

## Pennsylvania State Bankruptcy Exemptions

### § 6-10-2. Homestead exemption generally

#### 42 Pa. Cons. Stat. § 8127. Personal earnings exempt from process

(a) GENERAL RULE AND EXCEPTIONS.-- The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

(1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

(2) For support.

(3) For board for four weeks or less.

(3.1) For amounts awarded to a judgment creditor- landlord arising out of a residential lease upon which the court has rendered judgment which is final. However, the amount subject to attachment shall have deducted from it any security deposit held by the judgment creditor-landlord and forfeited by the judgment debtor-tenant under section 511.1 of the act of April 6, 1951 (P.L. 69, No. 20), known as The Landlord and Tenant Act of 1951, unless the security deposit has been applied to payment of rent due on the same premises for which the judgment for attachment has been entered. The judgment creditor-landlord shall have the burden of proving that such security deposit has been applied to payment of rent due on the premises herein described. The sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less. For the purposes of this paragraph, "net wages" shall mean all wages paid less only the following items:

(i) Federal, State and local income taxes.

(ii) F.I.C.A. payments and nonvoluntary retirement payments.

(iii) Union dues.

(iv) Health insurance premiums.

(3.2) In the case of wage attachment arising out of a residential lease, to implement the wage attachment, the judgment creditor- landlord shall comply with the Pennsylvania Rules of Civil Procedure and any applicable local rules. The judgment of the district justice, magistrate or any other court having jurisdiction over landlord and tenant matters or a judgment before the court of common pleas shall reflect that portion of the judgment which is for physical damages arising out of a residential lease.

(4) Under the act of August 7, 1963 (P.L. 549, No. 290), referred to as the Pennsylvania Higher Education Assistance Agency Act.

(5) For restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.

(b) PRIORITY.-- An order of attachment for support shall have priority over any other attachment, execution, garnishment or wage assignment.

(c) DUTY OF EMPLOYER.--

(1) For any wage attachment arising out of a residential lease, the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding \$ 5 of the amount of money so collected. If an employer is served with more than one attachment arising out of a residential lease against the same judgment debtor, then the attachments shall be satisfied in the order in which they were served. Each prior attachment shall be satisfied before any effect is given to a subsequent attachment, subject to subsection (a)(3.2). Upon receipt of the wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

(2) For any wage attachment not arising out of a residential lease, the employer shall send the attached withheld wages to the prothonotary of the court of common pleas to be recorded, and upon receipt, the wages shall be sent to the creditor.

(d) DUTY OF JUDGMENT CREDITOR-LANDLORD.--

(1) Any judgment creditor-landlord who has received satisfaction of any judgment pursuant to this section shall enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(2) A judgment creditor-landlord who shall fail or refuse for more than 30 days after receiving satisfaction to comply with paragraph (1) shall pay to the judgment debtor-tenant as liquidated damages 1% of the original amount of the judgment for each day of delinquency beyond such 30 days but not more than 50% of the original amount of the judgment. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.

(e) PROHIBITION AGAINST DISCHARGE.-- The employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.

(f) VICTIM OF ABUSE.-- This section shall not apply and no wage attachment shall be issued against an abused person or victim, as defined in 23 Pa.C.S. § 6102 (relating to definitions), for physical damages related to residential leases when said person has obtained a civil protection order pursuant to 23 Pa.C.S. § 6101 et seq. (relating to protection from abuse), or has obtained a protective order pursuant to 18 Pa.C.S. § 4954 (relating to protective orders), or is a victim-witness as defined by 18 Pa.C.S. § 4951 (relating to definitions), in a criminal proceeding against a family or household member, as defined in 23 Pa.C.S. § 6102, and it is determined by the court that the physical damages were caused by the family or household member.

(g) APPLICATION OF SECTION.-- This section shall apply to all judgments which remain unsatisfied or arise on or after the effective date of this subsection.

(h) DEFINITION.-- For purposes of this section, "physical damages" shall mean the abuse of the physical makeup of the leasehold premises. The term shall include, but not be limited to, the abuse of walls, floors, ceilings or any other physical makeup of the leasehold premises.

#### **42 Pa. Cons. Stat. § 8123. General monetary exemption**

(a) GENERAL RULE. --In addition to any other property specifically exempted by this subchapter, property of the judgment debtor (including bank notes, money, securities, real property, judgments or other indebtedness due the judgment debtor) to the value of \$ 300 shall be exempt from attachment or execution on a judgment. Within such time as may be prescribed by general rules the judgment debtor may claim the exemption in kind and may designate the specific items of property to which the exemption provided by this section shall be applicable unless the designated property is not capable of appropriate division, or the judgment debtor may claim the exemption in cash out of the proceeds of the sale.

(b) EXCEPTION.-- Subsection (a) shall not apply to any judgment:

(1) For support.

(2) Debtor who is not an individual.

(3) Obtained for board for four weeks or less.

(4) For \$ 100 or less obtained for wages for manual labor.

(5) Obtained in foreclosing a mortgage secured upon real property whether the judgment is by an action in mortgage foreclosure or an action on a note, bond or other evidence of indebtedness accompanying a mortgage. The exception to the general monetary exemption provided for in this paragraph shall be limited to the real property secured by the mortgage. The exception shall not apply to any deficiency judgment.

(c) EXECUTIONS ISSUED BY MINOR JUDICIARY. --As to executions issued by the minor judiciary the amount of the exemption specified in subsection (a) shall be reduced by the value of any real or personal property of the judgment debtor which is generally subject to attachment or execution but which by law is not subject to attachments or executions issued by the minor judiciary.

#### **42 Pa. Cons. Stat. § 8124. Exemption of particular property**

(a) GOODS.-- The following personal property of the judgment debtor shall be exempt from attachment or execution on a judgment:

(1) Wearing apparel.

(2) Bibles and school books.

(3) Sewing machines belonging to seamstresses or used and owned by private families, but not including sewing machines kept for sale or hire.

(4) Uniforms and accoutrements as provided by 51 Pa.C.S. § 4103 (relating to exemption of uniforms and equipment).

(b) RETIREMENT FUNDS AND ACCOUNTS.--

(1) Except as provided in paragraph (2), the following money or other property of the judgment debtor shall be exempt from attachment or execution on a judgment:

(i) Certain amounts payable under the Public School Employees' Retirement Code as provided by 24 Pa.C.S. § 8533 (relating to taxation, attachment and assignment of funds).

(ii) Certain amounts payable under the State Employees' Retirement Code as provided by 71 Pa.C.S. § 5953 (relating to taxation, attachment and assignment of funds).

(iii) The retirement allowance provided for in the act of May 24, 1893 (P.L. 129, No. 82).

(iv) Compensation or pension provided for in the act of May 20, 1915 (P.L. 566, No. 242).

(v) Compensation or pension provided for in the act of May 28, 1915 (P.L. 596, No. 259).

(vi) The retirement allowance, contributions and returned contributions under the act of February 1, 1974 (P.L. 34, No. 15), known as the "Pennsylvania Municipal Retirement Law."

(vii) Any pension or annuity, whether by way of a gratuity or otherwise, granted or paid by any private corporation or employer to a retired employee under a plan or contract which provides that the pension or annuity shall not be assignable.

(viii) Any retirement or annuity fund of any self-employed person (to the extent of payments thereto made while solvent, but not exceeding the amount actually excluded or deducted as retirement funding for Federal income tax purposes) and the appreciation thereon, the income therefrom and the benefits or annuity payable thereunder.

(ix) Any retirement or annuity fund provided for under section 401(a), 403(a) and (b), 408, 408A, 409 or 530 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a), 403(a) and (b), 408, 408A, 409 or 530), the appreciation thereon, the income therefrom, the benefits or annuity payable thereunder and transfers and rollovers between such funds. This subparagraph shall not apply to: (A) Amounts contributed by the debtor to the retirement or annuity fund within one year before the debtor filed for bankruptcy. This shall not include amounts directly rolled over from other funds which are exempt from attachment under this subparagraph. (B) Amounts contributed by the debtor to the retirement or annuity fund in excess of \$ 15,000 within a one-year period. This shall not include amounts directly rolled over from other funds which are exempt from attachment under this subparagraph. (C) Amounts deemed to be fraudulent conveyances. (2) The exemptions provided by paragraph (1)(i) through (vi) shall be subject to any inconsistent provision of the act of July 8, 1978 (P.L. 752, No. 140), known as the "Public Employee Pension Forfeiture Act."

(c) INSURANCE PROCEEDS. --The following property or other rights of the judgment debtor shall be exempt from attachment or execution on a judgment:

(1) Certain amounts paid, provided or rendered by a fraternal benefit society as provided by 40 Pa.C.S. § 6531 (relating to benefits not attachable).

(2) Claims and compensation payments under the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Law," except as otherwise provided in the act.

(3) Any policy or contract of insurance or annuity issued to a solvent insured who is the beneficiary thereof, except any part thereof exceeding an income or return of \$ 100 per month.

(4) Any amount of proceeds retained by the insurer at maturity or otherwise under the terms of an annuity or policy of life insurance if the policy or a supplemental agreement provides that such proceeds and the income therefrom shall not be assignable.

(5) Any policy of group insurance or the proceeds thereof.

(6) The net amount payable under any annuity contract or policy of life insurance made for the benefit of or assigned to the spouse, children or dependent relative of the insured, whether or not the right to change the named beneficiary is reserved by or permitted to the insured. The preceding sentence shall not be applicable to the extent the judgment debtor is such spouse, child or other relative.

(7) The net amount payable under any accident or disability insurance.

(8) Certain amounts paid, provided or rendered by a fraternal benefit society as provided by section 305 of the act of July 29, 1977 (P.L. 105, No. 38), known as the "Fraternal Benefit Society Code."

(9) Certain amounts paid, provided or rendered under the provisions of section 106(f) of the act of July 19, 1974 (P.L. 489, No. 176), known as the "Pennsylvania No-fault Motor Vehicle Insurance Act."

(10) Certain amounts paid, provided or rendered under the provisions of section 703 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the "Unemployment Compensation Law."

#### **40 Pa. Cons. Stat. § 514. Retaining proceeds under policy; anticipating or alienating; rights of creditors**

Whenever under the terms of any annuity or policy of life insurance, or under any written agreement supplemental thereto, issued by any insurance company, domestic or foreign, lawfully doing business in this State, the proceeds are retained by such company at maturity or otherwise, no person entitled to any part of such proceeds, or any instalment of interest due or to become due thereon, shall be permitted to commute, anticipate, encumber, alienate or assign the same, or any part thereof, if such permission is expressly withheld by the terms of such policy or supplemental agreement; and, further, that such company shall not be required to segregate such funds, but may hold them as a part of its general corporate funds.

#### **77 Pa. Cons. Stat. § 621. Preference right of compensation against assets of employer; prohibition of assignment**

The right of compensation granted by this article of this act shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in

the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act and compensation payments made by virtue thereof shall not be assignable.

#### **43 Pa. Cons. Stat. § 863. No assignment of compensation; exemptions**

No assignment, pledge, or encumbrance of any right to compensation which is or may become due or payable under this act shall be valid, and such rights to compensation shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Compensation payments received by an employe, so long as they are not mingled with other funds of the employe, shall be exempt from any remedy whatsoever for the collection of all debts, except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this section shall be valid: Provided, however, That upon receipt of notification, the department shall forward to the Department of Public Assistance benefit checks equal to amount of public assistance paid to an individual for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed.

#### **51 Pa. Cons. Stat. § 20012. Exemption from attachment, etc.; assignments to veterans' organizations**

No sum payable under this act to a veteran, or to any other person under this act, shall be subject to attachment, levy, or seizure under any legal or equitable process, and shall be exempt from all state taxation. No right to compensation under the provisions of this act shall be assignable, except as hereinafter provided, or serve as a security for any loan. Any assignment or loan made in violation of the provisions of this section shall be held void: Provided, however, That assignments to any group or organization of veterans, incorporated or unincorporated, or to any nonprofit corporation heretofore formed solely for aiding disabled or incapacitated veterans, and assignments to the State Veterans' Commission, shall be valid. The State Veterans' Commission is hereby authorized to accept such assignments, which shall be treated as confidential, and the funds realized from such assignments shall be expended by said commission solely for the aid of needy veterans and their families. Except as in this section provided, the Adjutant General shall not direct the payment, nor shall payment be made, under this act, to any person other than a veteran, or the representatives of a veteran, as in this act provided.

#### **51 Pa. Cons. Stat. § 20048. Exemption from attachment, etc.**

No sum payable under this act to a veteran, or to any other person under this act, shall be subject to attachment, levy or seizure under any legal or equitable process and shall be exempt from all State taxation. No right to compensation under the provisions of this act shall be assignable, except as hereinafter provided or serve as a security for any loan. Any assignment or loan made in violation of the provisions of this section shall be held void: Provided, That assignments to any group or organization of veterans, incorporated or unincorporated, or to any nonprofit corporation, heretofore formed solely for aiding disabled or incapacitated veterans and assignments to the State Veterans' Commission shall be valid. The State Veterans' Commission is hereby authorized to accept such assignments, which shall be treated as confidential, and the funds realized from such assignments shall be expended by said commission solely for the aid of needy veterans and their families. Except as in this section provided, the Adjutant General shall not direct the payment, nor shall payment be made, under this act to any person other than a veteran or the representatives of a veteran as in this act provided.

#### **51 Pa. Cons. Stat. § 20098. Exemption from attachment, etc.**

No sum payable under this act to a veteran or to any other person under this act shall be subject to attachment, levy or seizure under any legal or equitable process, and shall be exempt from all State taxation. No right to compensation under

the provisions of this act shall be assignable, except as hereinafter provided, or serve as a security for any loan. Any assignment or loan made in violation of the provisions of this section be held void. Assignments to any group or organization of veterans, incorporated or unincorporated, or to any nonprofit corporation heretofore formed, solely for aiding disabled or incapacitated veterans and assignments to the State Veterans' Commission shall be valid. The State Veterans' Commission is hereby authorized to accept the assignments which shall be treated as confidential, and the funds realized from them shall be expended by the commission solely for the aid of needy veterans and their families. Except as in this section provided, the Adjutant General shall not direct the payment nor shall payment be made under this act to any person other than a veteran or the representatives of a veteran, as in this act provided.

#### **51 Pa. Cons. Stat. § 20127. Exemption from attachment, etc.**

No sum payable under this act to a veteran or to any other person under this act shall be subject to attachment, levy or seizure under any legal or equitable process, and shall be exempt from all State taxation. No right to compensation under the provisions of this act shall be assignable, except as hereinafter provided, or serve as a security for any loan. Any assignment or loan made in violation of the provisions of this section shall be held void. Assignments to any group or organization of veterans, incorporated or unincorporated, or to any nonprofit corporation heretofore formed, solely for aiding disabled or incapacitated veterans and assignments to the State Veterans' Commission shall be valid. The State Veterans' Commission is hereby authorized to accept the assignments which shall be treated as confidential, and the funds realized from them shall be expended by the commission solely for the aid of needy veterans and their families. Except as in this section provided, the Adjutant General shall not direct the payment nor shall payment be made under this act to any person other than a veteran or the representatives of a veteran, as in this act provided.

#### **42 Pa. Cons. Stat. § 8125. Tangible personal property exhibited at international exhibitions**

Tangible personal property on exhibition or deposited by exhibitors at any international exhibition held under the auspices of the Federal Government shall be exempt from distress, attachment, levy, sale or any other seizure for any cause whatsoever in the hands of the authorities of such exhibition or otherwise.

#### **51 Pa. Cons. Stat. § 4103. Exemption of uniforms and equipment**

The uniform and accoutrements of every commissioned officer and enlisted person shall be free from all suits, distresses, executions or sales for debt or payments of taxes.

#### **39 Pa. Cons. Stat. § 102. Exemption of after-acquired estate from execution**

Whenever a majority in number and value of the creditors of an insolvent, who has made a voluntary assignment for the benefit of his creditors, shall consent in writing thereto, it shall be lawful for the court, upon application of such debtor, and notice thereof given to all undischarged creditors, in the manner hereinbefore provided for giving notice of the meeting of creditors, to make an order that the estate and effects which such insolvent may afterwards acquire shall be exempted, for the term of seven years thereafter, from execution, for any debt contracted or cause of action existing previously to such assignment, and if, after such order and consent, any execution shall be issued for such debt or cause of action, it shall be the duty of any judge of the court from which such execution issued to set aside the same, with costs.

#### **16 Pa. Cons. Stat. § 4716. Contribution or retirement allowance not subject to levy, attachment or assignment; suspension of retirement allowances; ineligibility**

No contribution, retirement allowance or service increment shall be subject to levy, sale, execution, attachment, garnishment, or any other process whatsoever, and shall not be subject to assignment or transfer. Said retirement allowance and service increment shall be exempt from any State tax or tax of any political subdivision.

**53 Pa. Cons. Stat. § 13445. Pension exempt from attachment or execution and nontransferable**

The compensation or pension herein mentioned shall be payable only to the beneficiary designated in this act, and shall not be subject to assignment or transfer.

**53 Pa. Cons. Stat. § 23572. Pension exempt from attachment or execution; not subject to assignment**

The compensation or pension herein mentioned shall be payable only to the beneficiary designated by this act, and shall not be subject to assignment or transfer.

**53 Pa. Cons. Stat. § 39351. Funds payable to be free of attachment**

The compensation or pension herein mentioned shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated, and shall not be subject to assignment or transfer.

**53 Pa. Cons. Stat. § 39383. Exemption from attachment or execution; nonassignability**

The compensation, herein mentioned, shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated by this act, and shall not be subject to assignment or transfer.

**71 Pa. Cons. Stat. § 5953. Taxation, attachment and assignment of funds**

(a) GENERAL RULE.--

(1) Except as provided in paragraphs (2), (3) and (4), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, or any other process whatsoever except for a set-off by the Commonwealth in the case provided in subparagraph (i), and shall be unassignable except:

(i) To the Commonwealth in the case of a member who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment or to the fund on account of a loan from a credit union

which has been satisfied by the board from the fund.

(ii) To a credit union as security for a loan not to exceed \$ 750 and interest not to exceed 6% per annum discounted and/or fines thereon if the credit union is now or hereafter organized and incorporated under the laws of this Commonwealth and the membership of such credit union is limited solely to officials and employees of the Commonwealth and if such credit union has paid to the fund \$ 3 for each such assignment.

(2) Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L. 752, No. 140), known as the Public Employee Pension Forfeiture Act, and by or pursuant to section 16(b) of Article V of the Constitution of

Pennsylvania. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(3) Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(4) Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover.

For purposes of this paragraph, a "DISTRIBUTE" includes a member and a member's surviving spouse and a member's former spouse who is an alternate payee under an approved domestic relations order. For purposes of this paragraph, the term "ELIGIBLE ROLLOVER DISTRIBUTION" has the meaning given such term by IRC § 402(f)(2)(A), and "ELIGIBLE RETIREMENT PLAN" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "INDIVIDUAL RETIREMENT ACCOUNT" or an "INDIVIDUAL RETIREMENT ANNUITY" as those terms are defined in IRC § 408(a) and (b).

(b) AUTHORIZED PAYMENTS FROM FUND.-- The board shall be authorized to pay from the fund:

(1) In the case of a member who is terminating service, the amount determined after certification by the head of the department that the member is so obligated, and after review and approval by the department or agency's legal representative or upon receipt of an assignment from the member in the amount so certified.

(2) In the case of a loan the amount of the loan and any fine or interest due thereon to the credit union except 5% of the total amount due which is to be retained in the fund as a collection fee:

(i) if the member obtaining the loan shall have been in default in required payments for a period of not less than two years; or

(ii) at such time as the Department of Banking shall require the credit union to charge the amount of the loan against the reserve fund of such credit union.

Any member who shall have pledged such rights as security for a loan from a credit union and, on whose behalf the board shall have made any payment by reason of that member's default, may not thereafter pledge or assign such rights to a credit union. Subsection (a): Section 703 [71 Pa.C.S. § 5953] deletes the preferential treatment accorded a state employees' credit union. The addition of "spouse's election" clarifies the results intended by the amendment of November 27, 1970, (Act No. 260) to Section 8 of the "Estates' Act of 1947," April 24, P.L. 100 [20 Pa.C.S. §§ 6107, 6108], which expressly made annuity, endowment and employee benefit plans nontestamentary and hence not subject to the spouse's election.

**53 Pa. Cons. Stat. § 764. Allowance not subject to legal process; not assignable or transferable**

The retirement allowance herein provided for shall be payable only to the beneficiary designated by this act and shall not be subject to assignment or transfer.

**24 Pa. Cons. Stat. § 8533. Taxation, attachment and assignment of funds**

(a) GENERAL RULE.-- Except as provided in subsections (b), (c) and (d), the right of a person to a member's annuity, a State annuity, or retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this part, and the moneys in the fund are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable.

(b) FORFEITURE.-- Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L. 752, No. 140), known as the Public Employee Pension Forfeiture Act. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(c) DOMESTIC RELATIONS ORDER.-- Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(d) DIRECT ROLLOVER.-- Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, a "distributee" includes a member and a member's surviving spouse and a member's former spouse who is an alternate payee under an approved domestic relations order. For purposes of this subsection, the term "eligible rollover distribution" has the meaning given such term by IRC § 402(f)(2)(A) and "eligible retirement plan" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC § 408(a) and (b).

**53 Pa. Cons. Stat. § 881.115. Exemption of retirement allowance**

The retirement allowance and the contributions of members to the fund, all contributions returned to contributors under the provisions of this act and the moneys in the fund created by this act, shall be exempt from any State or municipal tax, and shall be unassignable except to a beneficiary.

**15 Pa. Cons. Stat. § 8342. Nature of right of partner in specific partnership property**

(a) GENERAL RULE.-- A partner is co-owner with his partners of specific partnership property, holding as a tenant in partnership.

(b) INCIDENTS OF TENANCY.-- The incidents of this tenancy are as follows:

(1) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes, but he has no right to possess the property for any other purpose without the consent of his partners.

(2) The right of a partner in specific partnership property is not assignable except in connection with the assignment of the rights of all partners in the same property.

(3) The right of a partner in specific partnership property is not subject to attachment or execution except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(4) On the death of a partner, his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in the property vests in his legal representative. The surviving partner or partners, or the legal representative of the last surviving partner, has no right

to possess the partnership property for any but a partnership purpose.

(5) The right of a partner in specific partnership property is not subject to dower, curtesy or allowances to surviving spouses, heirs or next of kin.

#### **42 Pa. Cons. Stat. § 9728. Collection of restitution, reparation, fees, costs, fines and penalties**

##### (a) GENERAL RULE.--

(1) Except as provided in subsection (b)(5), all restitution, reparation, fees, costs, fines and penalties shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county for that purpose in any manner provided by law. However, such restitution, reparation, fees, costs, fines and penalties are part of a criminal action or proceeding and shall not be deemed debts. A sentence, pretrial disposition order or order entered under section 6352 (relating to disposition of delinquent child) for restitution, reparation, fees, costs, fines or penalties shall, together with interest and any additional costs that may accrue, be a judgment in favor of the probation department upon the person or the property of the person sentenced or subject to the order.

(2) In accordance with section 9730.1 (relating to collection of court costs, restitution and fines by private collection agency), the collection of restitution, reparation, fees, costs, fines and penalties under this section may be referred to a private collection agency. Statistical information relating to the amount of restitution collected by the county probation department or any agent designated by the county commissioners of the county with the approval of the president judge of the county shall be made available to the Pennsylvania Commission on Crime and Delinquency on an annual basis.

##### (b) PROCEDURE.--

(1) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the prothonotary certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed \$ 1,000, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(2) The clerk of courts, in consultation with other appropriate governmental agencies, may transmit to the prothonotary of the respective county certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, do not exceed \$ 1,000, and, if so transmitted, it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(3) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the Department of Probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county and to the county correctional facility to which the offender has been sentenced or to the Department of Corrections, whichever is appropriate, copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties.

(4) The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced or ordered, regardless of whether the amount has

been ordered to be paid in installments.

(5) The county correctional facility to which the offender has been sentenced or the Department of Corrections shall be authorized to make monetary deductions from inmate personal accounts for the purpose of collecting restitution or any other court-ordered obligation. Any amount deducted shall be transmitted by the Department of Corrections or the county correctional facility to the probation department of the county or other agent designated by the county commissioners of the county with the approval of the president judge of the county in which the offender was convicted. The Department of Corrections shall develop guidelines relating to its responsibilities under this paragraph.

(B.1) RESTITUTION FILE.-- Upon receipt of each order from the clerk of courts as provided in subsection (b)(3), the department of probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county shall open a restitution file for the purposes of recording the amounts of restitution deducted by the Department of Corrections or county correctional facility or collected by the department of probation or the agent designated by the county commissioners of the county with the approval of the president judge of the county.

(c) PERIOD OF TIME.-- Notwithstanding section 6353 (relating to limitation on and change in place of commitment) or 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crimes of which he was convicted or the maximum term of confinement to which the offender was committed.

(d) PRIORITY.-- Notwithstanding any other statutory provisions in this or any other title, any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

(e) PRESERVATION OF ASSETS SUBJECT TO RESTITUTION.-- Upon application of the Commonwealth, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property which may be necessary to satisfy an anticipated restitution order under this section:

(1) upon the filing of a criminal complaint, information or indictment charging a criminal violation or a petition alleging delinquency for which restitution may be ordered and alleging that the property with respect to which the order is sought appears to be necessary to satisfy such restitution order and judgment; and

(2) if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that:

(A) the Commonwealth will prevail on the underlying criminal charges or allegation of delinquency;

(B) restitution will be ordered exceeding \$ 10,000 in value;

(C) the property appears to be necessary to satisfy such

restitution order; and

(D) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for payment of the anticipated restitution order; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(f) TEMPORARY RESTRAINING ORDER.-- A temporary restraining order under subsection (e) may be entered upon application of the Commonwealth without notice or opportunity for a hearing, whether or not a complaint, information, indictment or petition alleging delinquency has been filed with respect to the property, if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this section and that provision of notice will jeopardize the availability of the property to satisfy such restitution order and judgment. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary order.

(g) COSTS, ETC.-- Any sheriff's costs, filing fees and costs of the county probation department, clerk of courts or other appropriate governmental agency, including any reasonable administrative costs associated with the collection of restitution, shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

(G.1) PAYMENT.-- No less than 50% of all moneys collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county pursuant to subsection (b)(1) and deducted pursuant to subsection (b)(5) shall, until the satisfaction of the defendant's restitution obligation, be used to pay restitution to victims. Any remaining moneys shall be used to pay fees, costs, fines, penalties and other court-ordered obligations.

**Note:** Laws may have changed since our last update. For the latest information on your state's bankruptcy laws, speak to a local bankruptcy lawyer.