

CHANGES IN THE NEW YORK EXEMPTION LAWS

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On December 23, 2010 New York State enacted legislation increasing the New York State exemptions. The new law take became effective on January 22, 2011. The exemptions a debtor may claim from a judgment creditor or in Bankruptcy are summarized below.

Statute	Item	New Value	Changes	Federal Exemption	
CPLR 5205(a)(1)	Stoves (all) Home heating equipment Fuel for heating equipment for 120 days Sewing machine (one)	\$10,000 \$10,000 \$10,000 \$10,000	Value limit increased from \$5,000 to \$10,000 Fuel used to be for 60 days	§522(d)(3) - \$11,525 limit and includes a musical instrument	
CPLR 5205(a)(2)	Religious texts Family pictures/portraits School books Other books	\$10,000 \$10,000 \$10,000 \$500	Religious texts used to be limited to family bible Value limit increased from \$5,000 to \$10,000 Other books value limit increased from \$50 to \$500		
CPLR 5205(a)(4)	Domestic animals & necessary food for animals for 120 days All necessary food for debtor and family for 120 days	\$1,000 \$10,000	Value limit increased from \$450 to \$1,000 Food used be 60 days Value limit increased from \$5,000 to \$10,000 Food used be 60 days		
CPLR 5205(a)(5)	Wearing apparel Household furniture Refrigerator (one) Radio (one) Television (one) Computer (one) and associated equipment Cell Phone (one) Crockery Tableware & cooking utensils Prescribed health aids	\$10,000	Value limit increased from \$5,000 to \$10,000 Computer is newly exempted Cell phone is newly exempted Prescribed health aids used to be CPLR 5205(h)(1)		§522(d)(9) - unlimited exemption for health aids
CPLR 5205(a)(3)	Seat in place of public worship	\$10,000	Value limit increased from \$5,000 to \$10,000		

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CPLR 5205(a)(6)	Wedding ring (not engagement ring) Watch, jewelry and art	\$10,000 \$1,000	Value limit increased from \$5,000 to \$10,000	§522(d)(4) - \$1,450
CPLR 5205(a)(7)	Tools of trade, necessary working tools, including those of a mechanic, farm machinery, team, professional instruments, furniture and library, and food for team for 120 days	\$3,000	Tools of the trade is newly exempt Value limit increased from \$600 to \$3,000 Food used to be 60 days	§522(d)(6) - \$2,175
CPLR 5205(a)(8) and Debtor & Creditor Law 282(1)	Motor vehicle (one) Motor vehicle (one) equipped for a disabled debtor	\$4,000 above existing liens, but no exemption if claim is for DSO \$10,000 above existing liens, but no exemption if claim is for DSO	Value limit increased from \$2,500 to \$4,000 Motor vehicle for disabled debtor is newly exempt	§522(d)(2) - \$3,450
Debtor & Creditor Law 283(1)	Personal property	\$10,000	Value limit increased from \$5,000 to \$10,000	§522(d)(3) any personal item up to \$550
CPLR 5205(a)(9) and Debtor & Creditor Law 283(2)	Bank account or cash Bank account or cash	\$1,000 if no homestead exemption is claimed \$10,000 lesser of (1) \$10,00 minus the aggregate value of exempt property, or (2) \$5,00	5205(a)(9) is a new exemption Value limit increased from \$2,500	§522(d)(5) "Wildcard" Exemption Any Item -\$1,150 plus up to \$10,825 of any unused exemption
CPLR 5205(b)	Claims for loss/destruction of exempt property	No limit	No changes	
CPLR 5205(c)	Property in trust, insurance contracts created by another for benefit of the Debtor	No limit	No changes	§522(d)(11)(c) – no limit as beneficiary of policy
CPLR 5205(d)(1)	Income from Trust	90%	No changes	

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CPLR 5205 (d)(2)	Income from employment	90%	No changes	
CPLR 5205 (d)(3) and Debtor & Creditor Law 282(2)(d)	Alimony or child support	No limit	No changes	§522(d)(10)(D) – no limit
CPLR 5205 (e) and Debtor & Creditor Law 282(2)	Military pay, pension, equipment-exempt except support payments	No limit	No changes	§522(d)(10)(B),(C) and (E)
CPLR 5205(g)	Security deposits	No limit	No changes	
CPLR 5205 (j)	NYS College tuition savings program	Limited to \$10,000 is debtor is not a minor, otherwise no limit	No changes	
CPLR 5206(a)	(a) Homestead owned and occupied as principal residence (i) lot of land with dwelling; (ii) shares of stock in coop apartment; (iii) units of condominium apartment; (iv) mobile home.	\$150,000 Queens, NY, Bronx, Richmond, Nassau, Suffolk, Rockland, Westchester, Putnam \$125,000 Dutchess, Albany, Columbia, Orange, Saratoga, Ulster \$75,000 all other	Value limit increased from \$50,000	§522(d)(1) - \$21,625
CPLR 5206(f)	Land set aside as a burying ground, if (i) a portion of the land must have been actually used for that purpose, (ii) no exceed ¼ acre; (iii) not contain building except vaults or mortuary monuments		No changes	No federal exemption
Debtor & Creditor Law 282 (2)	Right to receive benefits: (a) social security benefit, unemployment compensation or local public assistance benefit (b) veterans benefit	No limit	No changes	§522(d)(10) – No limit

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	<p>(c) disability, illness or unemployment benefit</p> <p>(d) alimony, support, maintenance necessary for support of family</p> <p>(e) payments under a stock bonus, pension, profit sharing or similar plan or contract on account of illness, disability, death, age or length of service unless (i) such plan or contract (except those qualified under 401, 408 or 408A of the IRC) was established by the debtor, (ii) such plan is on account of age or length of service (iii) such plan does not qualify under 401a, 403a409 or 457 of IRC.</p>			
Debtor & Creditor Law 282(3)	<p>Right to receive property:</p> <p>(i) award under crime victim reparation law;</p> <p>(ii) payment on account of wrongful death of 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;</p> <p>(iii) payment not to exceed \$7,500 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss of the debtor or an individual of who the debtor is dependent</p> <p>(iv) payment in compensation of future earnings of the debtor or an individual of whom the debtor is or was a dependent</p>	<p>No limit</p> <p>No limit</p> <p>\$7,500</p> <p>No limit</p>	<p>No changes</p>	<p>§522(d)(11)(a) – No limit</p> <p>§522(d)(11)(b) – No limit</p> <p>§522(d)(11)(D) – \$21,625</p> <p>§522(d)(11)(e) – No limit</p>

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	to the extent reasonably necessary for the debtor and any dependent of the debtor.			
Debtor & Creditor Law 283 (1)	Annuity contracts if (a) initially purchased within 6 months of bankruptcy filing; (b) not per 805(d) of IRC; and (c) not purchased with proceeds under settlement options of annuity contracts purchased more than 6 months before bankruptcy or under settlement options of life ins policies	No limit	No changes	§522(d)(12)
NY Edu Law 524	Teachers' Retirement Plan	No limit	No changes	
NY Gen Mun Law 206-b and NY Vol Fire Ben Law 23	Volunteers firefighter's insurance benefits	No limit	No changes	
NY Ins Law 4607 NY Uncosol Law 5711-o	Pension – public retirement system Pension – village police	No limit	No changes	
NY Labor Law 595	Unemployment insurance	No limit	No changes	
NY P'shp Law 51	Partnership property	No limit	No changes	
NY Ret & SS Law 110	Pensions for NYS employees	No limit	No changes	
NY Work Comp Law 33, 218, Labor Law 595(2)	Worker's Compensation or disability benefits	No limit	No changes	
Insurance Law 3212	Insurance Policies (term)	No limit	No changes	§522(d)(7) – no limit on term §522(d)(8) - \$11,525 limit on whole life insurance policies
CPLR 5256	Cost of living adjustment	Starting every 3 years commencing on April 1, 2010, the dollar amount exemptions will be adjusted based upon the cost of living. The adjustment will be based upon the consumer price index published by the US Dept of Labor.		
Debtor & Creditor Law 285	Alternative Federal Exemptions Election	This is a new statute that allows a debtor to elect between the NYS exemptions found in the CPLR and DCL and the federal Bankruptcy exemptions found in Bankruptcy Code §522		