, the following:

(1) Equity in real property or equity in a manufactured home (as defined in Chapter 70 of Title 25) which constitutes a debtor's principal residence in an aggregate amount not to exceed ~~$75,000 in 2010, $100,000 in 2011, and $125,000 thereafter, except that the exemption for persons totally disabled from working or married persons where at least 1 of the spouses is 65 years old or older shall be $125,000 effective immediately; and~~ $200,000.

(2) A vehicle and/or tools of the trade necessary for purposes of employment in an amount not to exceed ~~$15,000~~ $25,000 each.

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(d) This section shall apply separately with respect to each debtor in a joint case but not to exceed $25,000 each in value in personal property and/or equity in real property, other than the debtor's principal residence, a total not to exceed ~~$125,000~~ $200,000 in value in a principal residence in an individual or a joint case, and ~~$15,000~~ $25,000 each in subsection (c) of this section vehicle and ~~$15,000~~ $25,000 each in subsection (c) of this section tools of the trade.

(e) A debtor may not exempt any amount of an interest in property described in paragraph (c)(1) of this section, if the Bankruptcy Court determines, after notice and hearing, that the debtor owes a debt arising from:

(1) Any violation of the federal securities laws (as defined in § 3(a)(47) of the Securities and Exchange Act of 1934 [15 U.S.C. § 78c(a)(47)]), any state securities law, or any regulation or order issued under federal or state securities laws,

(2) Fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under § 12 or § 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. § 78l or § 78o(d)] or under § 6 of the Securities Act of 1933 [15 U.S.C. § 77f], or

(3) Any criminal act, intentional tort, or wilful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

Section 2. Amend § 2355, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2355. Assignment of compensation prohibited; exemption from creditors' claims; child support exception.

Except for attachments pursuant to child support orders entered under Chapter 4, 5 or 6 of Title 13, claims or payment for compensation due or to become due under this chapter or worker's compensation laws of another state, U.S. territory or possession, or the District of Columbia shall not be assignable and all compensation and claims therefor shall be exempt from all claims of creditors.

Section 3. This Act takes effect upon its enactment into law.