

Is an Unemployment Compensation Payment Exempt?

Lawrence R. Ahern, III
Brown & Ahern
Nashville, Tennessee

Appendix

A survey of selected jurisdictions, adapted from Appendix B to the 2019 edition of WEST'S BANKRUPTCY EXEMPTION MANUAL, appears below. The EXEMPTION MANUAL contains additional exceptions, qualifications and commentary concerning these exemptions and should be consulted before relying on the summaries below. In addition, of course, authorities should be checked for recent legislative changes, judicial interpretation and any additional "wild card" or similar exemptions.

Unless otherwise indicated, each jurisdiction has opted out of the federal exemption scheme. Debtors are permitted to claim as exempt only property that is exempt under state law and under federal laws other than 11 U.S.C. § 522(d).

In non-opt-out jurisdictions, unless otherwise indicated, debtors are permitted to claim as exempt either property that is exempt under 11 U.S.C. § 522(d) or property that is exempt under the local law of the jurisdiction and under other federal laws.

Table of Selected State Exemptions Related to Unemployment Compensation

Jurisdiction	Exemption	Scope	Authority
Alabama	Unemployment Compensation Benefits	Unlimited	Ala. Code § 25-4-140
Alaska Alaska has not opted out of the federal exemptions.	Earnings	\$473 from net earnings (weekly) but see Alaska Stat. § 09.38.050	Alaska Stat. § 09.38.030(a), 8 Alaska Admin. Code 95.030(d)(1)
Arizona	Employment Security Benefits	100%	Ariz. Rev. Stat. Ann. § 23-783(A)
California	Unemployment Compensation Disability and Unemployment Benefits	All	Cal. Code Civ. Proc. § 704.120
	Benefits	No dollar limit	Cal. Code Civ. Proc. § 703.140(b)(10)

Jurisdiction	Exemption	Scope	Authority
Connecticut Connecticut has not opted out of the federal exemptions.	Workers' Compensation, Social Security, Veterans, and Unemployment Benefits	All	Conn. Gen. Stat. § 52-352b(g)
Delaware	Unemployment Compensation	100%	19 Del. Code Ann. § 3374
District of Columbia The District of Columbia has not opted out of the federal exemptions.	Property of Head of Family or Householder Who Resides in or Earns Major Portion of Livelihood in District of Columbia	(7) Debtor's right to receive: ... (C) ... unemployment benefits.	D.C. Code § 15-501(a)(1)-(15)
	Unemployment Compensation	100%	D.C. Code § 51-118(b)(1)
Florida	Unemployment Compensation	Unlimited, except from child support obligations	Fla. Stat. Ann. §§ 222.201, 443.051; 11 U.S.C. § 522(d)(10)(A)
Georgia	Benefit Payments, Alimony, and Support	Unlimited	Ga. Code Ann. § 44-13-100(a)(2)
Hawaii Hawaii has not opted out of the federal exemptions.	Unemployment Compensation and Benefits	100%	Haw. Rev. Stat. §§ 383-1, 383-163
	Wages Paid by Unemployment Work Relief Funds	Up to, but not including, \$60 per month	Haw. Rev. Stat. § 653-4
Idaho	State Unemployment Compensation	No limitation	Idaho Code § 11-603(6)
Illinois	Debtor's Right to Receive: Social Security, Unemployment Compensation, Public Assistance, Veteran's Benefits, Disability, Illness or Unemployment Benefit; Alimony,	To the extent reasonably necessary for the support of the debtor and any dependent of debtor	735 Ill. Comp. Stat. 5/12-1001(g)

Jurisdiction	Exemption	Scope	Authority
	Support, Separate Maintenance		
Kansas	Social Security, Unemployment, and Compensation or Local Public Assistance	Unlimited	Kan. Stat. Ann. §§ 60-2312(b) and 60-2313(a)(2); Kan. Stat. Ann. § 39-717(c); 11 U.S.C. § 522(d)(10)(A)
	Unemployment Benefits	Unlimited	Kan. Stat. Ann. §§ 60-2313(a)(4) and 44-718
Louisiana	Unemployment Compensation Benefits	100%	La. Rev. Stat. Ann. § 23:1693 exceptions in La. Rev. Stat. Ann. § 23:1693(B) of child support and legal process
Maine	Benefit Payments	Unlimited	14 Me. Rev. Stat. § 4422(13)(A) to (C)
Maryland	Unemployment Insurance Benefits	Nonassignable and not subject to attachment or execution unless commingled with other funds after receipt.	Md. Code Ann., Labor & Emp. § 8-106(b)
Michigan Michigan has not opted out of the federal exemptions. However, Mich. Comp. Laws Ann. § 600.5451, colloquially referred to as "bankruptcy-specific exemptions," added provisions for exemptions in Michigan, but only for debtors filing bankruptcy. The "bankruptcy-specific exemptions" include:	Benefits and Insurance: WWII Veteran's Benefits, Korean Veteran's Benefits, State Employee Retirement, Judge's Retirement, Legislative Retirement, Public School Retirement, Public Welfare Benefits, Workers' Compensation Unemployment Compensation, Fraternal Benefit	All	Mich. Comp. Laws Ann. §§ 35.926, 35.977, 38.40(1), 38.2308(1), 38.1057(1), 38.1346(1), 400.63(1), 418.821, 421.30, 500.8181, 500.2207

Jurisdiction	Exemption	Scope	Authority
	Society and Life Insurance		
Mississippi	Unemployment Compensation	Unlimited (if not commingled)	Miss. Code Ann. § 71-5-539
Missouri	Right to Receive Social Security, Unemployment, or Public Assistance Benefits	Unlimited	Mo. Ann. Stat. § 513.430.1(10)(a)
	Right to Receive Disability, Illness, or Unemployment Benefit	Unlimited	Mo. Ann. Stat. § 513.430.1(10)(c)
Montana	Unemployment Compensation	Unlimited	Mont. Code Ann. §§ 39-51-3105, 31-2-106(2)
Nebraska	Unemployment Benefits	100%	Neb. Rev. Stat. § 48-647
Nevada	Unemployment Benefits	Unlimited	Nev. Rev. Stat. Ann. §§ 21.090(1)(hh), 612.710
New Hampshire New Hampshire has not opted out of the federal exemptions.	Unemployment Compensation	No limit	N.H. Rev. Stat. Ann. § 282-A:159(I)
New Jersey New Jersey has not opted out of the federal exemptions.	Unemployment Compensation	Unlimited	N.J. Stat. Ann. 43:21-53
New Mexico New Mexico has not opted out of the federal exemptions.	Unemployment Compensation	Unlimited	N.M. Stat. Ann. § 51-1-37
New York New York has not opted out of the federal exemptions.	Disability, Illness, or Unemployment Benefits	Unlimited	N.Y. Debt & Cred. Law § 282(2)(c); N.Y. Lab. Law § 595(2)
	Public Assistance	Unlimited	N.Y. Soc. Serv. Law § 137; N.Y. Debt & Cred. Law § 282(2)(a)
North Carolina	Unemployment Benefits	All	N.C. Gen. Stat. § 96-17

Jurisdiction	Exemption	Scope	Authority
Ohio	A Burial Lot, Moneys Payable for Maintenance, Workers' Compensation, Unemployment Compensation Benefits, Ohio Works First, Prevention, Retention and Contingency Programs and Disability Assistance Payments	Debtor's interest	Ohio Rev. Code Ann. §§ 2329.66(A)(8), 517.09, 1721.07, 2329.66(A)(9), 3304.19, 4123.67, 4141.32, 5107.75, 5108.08, 5115.06
Oklahoma	Employment Security Act Benefits	100%	40 Okla. St. Ann. § 2-303
Oregon Oregon has not opted out of the federal exemptions.	Unemployment Benefits	Unlimited	Or. Rev. Stat. § 657.855
Pennsylvania Pennsylvania has not opted out of the federal exemptions.	Certain Amounts Paid, Provided, or Rendered Under the Pennsylvania Unemployment Compensation Law, 43 Pa. Stat. Ann. § 863	Fully exempt if qualified.	42 Pa. Cons. Stat. Ann. § 8124(c)(10)
Rhode Island Rhode Island has not opted out of the federal exemptions.	Wages	(i) The exemption includes the entire wages or salary of any debtor payable from a charitable corporation or originating from charitable fund for relief of the poor or in aid of unemployment, where debtor is the subject of such aid	R.I. Gen. Laws § 9-26-4(8)(i) to (iii)

Jurisdiction	Exemption	Scope	Authority
		<p>or relief.</p> <p>(ii) The entire wages of any debtor from any employer are exempt for the period of one year after the debtor has been the recipient of public assistance.</p> <p>(iii) The wages due to any other debtor, not to exceed \$50, are exempt.</p>	
South Carolina	Debtor's Right to Receive Certain Benefits	<p>A social security benefit, unemployment compensation, or a local public assistance benefit;</p> <p>...</p> <p>a disability benefit, except as provided in Section 15-41-33, or an illness or unemployment benefit ...</p>	S.C. Code Ann. § 15-41-30(A)(11)
South Dakota	Unemployment Compensation or Disability Benefits	Unlimited	S.D. Codified Laws § 61-6-48
Tennessee	Benefit Payments, Alimony, and Child Support	Unlimited	Tenn. Code Ann. § 26-2-111(1)
Utah	Disability, Illness, or Unemployment Benefits	Unlimited	Utah Code Ann. § 78B-5-505(1)(a)(iii)
Vermont Vermont has not opted out of the federal exemptions.	Unemployment Compensation Payments	No limit	21 Vt. Stat. Ann. § 1367
Virgin Islands The U.S. Virgin Islands have not opted out of the federal exemptions.	Unemployment Compensation	Unlimited	24 V.I. Code Ann. § 305(1)

Jurisdiction	Exemption	Scope	Authority
Washington Washington has not opted out of the federal exemptions.	Unemployment Benefits	All	Wash. Rev. Code Ann. § 50.40.020
West Virginia	Right to Receive Public and Private Benefit Payments	No limitation	W.Va. Code § 38-10-4(j)(1), (2), (3)
Wisconsin	Unemployment Compensation Benefits	Unlimited	Wis. Stat. Ann. § 45.03(8)(b)
Wyoming	Unemployment Compensation	100%	Wyo. Stat. Ann. § 27-3-319

Thanks to the many contributors who annually update the appendices to West's Bankruptcy Exemption Manual. Adaptations from their work provided the basis for the survey above.