

ARIZONA EXEMPTIONS

(Effective as of January 1, 2025)

- The exemptions below are the most common ones used in Arizona, but there may be others. They also include applicable non-bankruptcy federal exemptions.
- Under A.R.S. § 33-1133, if you are filing for bankruptcy protection and you continually resided in Arizona without interruption for more than 2 years prior to your expected bankruptcy filing date, **you must** use the exemptions listed below (however, a debtor may use a few federal exemptions as indicated below that are not part of the Bankruptcy Code).
- The following property is exempt (protected) from unsecured creditors or a trustee in bankruptcy. The protection provided by exemptions do not apply to secured creditors' collateral, most tax claims, nor to delinquent child support or spousal maintenance.
- The IRS can record a lien and encumber most exempt property listed below.
- When valuing personal property (not land/house), the Code requires you to use the "replacement value", which is the price a retail merchant would charge for personal property of similar kind and condition. 11 U.S.C. § 506(a)(2). A trustee will most likely look at the value that it would sell at "Park and Swap" or Goodwill, or perhaps an auction.
- Any item with a lien (such as a mortgage or vehicle loan) can still be repossessed by the secured creditor if payments are not made, even if the debt is discharged in bankruptcy. This can be true for household goods charged on a department store card (for instance: charging a refrigerator on a Best Buy card).
- The exemptions listed below generally deal with equity, particularly for the homestead and vehicle exemptions. Equity is defined as the market value of the property (i.e., value of a house: www.zillow.com, Redfin.com, Realtor.com; or the vehicle private party value listed on www.kbb.com) minus the total current balance of all consensual liens on the property, and some non-consensual liens (e.g. IRS tax lien). For example, if your house is worth \$500,000 (according to Zillow, Redfin & Realtor) and you owe a total of \$300,000 on your mortgages, then the equity in the house is \$500,000 minus \$300,000 = **\$200,000**.
- For any exempt tangible personal property listed below (i.e., vehicle, furnishings, watch, wedding rings, etc.), the item(s) must be used by the debtor or the debtor's dependents primarily for personal, family, or household purposes.

TYPE OF PROPERTY	AMOUNT OF EXEMPTION	EXEMPTION STATUTE (LAW)
<p>Homestead, used as a primary residence. This includes a detached home, condo, townhome, and a mobile home (with or without land). The law as of 10/24 does NOT protect RVs, 5th wheelers, house boats, trailers, etc. There is a move to add these items to the AZ statutes.</p> <p>Property must be titled: (a) in debtor's personal name or (b) in a revocable trust, provided the debtor was the settlor of the trust and the current trustee, and the trust gives the debtor the power to amend or revoke the trust. A.R.S. § 33-1104(E). Homestead held by an entity (such as an LLC, corporation, or partnership) is <u>not</u> exempt.</p> <p>Judgments attach to homesteads and other real estate, including property later acquired. Beware of refinancing A.R.S. § 33-964: funds go to the judgment creditors before paying the borrower homeowner.</p>	<p>\$425,200,¹ (was \$414,800 on 1/1/24) of <u>equity</u> (if married, spouses do not get to double the homestead, as both spouses only get the total exemption).(annual CPI increase of 2.53 percent)</p> <p>Applies to <u>identifiable</u> cash proceeds of a homestead sale only for 18 months after sale.</p> <p>If a homestead property is acquired less than 3 years and 4 months before filing (1,215 days), the exemption may be limited to \$189,050 of equity. 11 U.S.C. § 522(p) (bankruptcy specific)</p>	<p>A.R.S. §§ 33-1101, 33-1103, 33-1104, 33-964, and 12-1551, and 11 U.S.C. § 522(p).</p> <p>Recording requirements, if any, A.R.S. §33-1102</p>

PER PERSON (x2 if married)

Each spouse may claim exemptions separately or combined in the same property.

TYPE OF PROPERTY	AMOUNT OF EXEMPTION - EQUITY	EXEMPTION STATUTE (law)
Prepaid rent and security deposits for debtor's residence (only if no homestead is asserted)	\$2,000	A.R.S. § 33-1126(C)
Household furniture, furnishings, household goods, including consumer electronic devices, and household appliances personally used by the debtor or a dependent of the debtor.	\$16,000 ¹ (was \$15,600) (annual CPI increase)	A.R.S. § 33-1123
Motor vehicle - equity in <u>one</u> vehicle	<p>\$16,000 in <u>one</u> vehicle; \$26,700 if debtor or their dependent is physically disabled (was \$15,600/\$26,000)¹ (annual CPI increase)</p> <p>If married, each spouse may exempt one separate vehicle (for a total of two), provided each vehicle does not have more than \$16,000 of equity. Alternatively, a married couple may exempt <u>only one</u> vehicle if it has no more than \$32,000 of equity.</p>	A.R.S. § 33-1125(8)
Food, fuel, and provisions for 6 months used by Debtor & family	100%	A.R.S. § 33-1124
Wearing apparel	\$500	A.R.S. § 33-1125(1)
Library, including published materials & personal documents	\$250	A.R.S. § 33-1125(5)
1 computer, 1 typewriter, 1 bicycle, 1 sewing machine, bible, burial	\$2,000	A.R.S. § 33-1125(7)

TYPE OF PROPERTY	AMOUNT OF EXEMPTION	EXEMPTION STATUTE (LAW)
All firearms	\$2,000	A.R.S. § 33-1125(10)
Pre-arranged funeral memorial - deposited in a funeral trust account with the funeral home (e.g., coffin open/close fees)	\$5,000	A.R.S. § 32-1391.05(C)(4)
Musical instruments of Debtor and family	\$400	A.R.S. § 33-1125(2)
All domestic pets	100%	A.R.S. § 33-1125(11)
Horses, milk cows and poultry	\$1,000	A.R.S. § 33-1125(3)
Engagement and wedding rings	\$2,000	A.R.S. § 33-1125(4)
Watch	\$250	A.R.S. § 33-1125(6)
Professionally prescribed prostheses for the debtor or a dependent of the debtor, including a wheelchair or motorized mobility device.	100% (applies to debtor and dependents)	A.R.S. § 33-1125(9)
Tools of the trade: tools, equipment, instruments, marketing tools, websites, phone numbers, trade names, and intangible work product used in the profession.	\$5,000 (does not include personal motor vehicle or inventory in most cases)	A.R.S. § 33-1130(1)
Arms, uniforms/accouterments required by law to keep	100%	A.R.S. § 33-1130(3)
School equipment used to teach in university, school, college, seminary	100%	A.R.S. § 33-1127
Firefighting equipment	100%	A.R.S. § 33-1128
Wages, earnings, and commissions due on date bankruptcy is filed. “Disposable earnings” is defined as gross wages minus deductions required by law, such as taxes and mandatory retirement deductions. The Arizona minimum hourly wage is \$14.35/hour as of 1/1/24	90% of disposable earnings. But 100% exempt if disposable earnings for that week are less than 60 times the largest applicable minimum hourly wage. 50% for child support or spousal maintenance creditors.	A.R.S. § 33-1131
Refundable portion of earned income and/or childcare tax credits	100% (both federal and state)	A.R.S. § 33-1126(A)(11)
<u>One</u> single bank account	\$5,400 (was \$5,200) ¹ (annual CPI increase) If married, each spouse may exempt one account (for a total of two), provided each account does not have more than \$5,400. Alternatively, a couple may exempt <u>one</u> account if it has no more than \$10,800	A.R.S. § 33-1126(A)(9)
Earnings of minor child (but don't co-mingle with debtor)	100%	A.R.S. § 33-1126(A)(2)
Funds received or payable for child support or maintenance	100%* (per court order)	A.R.S. § 33-1126(A)(3)
Welfare assistance	100%*	A.R.S. § 46-208
Unemployment compensation benefits	100%*	A.R.S. § 23-783
Workmen's compensation benefits	100%* (with some exceptions)	A.R.S. § 23-1068(B)
Long-Term Disability Program Benefits	100%	A.R.S. § 38-797.11
Student Loan Proceeds (limited)	100%*	20 U.S.C. 1095(a)(d)
Interest in retirement plan qualified under Internal Revenue Code §§401(a), 403(a)(b), 408, 408(a)(Roth), 409, 457 (deferred comp); federal exemption under 522(b)(3)(C) exempts retirement plans under IRC §§ 401, 403, 408, 408(a), 414, 457, 501(a)	100% (AZ statute does not exempt contributions within 120 days pre-petition, but this is preempted by 11 U.S.C. § 522(b)(3)(C))	11 U.S.C. § 522(b)(3)(C) A.R.S. § 33-1126(B)
Inherited retirement: 401(a), 403(a)(b), 408 (IRA), 408(a)(Roth), 409, 457	100% (except contributions within 120 days)	A.R.S. § 33-1126(B)
529 account (college savings plans) under Internal Revenue Code	100% (except contributions within 2 years before filing petition)	A.R.S. § 33-1126(A)(10)
Education IRA under 530(b)(1) & 529(B)(1): Must: (a) be held for more than 2 years before filing; and (b) list a beneficiary who is the debtor's child, stepchild, grandchild, or step-grandchild	Not property of the estate if held for more than 2 years before filing bankruptcy. Contributions made between 12 to 24 months before filing bankruptcy are not property of the estate if such contributions total \$7,575 or less	530: U.S.C. §541(b)(5) 529: U.S.C. §541(b)(6)

TYPE OF PROPERTY	AMOUNT OF EXEMPTION	EXEMPTION STATUTE (LAW)
Annuity: Must (a) be owned by the debtor for at least 2 years prior to filing bankruptcy; and (b) the beneficiary must be debtor, debtor's spouse, child, parent, sibling, or "dependent" family member Warning: some annuity companies list themselves as owner, which may make the exemption inapplicable.	100%	A.R.S. § 33-1126(A)(7)
<u>Employer</u> health, accident, or disability insurance (present & future) NOTE: does not exempt income from a private disability policy owned by the debtor	100% (certain debts excepted) *	A.R.S. § 33-1126(A)(4)
Life insurance proceeds ² , paid or payable to surviving spouse or child, if dependent.	\$20,000*	A.R.S. § 33-1126(A)(1)
<u>Group</u> life insurance from a policy (i.e., an employer policy) payable to the debtor or any beneficiary.	100%*	A.R.S. § 20-1132(A)
Cash surrender value of life insurance policies: Must (a) be owned by the debtor for at least 2 years. prior to filing bankruptcy; and (b) the beneficiary must be debtor's spouse, child, parent, sibling, or "dependent" family member.	100%	A.R.S. § 20-1131(D)
Wrongful death - Installments for future damages for loss earnings to a wrongful death judgment to the extent the wages or earnings are exempt under any other applicable law.	Unknown (only other "applicable law" for wage exemption is A.R.S. § 33-1131 as explained above).	A.R.S. § 12-592
Periodic installments for all future damages (other than for loss earnings or commissions) due to a wrongful death judgment	100%	A.R.S. § 12-592
Insurance proceeds for damage or destruction of <u>exempt</u> personal property	100%*	A.R.S. § 33-1126(A)(5)
Damage claim for wrongful levy or execution	100%	A.R.S. § 33-1126(A)(8)
Farm Machinery, utensils, feed, grain, seed, and animals of farmer.	\$2,500 (primary income from farming)	A.R.S. § 33-1130(2)
Fraternal Benefit Society Benefits	100%	A.R.S. § 20-877
Social Security (including retirement, death & disability) NOTE: Outside of bankruptcy, some social security may be garnished for certain debts, such as child support/alimony (42 U.S.C. § 65), victim restitution (18 U.S.C. § 3613), unpaid federal taxes (26 U.S.C. §§ 6334(c)(4), 3402(P)(5))	100%*	42 U.S.C. § 407(a), SEC 207, see 31 C.F.R. Part 212.3 protects 2 months of directly deposited benefits (but may not override federal
VA group life insurance benefits (group life 38 U.S.C. § 1970)	100%*	38 U.S.C. § 3101
Military Survivor Benefit Plan annuities/military ret. Annuities	100%	10 U.S.C. § 1450(i)/1440
Seaman's wages (at sea)	100%	46 U.S.C. § 11109(a)
War Compensation – hazard, death, injury	100%	42 U.S.C. § 1717
FEMA benefits	100%	44 CFR § 206.110
Homesteads purchased by Indians out of trust funds (see restrictions)	Total of 160 acres, or cost of \$5,000??	25 U.S.C. § 412
Money from lease/sale of land held in trust for Indians	100%	25 U.S.C. § 410
<u>Additional Retirement/Pension Benefits</u>		
ERISA pension plan benefits	100%	29 U.S.C. § 1056
VA Benefits (includes pensions, life insurance & disability)	100%*	38 U.S.C. § 5301(a)(1)
Firemen's relief and pension benefits	100%	A.R.S. § 9-968
Police pension benefits	100%	A.R.S. § 9-931
State employee's retirement benefits	100%	A.R.S. § 38-792, 33-1126(b), 522(b)(3)(c)
Public Safety Personnel Retirement	100%	A.R.S. § 18-840
Arizona Ranger Benefits	100%	A.R.S. § 41-955
Federal civil service disability and death benefits	100%*	5 U.S.C. § 8130
Federal civil service retirement benefits	100%*	5 U.S.C. § 8346(a)
Correction Officer Retirement Plan	100%	A.R.S. § 38-897
Annuities to widows & dependent children of Fed. Judges & justices	100%	28 U.S.C. § 376(n)

Certain benefits listed above are 100% exempt before being paid out. For example, most 401(k) or IRA retirement benefits are generally exempt, but only before they are paid out and deposited in a bank account or otherwise received by the debtor. However, those exemption items marked () above may have language in their applicable statutes that allow certain monies to maintain their exempt status once they are deposited into a bank account, **but only if they are not commingled (i.e., “mixed-in”) with other monies coming from different sources.** Please consult with a lawyer before filing bankruptcy to determine if such monies risk losing their exempt nature due to being commingled with other types of monies.

¹ Prop 209 increased certain exemption amounts December 2022 (that increase was litigated, and the trustees lost). Those exemptions increase annually on January 1 of each year based on changes in the Consumer Price Index. The amounts listed here are as of January 1, 2024.

² Rights to inheritance or life insurance acquired within 180 days after Chapter 7 is filed must be turned over to the trustee, for the benefit of your creditors. In Chapter 13, this period extends throughout the life of your Chapter 13 Plan.

Note: there are a myriad of other special exemptions that could apply in your case. If you own anything that is not on this list, please see an experienced bankruptcy attorney.

What state law do you use for your exemptions?

Under A.R.S. § 33-1133, if you are filing for bankruptcy protection and you continually resided in Arizona without interruption for the 2-year period before the filing date, you must use the exemptions listed above and cannot use the bankruptcy exemptions under 11 U.S.C. § 522(d). However, if you have not continually resided in Arizona without interruption for the 2-year period before your expected filing date, then: (a) determine which state you resided the majority of the 180-day period preceding the date that is 2 years prior to your expected filing date; and (b) determine if that state’s laws permit you to use its own state exemptions or the exemptions under 11 U.S.C. § 522(d). Furthermore, if you are ineligible for any exemptions, then you may be able to use the exemptions under 11 U.S.C. § 522(d). For example, assume you intend to file bankruptcy on February 1, 2024. If you have not lived in Arizona continuously from February 1, 2022, through February 1, 2024, then determine where you lived the majority of the time for the 180-day period preceding February 1, 2022 (i.e., the majority of the time between August 5, 2021, and February 1, 2022). If that was New York, for example, then research New York law to determine if a current Arizona resident can use New York exemptions. You will find that New York exemptions can only be used by New York residents. Therefore, since you cannot use either New York (because you currently live in Arizona) nor Arizona exemptions (because you haven’t lived in Arizona continuously and uninterrupted for the last 2 years before your expected filing date), you must use the exemptions under 11 U.S.C. § 522(d).

Understanding how exemptions apply is confusing. please consult with an experienced bankruptcy attorney to make sure you are using the correct exemptions before you file your bankruptcy case.