

OKLAHOMA STATUTES
TITLE 31. HOMESTEAD AND EXEMPTIONS

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§31-1. Property exempt from attachment, execution or other forced sale - Bankruptcy proceedings.

A. Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:

1. The home of such person, provided that such home is the principal residence of such person;

2. A manufactured home, provided that such manufactured home is the principal residence of such person;

3. All household and kitchen furniture held primarily for the personal, family, educational or household use of such person or a dependent of such person, including a personal computer and related equipment;

4. Any lot or lots in a cemetery held for the purpose of sepulcher;

5. Implements of husbandry necessary to farm the homestead and tools, apparatus and books used in any trade or profession of such person or a dependent of such person, not to exceed Ten Thousand Dollars (\$10,000.00) in aggregate value;

6. All books, portraits and pictures that are held primarily for the personal, family or household use of such person or a dependent of such person;

7. The person's interest, not to exceed Four Thousand Dollars (\$4,000.00) in aggregate value, in wearing apparel that is held primarily for the personal, family or household use of such person or a dependent of such person;

8. The person's interest, not to exceed Three Thousand Dollars (\$3,000.00) in aggregate value, in wedding and anniversary rings;

9. All professionally prescribed health aids for such person or a dependent of such person;

10. Five milk cows and their calves under six (6) months old, that are held primarily for the personal, family or household use of such person or a dependent of such person;

11. One hundred chickens, that are held primarily for the personal, family or household use of such person or a dependent of such person;

12. Two horses and two bridles and two saddles, that are held primarily for the personal, family or household use of such person or a dependent of such person;

13. Such person's interest, not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00) in value, in one motor vehicle;

14. Guns, not to exceed Two Thousand Dollars (\$2,000.00) in aggregate value, that are held primarily for the personal, family or household use of such person or a dependent of such person, provided that nothing in this subsection shall be construed to allow a person to exempt guns which are used mainly as an investment or nonpersonal, family or household use;

15. Ten hogs, that are held primarily for the personal, family or household use of such person or a dependent of such person;

16. Twenty head of sheep, that are held primarily for the personal, family or household use of such person or a dependent of such person;

17. All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year;

18. Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety (90) days, except as provided in Title 12 of the Oklahoma Statutes in garnishment proceedings for collection of child support;

19. Such person's right to receive alimony, support, separate maintenance or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person;

20. Subject to the Uniform Fraudulent Transfer Act, Section 112 et seq. of Title 24 of the Oklahoma Statutes, any interest in a retirement plan or arrangement qualified for tax exemption or deferment purposes under present or future Acts of Congress; provided, any transfer or rollover contribution between retirement plans or arrangements which avoids current federal income taxation shall not be deemed a transfer which is fraudulent as to a creditor

under the Uniform Fraudulent Transfer Act. "Retirement plan or arrangement qualified for tax exemption purposes" shall include without limitation, trusts, custodial accounts, insurance, annuity contracts and other properties and rights constituting a part thereof. By way of example and not by limitation, retirement plans or arrangements qualified for tax exemption or deferment purposes permitted under present Acts of Congress include defined contribution plans and defined benefit plans as defined under the Internal Revenue Code ("IRC"), individual retirement accounts, individual retirement annuities, simplified employee pension plans, Keogh plans, IRC Section 403(a) annuity plans, IRC Section 403(b) annuities, Roth individual retirement accounts created pursuant to IRC Section 408A, educational individual retirement accounts created pursuant to IRC Section 530 and eligible state deferred compensation plans governed under IRC Section 457. This provision shall be in addition to and not a limitation of any other provision of the Oklahoma Statutes which grants an exemption from attachment or execution and every other species of forced sale for the payment of debts. This provision shall be effective for retirement plans and arrangements in existence on, or created after April 16, 1987;

21. Such person's interest in a claim for personal bodily injury, death or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$50,000.00), but not including any claim for exemplary or punitive damages;

22. Funds in an individual development account established pursuant to the provisions of Section 251 et seq. of Title 56 of the Oklahoma Statutes;

23. Any amount received pursuant to the federal earned income tax credit; and

24. Any interest in an Oklahoma College Savings Plan account established pursuant to the provisions of Section 3970.1 et seq. of Title 70 of the Oklahoma Statutes.

B. No natural person residing in this state may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978, Public Law 95-598, 11 U.S.C.A. 101 et seq., except as may otherwise be expressly permitted under this title or other statutes of this state.

R.L.1910, § 3342. Amended by Laws 1915, c. 188, § 1; Laws 1937, p. 8, § 1; Laws 1957, p. 214, § 1; Laws 1977, c. 238, § 1, eff. Oct. 7, 1977; Laws 1978, c. 190, § 6, eff. Oct 1, 1978; Laws 1980, c. 342, § 1, emerg. eff. June 25, 1980; Laws 1981, c. 118, § 2, eff. Oct. 1, 1981; Laws 1984, c. 78, § 1, emerg. eff. April 3, 1984; Laws 1987, c. 24, § 1, emerg. eff. April 16, 1987; Laws 1998, c. 429, § 11, eff. Nov. 1, 1998; Laws 1999, c. 390, § 1, emerg. eff. June 8, 1999; Laws 2003, c. 152, § 1, emerg. eff. April 28, 2003; Laws 2005, c. 181, § 1.

NOTE: Laws 1998, c. 385, § 12 repealed by Laws 1999, c. 390, § 17, emerg. eff. June 8, 1999.

§31-1.1. Earnings from personal services - Exemption from process - Order.

A. Following the issuance of an execution, attachment, or garnishment, except process to collect a judgment or order for child support or maintenance of children or in cases in which the court has limited or reduced the application of this section pursuant to Section 142.18 of Title 21 of the Oklahoma Statutes, the debtor may file with the court an application requesting a hearing to exempt from such process by reason of undue hardship that portion of any earnings from personal services necessary for the maintenance of a family or other dependents supported wholly or partially by the labor of the debtor. A debtor with no family or other dependents may not claim an exemption under this section. A hearing on the application shall be set and conducted in the manner provided by Section 1172.2 of Title 12 of the Oklahoma Statutes and subsection C of Section 1174 of Title 12 of the Oklahoma Statutes.

B. In determining the existence of an undue hardship, the court should consider the income and expenses of the family and other dependents, and the standard of living created by the income and expenses. The court should also consider the standard of living in relationship to the minimal subsistence needs of the debtor's family and other dependents, with comparison to the minimal subsistence standards in the community, in regard to basic shelter, food, clothing, personal necessities and transportation. The court should then determine if the lack of the funds sought to be exempt would be an undue hardship by creating less than a minimal level of subsistence. If deprivation of these earnings would create an undue hardship on the debtor and the family or other dependents the debtor supports, the court may:

1. Order all or a portion of the personal earnings exempt; or
2. In the case of a continuing earnings garnishment pursuant to Section 1173.4 of Title 12 of the Oklahoma Statutes, exempt all or a portion of the personal earnings withheld within the thirty (30) days preceding the filing of the claim for exemption or modify or stay the garnishment for a period of time not to exceed the remainder of the term of the garnishment.

Added by Laws 1965, c. 301, § 1. Amended by Laws 1983, c. 50, § 6, emerg. eff. April 26, 1983; Laws 1990, c. 248, § 9, emerg. eff. May 21, 1990; Laws 1993, c. 325, § 20, emerg. eff. June 7, 1993; Laws 1995, c. 338, § 19, eff. Nov. 1, 1995; Laws 2004, c. 450, § 7, eff. Nov. 1, 2004.

§31-1.2. Repealed by Laws 1995, c. 338, § 22, eff. Nov. 1, 1995.

§31-1.3. Certain income not exempt from process.

The determination and order issued by the court pursuant to a hearing requested under Section 1.1 of this title shall not take into consideration any total gross family income which exceeds one hundred twenty times the federal minimum hourly wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938, U.S.C. Title 29, Section 206(a)(1) as amended and in effect at the time the earnings are payable or the equivalent for pay periods other than one (1) week. The excess amounts shall not be subject to exemption due to undue hardship.

Added by Laws 1986, c. 185, § 12, eff. Sept. 1, 1986. Amended by Laws 1990, c. 248, § 10, emerg. eff. May 21, 1990; Laws 1995, c. 338, § 20, eff. Nov. 1, 1995.

§31-2. Homestead - Area and value - Indian allottees - Temporary renting.

A. The homestead of any person in this state, not within any city or town, shall consist of not more than one hundred sixty (160) acres of land, which may be in one or more parcels, to be selected by the owner.

B. Effective November 1, 1997, the homestead of any person in this state, not within any city or town, annexed by a city or town on or after November 1, 1997, owned and occupied and used for both residential and commercial agricultural purposes shall consist of not more than one hundred sixty (160) acres of land, which may be in one or more parcels, to be selected by the owner.

C. The homestead of any person within any city or town, owned and occupied as a residence only, or used for both residential and business purposes, shall consist of not exceeding one (1) acre of land, to be selected by the owner. For purposes of this subsection, at least seventy-five percent (75%) of the total square foot area of the improvements for which a homestead exemption is claimed must be used as the principal residence in order to qualify for the exemption. If more than twenty-five percent (25%) of the total square foot area of the improvements for which a homestead exemption is claimed is used for business purposes, the homestead exemption amount shall not exceed Five Thousand Dollars (\$5,000.00).

D. Nothing in the laws of the United States, or any treaties with the Indian tribes in the state, shall deprive any Indian or other allottee of the benefit of the homestead and exemption laws of the state.

E. Any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired. R.L. 1910, § 3343. Amended by Laws 1980, c. 342, § 2, emerg. eff. June 25, 1980; Laws 1997, c. 104, § 2, eff. Nov. 1, 1997; Laws 1997, c. 345, § 2, eff. Nov. 1, 1997.

§31-3. Persons not protected.

The exemption herein provided for must not be construed to apply to the following persons, namely:

1. To a nonresident.

2. To a debtor who is in the act of removing his family from the state; or,

3. Who has absconded, taking with him his family.

R.L.1910, § 3344.

§31-4. Repealed by Laws 1980, c. 342, § 3, emerg. eff. June 25, 1980.

§31-5. Homestead exemptions shall not apply, when.

The exemption of the homestead provided for in this chapter shall not apply where the debt is due:

1. For the purchase money of such homestead or a part of such purchase money.

2. For taxes or other legal assessments due thereon.

3. For work and material used in constructing improvements thereon.

R.L.1910, § 3346.

§31-6. Exempt personalty subject to attachment or execution for wages.

None of the personal property mentioned in this chapter, shall be exempt from attachment or execution for wages of any clerk, mechanic, laborer or servant.

R.L.1910, § 3347.

§31-7. Pension money exempt.

There shall also be exempt from levy and sale upon execution or attachment to every resident of this state who became disabled in the service of the United States as a soldier, sailor, or marine, all pension money hereafter received belonging to such soldier, sailor or marine.

R.L.1910, § 3348.

§31-8. Repealed by Laws 1977, c. 238, § 3, eff. Oct. 7, 1977.

§31-9. Repealed by Laws 1953, p. 322, § 2.

§31-10. Short title.

This act shall be known and may be cited as the "Family Wealth Preservation Trust Act".

Added by Laws 2004, c. 509, § 1, emerg. eff. June 9, 2004.

§31-11. Definitions.

As used in the Family Wealth Preservation Trust Act:

1. "Grantor" means an individual, whether or not a resident of this state, establishing or creating a preservation trust;
2. "Oklahoma assets" includes:
 - a. a stock, bond, debenture, membership interest, partnership interest, or other equity or debt interest issued by an Oklahoma-based company, without reference to assets owned by the Oklahoma-based company,
 - b. a bond or other obligation issued by this state or an Oklahoma governmental agency,
 - c. a bond or other obligation issued by a county of this state, by a municipal government located in this state, by a school district located in this state or by any public trust for the benefit of either this state or one or more political subdivisions of this state,
 - d. an account in an Oklahoma-based bank. As used in this subparagraph, "account" means a demand, time, savings or passbook type of account or a certificate of deposit type of account,
 - e. real or tangible personal property, or any interest therein, having a situs in this state, which shall include, but not be limited to:
 - (1) mineral interests, or
 - (2) promissory notes secured primarily by real or tangible personal property or both,
 - f. any security backed exclusively by promissory notes, if at least a majority in value of such promissory notes are secured by real or tangible personal property having a situs in this state or both, and
 - g. mutual funds, as defined pursuant to The Investment Company Act of 1940, 15 U.S.C., Section 80a-1 et seq. and The Securities Act of 1933, 15 U.S.C., Section 77a et seq., and common trust funds, as defined pursuant to Section 1010 of Title 6 of the Oklahoma Statutes, to the extent the assets within such funds meet one or more of the requirements listed in subparagraphs a through f of this paragraph;
3.
 - a. "Oklahoma-based bank" means a bank, savings association or credit union which both:
 - (1) takes deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and
 - (2) has a place of business in Oklahoma, which shall be a physical location, and
 - b. "Oklahoma-based trust company" means a trust company chartered under the laws of this state or nationally

chartered and having a place of business in Oklahoma, which shall be a physical location;

4. "Oklahoma-based company" means a corporation, limited liability company, limited partnership, limited liability partnership or other legal entity formed or qualified to do business in this state and having its principal place of business in this state, which principal place of business shall be a physical location;

5. "Preservation trust" means a trust:

- a. established by a grantor under Oklahoma law,
- b. having at all times as a trustee or cotrustee an Oklahoma-based bank that maintains a trust department or an Oklahoma-based trust company,
- c. having as beneficiaries only qualified beneficiaries or a qualified beneficiary,
- d. having a majority in value of its assets comprised of Oklahoma assets, except that if any asset which qualifies, or is intended to qualify, as an Oklahoma asset ceases or fails to qualify as an Oklahoma asset, the trustee shall have a reasonable period of time following discovery thereof to convert such nonqualifying asset into an Oklahoma asset, and
- e. reciting in its terms that the income generated from the corpus of the trust is subject to the income tax laws of this state; and

6. "Qualified beneficiary" or "qualified beneficiaries" means:

- a. the lineal ancestors and lineal descendants of the grantor or the grantor's spouse, including adopted lineal descendants if they were under the age of eighteen (18) at the time of the adoption,
- b. the spouse of the grantor,
- c. a nonprofit organization qualified under the provisions of the Internal Revenue Code of 1986, 26 U.S.C., Section 501(c)(3), or
- d. a trust settled for the sole benefit of one or more qualified beneficiaries.

Added by Laws 2004, c. 509, § 2, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 1, emerg. eff. June 8, 2005; Laws 2014, c. 102, § 1, eff. Nov. 1, 2014.

§31-12. Corpus and income of preservation trust exempt from attachment, execution, forced sale, and liens - Exceptions - Transfer of assets.

Notwithstanding Section 3 of this title and Section 299.15 of Title 60 of the Oklahoma Statutes, the corpus and income of a preservation trust shall be exempt from attachment or execution and every other species of forced sale and no judgment, decree, or execution can be a lien on the trust for the payment of debts of a

grantor, except a child support judgment. Any incremental growth derived from income or an increase in value of the corpus of a preservation trust shall also be considered protected by this section. Transfer of an asset to a preservation trust does not affect any mortgage, security interest or lien to which that asset is subject.

Added by Laws 2004, c. 509, § 3, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 2, emerg. eff. June 8, 2005; Laws 2014, c. 102, § 2, eff. Nov. 1, 2014.

§31-13. Preservation trust - Revocable or irrevocable - Contributions.

A preservation trust may be established as a revocable and amendable trust or as an irrevocable trust. If the grantor of a preservation trust revokes or partially revokes the preservation trust, the exemption provisions of Section 12 of this title shall not be applicable to any property received by the grantor as a result of such revocation or partial revocation. The fair market value of any property received by the grantor as a result of a partial revocation shall increase the amount of property which the grantor may contribute to the preservation trust pursuant to Section 12 of this title.

Added by Laws 2004, c. 509, § 4, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 3, emerg. eff. June 8, 2005.

§31-14. Preservation trust exemptions independent and in addition to other exemptions.

The exemptions provided for pursuant to other provisions of the laws of this state shall be independent of and in addition to the exemption provided for pursuant to Section 12 of this title.

Added by Laws 2004, c. 509, § 5, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 4, emerg. eff. June 8, 2005.

§31-15. Effect on homestead exemption.

The provisions of the Family Wealth Preservation Trust Act shall not operate to increase the area and value of the homestead exemption provided for pursuant to Section 2 of this title.

Added by Laws 2004, c. 509, § 6, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 5, emerg. eff. June 8, 2005.

§31-16. Revocation of preservation trust cannot be compelled - Restrictions on transferability.

No court or other judicial body shall have the authority to compel a person holding a power of revocation or amendment over a preservation trust to exercise the power of revocation or amendment. The provisions of this act shall be considered restrictions on the transferability of the grantor's beneficial interest in the

preservation trust that is enforceable under applicable nonbankruptcy law within the meaning of Section 541(c)(2) of the United States Bankruptcy Code or any successor provisions.

Added by Laws 2004, c. 509, § 7, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 6, emerg. eff. June 8, 2005.

§31-17. Transfers subject to Uniform Fraudulent Transfer Act.

Any transfer of monies or property by a grantor to a preservation trust shall be subject to the provisions of the Uniform Fraudulent Transfer Act.

Added by Laws 2004, c. 509, § 8, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 7, emerg. eff. June 8, 2005.

§31-18. Grantor limited to single preservation trust.

A grantor may not establish more than one preservation trust. However, in the event a preservation trust established by a grantor is wholly revoked or terminated, the grantor may establish a new preservation trust, and this act shall be applicable to such new preservation trust.

Added by Laws 2004, c. 509, § 9, emerg. eff. June 9, 2004. Amended by Laws 2005, c. 438, § 8, emerg. eff. June 8, 2005.