WEST VIRGINIA CODE: §38-10-4

§38-10-4. Exemptions of property in bankruptcy proceedings.

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor's interest, not to exceed $35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under §30-3-1 *et seq*. or §30-14-1 *et seq*. of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least $1 million for each occurrence, the debtor physician's interest that is exempt under this subdivision may exceed $35,000 in value but may not exceed $250,000 per household.

(b) The debtor's interest, not to exceed $7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed $800 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subdivision may not exceed $16,000.

(d) The debtor's interest, not to exceed $2,000 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value $800 plus any unused amount of the exemption provided under subdivision (a) of this subsection in any property.

(f) The debtor's interest, not to exceed $3,000 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(h) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(i) The debtor's right to receive:

(1) A Social Security benefit, unemployment compensation, or a local public assistance benefit;

WV Legislature

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account, including a simplified employee pension regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

(j) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(3) All life insurance proceeds paid to the debtor as a beneficiary, any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, or any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value.

(4) A payment, not to exceed $50,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

WV Legislature

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with §18-30-1 *et seq*. of this code on behalf of any beneficiary.

(k) Solely for the purpose of applying the provisions of 11 U.S.C. § 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property of the debtor's bankruptcy estate the property specified under 11 U.S.C. § 522(d).

(l) The amendments made to this section during the 2023 regular session of the Legislature shall apply to bankruptcies filed on or after the effective date of those amendments.

WV Legislature