

Exempt Property Issues

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Today's Class

Resources & Pre-Quiz

Protected Property Hearings
& Exempt Property Review

Scenarios

Reminders

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Resources & Pre-Quiz

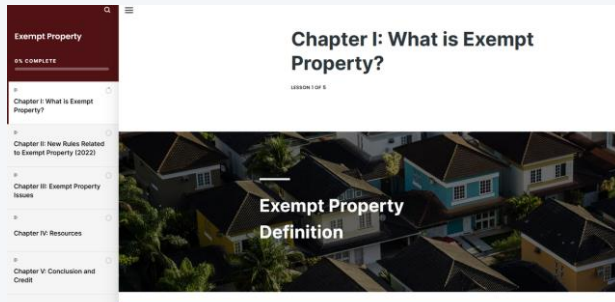


Are you up-to-date on exempt
property issues??

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Resources

- Exempt Property Self-Paced Module



- Civil Deskbook (*page 157*)
- TX Rules of Civil Procedure

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Forms

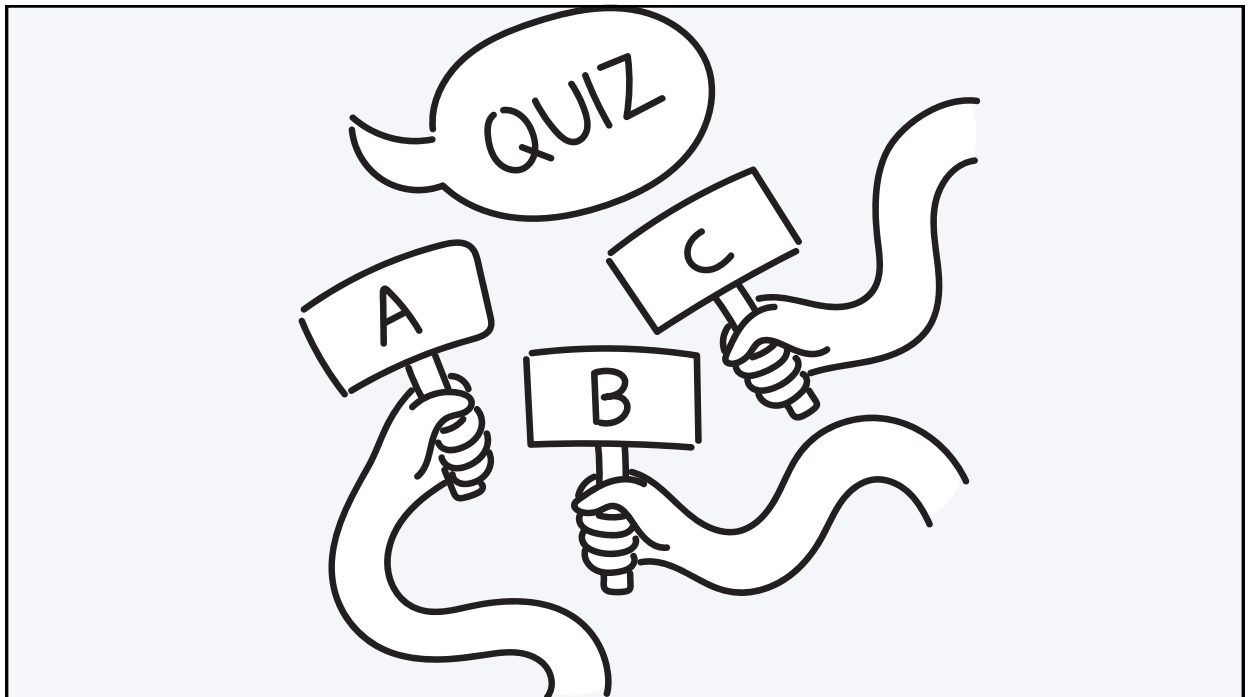
- Exempt Property Claim Form (*Texas Supreme Court*)
- Exempt Property Claim Form – Instructions (*Texas Supreme Court*)
- Notice of Protected Property Rights (*Bilingual; Texas Supreme Court*)
- Updated judgment forms for all money judgments
- Updated garnishment forms
- All forms can be found on TJCTC Forms Page:
<https://www.tjctc.org/tjctc-resources/forms.html>

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Resources You May Provide to the Public

- Toolkit: My Debt Collection Rights in Texas by Texas Appleseed - <https://mydebtcollectionrights.org/>
- Texas Law Help - <https://texaslawhelp.org/>
- Texas State Law Library Self-Help - <https://www.sll.texas.gov/legal-help/>
- Texas Attorney General Debt Collection and Relief - <https://www.texasattorneygeneral.gov/consumer-protection/financial-and-insurance-scams/debt-collection-and-relief>
- TJCTC Self-Represented Litigant Page - www.tjctc.org/srl

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So you think you know Exempt Property?

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QUESTION #1

Multiple Choice

The court must determine a judgment debtor's exemption claim within _____ days after the claim is filed.

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QUESTION #2

True / False

Any personal property that is used to run a business is exempt under the “tools of the trade” exception.

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QUESTION #3

Multiple Choice

Which of the following are a category of exempt personal property?

- Government Benefits
- Homestead
- Burial Plots
- Personal Savings Account

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Protected Property Forms



Remember: Make sure judgment debtors have your contact information.



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Protected Property Forms

- The *judgment creditor or receiver* must serve the Notice of Protected Property Rights, Protected Property Claim Form, and Instructions
- It is still important for you to know what is in them and have them handy in case you need to refer to them.
- You can always let the judgment debtor know they exist/are coming. This can speed up the process and is good community service.
- Make sure they have your contact info in case they file a claim, especially if you are serving for a court you don't regularly have contact with!

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New Garnishment Notice

- Must be given *by Plaintiff to Defendant* on the front of the writ
- Explains exemptions to garnishment
- Explains how to use the new forms for seeking an exemption
- Includes how to find legal help & replevy options

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New Rule 679a

- Requires a justice of the peace to use the new Order Appointing Receiver in Justice Courts form
- Requires all courts to include language regarding the process to seek an exemption under Rule 679b by either using the above form or adding in some required language in this rule

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New Rule 679b

- Outlines the notice and process for a judgment debtor to make a personal property seizure exemption claim.

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Forms

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Exempt Property Hearings



Remember: The judge can develop the facts. *Rule 500.6*



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Hearing Procedure

- Judgment debtor files a Protected Property Claim for or another sworn document with the same information.
- Court sets the hearing and notifies the parties (including receivers, constables, or sheriffs involved in the case).
 - Hearing must be within 10 days of when the exemption claim was filed unless there is good cause to extend the time.
- The receiver or officer cannot sell the judgment debtor's property until after the court determines the exemption claim.

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Questions

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Scenarios



Remember: You can use your phones to look at online resources.



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Scenario 1

ABC Legal v. Debra Defendant
Is the vehicle exempt?

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Scenario 1 ABC Legal v. Debra Defendant *What should Bobby Bailiff do??*

"I went to 123 W Street to make demand on a writ of execution against Debra Defendant. There were 3 cars in the driveway, so I looked up who the registered owners were. When I saw that Debra had 2, I decided to seize one if Debra didn't point out any other property to seize. I know 123 W Street is her homestead, because the plaintiff's attorney did some research and shared it with me"

- 3 cars at her home: 1 registered to Mark Defendant and Debra Defendant (minivan), 1 registered to Debra Defendant (Tahoe), and one registered to Grandma Defendant (car)
- Grandma Defendant's has been expired for 4 years.
- I didn't see a handicap placard in any of the vehicles
- I don't know if the son has a driver's license
- The plaintiff's attorney suggested the seizure of the Tahoe.

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Scenario 1 Discussion

ABC Legal v. Debra Defendant
What questions should Bobby have asked?

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Scenario 2

Tiger Financial v. Bobby Bennett, d.b.a. Bennett Books
Homestead?

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Scenario 2

Tiger Financial v. Bobby Bennett, d.b.a.
Bennett Books – Protected Property
Claims + Homestead

Cathy Constable’s Testimony in Justice Court: “I went to make demand on Bobby, and he lost it. He was very angry and kept ranting about how I can’t take his home. The plaintiff’s attorney had emailed me property records when I received the writ. Bobby’s homestead is a ranch, and it doesn’t even matter. I don’t think this court gets to decide anyway. Of course, I’ll do what you want judge, but I thought real property decisions were not in this court.”

The plaintiff’s research also shows that Bobby owes back taxes on his bookstore as well and his wife filed for divorce 10 years ago, but the case was eventually closed.

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Scenario 2 Discussion

Tiger Financial v. Bobby Bennett, d.b.a.
Bennett Books
Did Cathy do the right thing?

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Scenario 3

Perry Plaintiff v. Danny Defendant
Is the travel trailer exempt?

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Scenario 3

Perry Plaintiff v. Danny Defendant

What should the constable do?

Danny Defendant

"I got into some financial trouble after I retired. I thought I saved enough, but I didn't. I do owe Perry money, but he can't take my home. I live in my trailer. Also, the only money I get is my Social Security Retirement."

- Sold his farm a few months ago and moved into his travel trailer.
- Travel trailers is parked at the local RV Park.

Perry Plaintiff

"Travel Trailers aren't exempt. They are personal property, and I should be able to take it to get paid back."

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Scenario 3 Discussion

Perry Plaintiff v. Danny Defendant

How do you handle travel trailers in an execution?

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Lightening Round



Remember: You can use your phones to look at online resources.



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Lightening Round 1

I have a writ only for Mr. Smith, but all of his properties are owned by Mr. & Mrs. Smith. Are they exempt?

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Lightening Round 2

A plaintiff's attorney wants me to levy on some rural property, but the judgment debtor's attorney says a rural homestead doesn't have to be contiguous. Who is right?!

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Lightening Round 3

So, I seized some firearms.
What do I do now?!

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Reminders



Remember: Don't forget about the Exempt Property Module!



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Thank You

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