

Colorado Needs to Modernize and Update its Statutory Exemptions from Debt Collection

State exemption laws, which protect income and property from seizure by creditors, are a fundamental safeguard for families. Exemption laws are designed to protect consumers and their families from poverty, dependency on state support, and to preserve their ability to be productive members of society and achieve financial rehabilitation and stability.

Now more than ever, Colorado needs to modernize and update its exemption laws to address the current economic realities and family needs. The COVID-19 pandemic has both exposed Colorado's gaps in its existing exemption laws and demonstrated the need for modernization. According to the National Consumer Law Center (NCLC), **Colorado receives a "D" rating** in the overall strength of consumer protections for families within our exemption laws.

By updating Colorado's exemption laws, we can:

- **Preserve the ability of workers and families to recover** by protecting their homes and the necessities they need to get to work and lead self-sufficient lives.
- **Enhance the larger recovery** by ensuring stimulus payments and income supports are invested directly in our communities in support of the families that need them the most.
- **Prevent poverty** by guaranteeing a minimum level of wages, savings, and property that are preserved for each person and their family, allowing them to pay for basic bills such as food, rent, daycare, medical care, transportation, and utilities.

Proposed Updates and Modernization to Colorado's Exemption Law:

Homestead Exemption	<ul style="list-style-type: none">▪ Increase to better reflect rising median home values in Colorado which now has the 6th highest home prices in the US.▪ Expand "house" definition to other real and personal property that is used as a place of residence.
Emergency Survival Fund (Bank Account)	<ul style="list-style-type: none">▪ Provide families with \$5K in bank accounts to pay for food, housing, transportation, daycare, utility service, medical care, and other necessities, not to mention emergency expenses such as car repairs.
Motor Vehicles	<ul style="list-style-type: none">▪ Increase amount to better reflect increased prices of used vehicles.
Economic Stimulus	<ul style="list-style-type: none">▪ Protect payments in any national or statewide emergency or disaster
Child Tax Credit	<ul style="list-style-type: none">▪ Clarify language to ensure all CTC payments are protected.
Unemployment Insurance	<ul style="list-style-type: none">▪ Remove mingling restrictions and protect UI payments.
Farm Equipment	<ul style="list-style-type: none">▪ Increase farm equipment exemption to \$100K.
Disability Benefits	<ul style="list-style-type: none">▪ Increase disability benefits from \$4K to \$5K
Firearms for Personal, Family or Household Use	<ul style="list-style-type: none">▪ Protection for firearms for personal, family, or household use.
Health Savings Accounts	<ul style="list-style-type: none">▪ Include as protected, just as retirement funds are currently protected

In-Depth Overview of Exemption Modernization

It has been **nearly six years since Colorado has updated major portions of its exemption laws** through SB15-283 and those changes did not even meet the economic realities of that time. For example, even though 2015 was a year of dramatic home value increases, with the median home price passing \$300K in metro Denver, the homestead exemption was only increased by \$10K to \$75K.

According to Prosperity Now, **Colorado ranks 37th in the nation in racial disparities in financial security**, meaning Colorado has some of the largest disparities in the country. Forty-four percent of Coloradans of Color have debt in collections in comparison to 22 percent of White Coloradan. These disparities have emerged based upon the rising income inequalities that have led to a rise in consumer debt.

The rise in consumer debt directly correlates with a substantial growth in the collection industry in recent decades. A subset of the collection industry, debt buying, emerged in the wake of this growth in consumer debt. Debt buyers purchase debts from lenders and other creditors at a deep discount and then attempt to collect the debt themselves, often without underlying documentation. Debt buyers typically make use of the courts to collect debts and are frequently able to win court judgments, usually default judgments, against people, even those who do not owe the debt or lack the knowledge or funds to defend themselves. The impacts of this system can be severe—after a default judgment, wages or bank accounts are frequently garnished or property is liened, forcing the consumer to pay a debt they may not owe or learn about for years.

The state’s exemption laws specify how much of the consumer’s wages and property the creditor may seize and how much it may not seize. Below are details on the various areas Colorado needs to update and modernize its exemption laws.

Homestead Exemption: Increase Amount [CRS 38-41-201]

Protection of the family home from creditors is one of the fundamental purposes of exemption laws. Loss of the home means loss of support networks. It can also mean loss of a job if the family cannot find replacement housing within commuting distance. Losing the family home is particularly hard on children, as it often means that they must change schools and leave friends and relatives behind.

Major

Rationale:

- The median home price in CO is nearing \$450,000, meaning CO’s current exemption only covers 17% of the average home value. The Denver Metro Association of Realtors reported for March 2021 that the median home price was \$530,000, an increase of more than 4% from the previous month and up 21.84% compared to a year ago.

Current Statute:

- \$75K for home occupied by owner(s) or owner’s family;
- \$105K for home occupied by age 60 owner(s) or owner’s family;
- \$105K if an owner [or their spouse or dependent if living in home] is disabled.

Proposed Change:

- \$300K or higher for home occupied by owner(s) or owner’s family;
- \$400K or higher for home occupied by age 60 owner(s) or owner’s family;
- \$400K if an owner [or their spouse or dependent if living in home] is disabled.

Homestead Exemption: Definition of Homestead [Modify CRS 38-41-205 & 38-41-201.5] and [Modify CRS 13-54-102(j)(III)]

Major Rationale: For many Coloradans, their current primary residency is not covered in the definition of the homestead exemption. By modernizing this provision, the exemption can better reflect the reality of the existing housing situations.

Current Statute:

- Applies just to houses, mobile homes or farms.

Proposed Change:

- Expand “house” definition to include “dwellings”, which include, RVs, campers, boats, tractor-trailer rigs, buses, vans, “tiny homes”, and other real and personal property that is used as a place of residence.

Emergency Survival Fund (Bank Account) [Modify CRS 13-54-102(w)]

Major Rationale: Families need access to a basic amount of cash to buy groceries, commute to work and make the upcoming rent or mortgage payment or the next payment on the family car and pay medical expenses. Protecting a minimal level of funds or cash flow, especially during the current situation is fundamental to a family’s recovery.

Current Statute:

- Temporary exemption for \$4K in bank account (expires June 2021).

Proposed Change:

- Make exemption permanent.
- Increase to \$5K.

Motor Vehicles [Modify CRS 13-54-102(j)]

Major Rationale: Cars are a necessity for many workers and their families. Available public transportation options may not provide the options many workers need for employment or transporting family members to daycare, their doctor, or school.

- The average price for used cars continue to rise, rising nearly 14% between January and December of 2020. The pandemic has further increased the need for cars, as public transit options are not as available.

Current Statute covers up to two motor vehicles or bicycles:

- \$7.5K for owner.
- \$12.5K for owner age 60+ or disabled owner.

Proposed Change:

- \$10K for owner.
- \$20K for age 60+ owner or disabled owner.

Farm Equipment [Modify 13-54-102 (g)(I) & (II)]

Major Rationale: The cost of both new and used farm equipment has increased in the past decade. The exemption should reflect these increases.

Current Statute:

- \$50K in equipment and tools.

Proposed Change:

- \$100K in equipment and tools.

Increase Disability Benefits [Modify 13-54-102 (v)]

Major Rationale: Disability benefits can be a lifeline for many families that have suffered past injuries. The amount should be increased to reflect the increased costs of living.

Current Statute:

- \$4K in benefits.

Proposed Change:

- \$5K in benefits.

Unemployment Insurance Payments [Modify CRS 8-80-103]

Major Rationale: Unemployment Insurance (UI) is a lifeline during times of personal or societal economic distress. It is too often the most important lifeline that prevents families from falling into further despair. Currently, UI payments might not be fully protected if they are “mingled” with other funds, such as in a bank account. Clarifying this provision to protect UI funds will allow families to fully preserve these benefits.

Current Statute:

- Protected “so long as they are not mingled with other funds of the recipient.”

Proposed Change:

- Remove mingling restrictions and protect UI benefits in their entirety.

Economic Stimulus Payments [Add exemption to CRS 13-54-102]

Major Rationale: As COVID-19 has demonstrated, stimulus payments are both essential to family recovery and as investments within our communities. Families should be able to preserve these payments for their immediate needs or pay off debt timely.

Current Statute:

- None

Proposed Change:

- Protect payments in any national or statewide emergency or disaster.

Child Tax Credit [Modify CRS 13-54-102(o)]

Major Rationale: The child tax credit (CTC) and its current Federal expansion promises to be a significant poverty reducer for families. As Colorado looks to fund its own version of the CTC, it is important that all CTCs are protected. The current statutory language does not guarantee these protections and need to be strengthened.

Current Statute:

- “a child tax credit”

Proposed Change:

- “ANY child tax credit” and “ANY child care tax credit”

Firearms for Personal, Family, or Household Use [Add new () to CRS 13-54-102]

Major Rationale: For many Coloradans, particularly outside of the Front Range, firearms can be important to work, protecting against wildlife, and hunting.

Current Statute:

- None

Proposed Change:

- Protection for firearms for personal, family, or household use
- Not to exceed \$1.5K

Health Savings Accounts [Add to CRS 13-54-102(s)]

Major Rationale: Especially for families with high deductible plans, Health Savings Accounts (HSAs) could mean the difference between being able to pay for medical costs and crippling debt. They are both important in the short-term to ensure a family can meet their existing medical needs as well as preparing for long-term medical costs. To modernize our exemptions, we need to specify that HSA funds are exempt.

Current Statute:

- None

Proposed Change:

- Include as protected, just as retirement funds are currently protected