



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-16-05

Title

Civil Practice and Procedure: Adjustments to
Dollar Amounts of Exemptions from
Enforcement of Judgments

Action Requested

VOTING MEMBERS ONLY: Vote and
return by fax. Additionally, return original
signature page.

Rules, Forms, Standards, or Statutes Affected

Approve form EJ-156

Please Respond By

March 29, 2016

Recommended by

Judicial Council Rules and Projects
Committee

Hon. Harry E. Hull, Jr., Chair

Martin Hoshino

Administrative Director

Date of Report

March 16, 2016

Contact

Anne M. Ronan, 415-865-8933

anne.ronan@jud.ca.gov

Executive Summary

Statute mandates that the Judicial Council, on April 1 of every third year beginning in 2004, make and publish adjustments to the dollar amounts of certain statutory exemptions from judgments to reflect changes in the consumer price index over the prior three-year period. These exemption amounts are listed in the *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). The council is also required, at the same time, to submit to the Legislature a report on potential adjustments to the dollar amounts of homestead exemptions, calculated in the same way. The Judicial Council Rules and Projects Committee and the Administrative Director recommend that approval of the form revision and report to the Legislature be made by circulating order rather than at the council's next business meeting to ensure that the form is revised and the report submitted in compliance with statute.

Recommendation

1. The Judicial Council's Rules and Projects Committee recommends that the Judicial Council approve, effective April 1, 2016, revised *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156).
2. The Administrative Director recommends that the Judicial Council take the following actions:
 - a. Approve, effective March 30, 2016, the report to the Legislature on potential adjustments to the dollar amounts of homestead exemptions from enforcement of civil judgments, in conformance with Code of Civil Procedure section 703.150(c); and
 - b. Direct the Administrative Director to submit the report to the Legislature.

The recommended form is attached at pages 5–6. The recommended report and report summary are attached at pages 7–11.

Previous Council Action

In 2004, the Judicial Council authorized staff¹ to prepare a list of the amounts of certain exemptions from enforcement of judgments and to periodically update the list as required by Code of Civil Procedure section 703.150(d)–(e).² Pursuant to this authorization, a list entitled *Current Dollar Amounts of Exemptions From Enforcement of Judgments* was prepared and posted on the California Courts website in April 2004. The list contained the dollar amounts of exemptions effective as of April 1, 2004, and indicated that further adjustments would be made every three years. As statutorily mandated, the exemption amounts on the list were adjusted in 2007, 2010, and 2013. The council, rather than the Administrative Director, began approving the revisions to the form in 2013.

The requirement that the council report on potential adjustments to the homestead exemption (see section 703.150(c)) is a more recent addition to the statute. This is the second report to the Legislature prepared under that provision.

Rationale for Recommendation

Section 703.150(e) requires the Judicial Council, beginning April 1, 2004, to publish a list of the current dollar amounts of exemptions from the enforcement of judgment provided in sections 703.140(b)—for cases under Title 11 of the United States Code—and 704.010 et seq. (for other cases) together with the next scheduled date of adjustment. The council is required to adjust the figures every three years based on changes to the consumer price index. (See § 703.150(a)–(b).)

¹ See Judicial Council of Cal., Report from Civil and Small Claims Advisory Committee, *Exemptions From the Enforcement of Judgments* (Apr. 12, 2004) and minutes of the Apr. 23, 2004, Judicial Council meeting, item 1.

² Unless otherwise noted, all statutory references hereafter are to the Code of Civil Procedure.

The list of the dollar amounts of exemptions needs to be adjusted again at this time.

The dollar amounts of the exemptions must be adjusted based on the change in the California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on December 31. (§ 703.150(d).) Based on the formula attached to this report, staff has calculated the adjusted dollar amounts of the exemptions that will be effective on April 1, 2016. *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (as form EJ-156) has been revised to show the adjusted amounts.

In 2010, the Legislature amended the provisions on exemptions to address potential adjustments to the dollar amount of homestead exemptions provided in section 704.730(a). (See § 703.150(c).) The council is not to make those adjustments, but only to calculate what they would be under the same formula used for adjusting the other exemptions (i.e., based on the change in the consumer price index over the past three years) and to provide that information to the Legislature, beginning on April 1, 2013, and at three-year intervals thereafter. (*Ibid.*) The recommended report to the Legislature provides this information, along with a copy of the formula used to generate it.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for comment because the changes to the forms are technical. No alternatives were considered in light of the statutory mandate to adjust the figures and to provide a report to the Legislature.

Implementation Requirements, Costs, and Operational Impacts

The resource implications for this proposal for the trial courts should be minimal. The form is informational only and is not filed with or completed by the courts. No costs or operational impacts are associated with the approval of the report to the Legislature.

Attachments

1. Formula for adjusting exemption amounts, at page 4
2. Form EJ-156, at pages 5–6
3. *Report on Potential Adjustments of Dollar Amounts of Homestead Exemptions* and report summary, at pages 7–11
4. Voting instructions, at page 12
5. Vote and signature pages, at pages 13–14

**Calculation of Dollar Amounts of Exemptions
Under Code of Civil Procedure Sections 703.140(b) and 704.010 et seq.
(Adjusted April 1, 2016)**

The adjustments to the current dollar amounts of the exemptions provided in Code of Civil Procedure sections 703.140(b) and 704.010 et seq., in the *Current Dollar Amounts of Exemptions From Enforcement of Judgments*, are calculated as follows:

1. Formula

Under Code of Civil Procedure section 703.150(a), (b), and (d) the adjustments to the dollar amount of the exemptions in sections 703.140(b) and 704.010 et seq., are computed as follows:

$$\text{Adjusted dollar amount} = \left[\frac{\text{annual CCPI (Dec. 2015)} - \text{annual CCPI (Dec. 2012)}}{\text{annual CCPI (Dec. 2012)}} + 1 \right] \times \text{Previous dollar amount}$$

This is similar to the method of calculation employed by the Judicial Conference of the United States in calculating adjustments to the federal bankruptcy exemptions, but it uses the California Consumer Price Index instead of the federal equivalent.

2. Definition

“CCPI” stands for the California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics.

3. Current Calculation (as of April 1, 2016)

The calculation for the adjusted dollar amounts of the exemptions in section 703.140(b) and 704.010 et. seq. is based on the following formula:

$$\text{Adjusted dollar amount} = \left[\frac{249.666 - 238.155}{238.155} + 1 \right] \times \text{Previous dollar amount} = 1.0483 \times \text{Previous dollar amount}$$

The calculation of the dollar amounts of each of the individual exemptions is calculated by multiplying the amounts of the individual exemptions by 1.0483 with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS
Code of Civil Procedure sections 703.140(b) and 704.010 et seq.

EXEMPTIONS UNDER SECTION 703.140(b)

The following lists the current dollar amounts of exemptions from enforcement of judgment under Code of Civil Procedure section 703.140(b).

These amounts are effective April 1, 2016. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc., § 703.140(b)</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
(1)	The debtor's aggregate interest in real property or personal property that the debtor or a dependent of the debtor uses as a residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence,	\$ 26,800
(2)	The debtor's interest in one or more motor vehicles	\$ 5,350
(3)	The debtor's interest in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor (value is of any particular item)	\$ 675
(4)	The debtor's aggregate interest in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor	\$ 1,600
(5)	The debtor's aggregate interest, plus any unused amount of the exemption provided under paragraph (1), in any property	\$ 1,425
(6)	The debtor's aggregate interest in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor	\$ 8,000
(8)	The debtor's aggregate interest in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent	\$ 14,325
(11)(D)	The debtor's right to receive, or property traceable to, a payment on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent	\$ 26,800

CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS
Code of Civil Procedure sections 703.140(b) and 704.010 et seq.

EXEMPTIONS UNDER SECTION 704.010 et seq.

The following lists the current dollar amounts of exemptions from enforcement of judgment under title 9, division 2, chapter 4, article 3 (commencing with section 704.010) of the Code of Civil Procedure.

These amounts are effective April 1, 2016. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc. Section</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
704.010	Motor vehicle (any combination of aggregate equity, proceeds of execution sale, and proceeds of insurance or other indemnification for loss, damage, or destruction)	\$ 3,050
704.030	Material to be applied to repair or maintenance of residence	\$ 3,200
704.040	Jewelry, heirlooms, art	\$ 8,000
704.060	Personal property used in debtor's or debtor's spouse's trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$4,850)	\$ 8,000
704.060	Personal property used in debtor's and spouse's common trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$9,700)	\$ 15,975
704.080	Deposit account with direct payment of social security or public benefits (exemption without claim, section 704.080(b)) ¹	
	• Public benefits, one depositor is designated payee	\$ 1,600
	• Social security benefits, one depositor is designated payee	\$ 3,200
	• Public benefits, two or more depositors are designated payees ²	\$ 2,375
	• Social security benefits, two or more depositors are designated payees ²	\$ 4,800
704.090	Inmate trust account	\$ 1,600
	Inmate trust account (restitution fine or order)	\$ 300 ³
704.100	Aggregate loan value of unmaturing life insurance policies	\$ 12,800

¹ The amount of a deposit account that exceeds exemption amounts is also exempt to the extent it consists of payments of public benefits or social security benefits. (Code Civ. Proc., § 704.080(c).)

² If only one joint payee is a beneficiary of the payment, the exemption is in the amount available to a single designated payee. (Code Civ. Proc., § 704.080(b)(3) and (4).)

³ This amount is not subject to adjustments under Code Civ. Proc., § 703.150.



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Chair of the Judicial Council

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Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
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Liaison Committee

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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

March 30, 2016

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

*Re: Report on Potential Adjustments of Dollar Amounts of Homestead
Exemptions, as required under Code of Civil Procedure section
703.150(c)*

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

The Judicial Council respectfully submits this report on potential adjustments to the dollar amounts of certain exemptions from enforcement of judgments, as required by Code of Civil Procedure section 703.150(c). That statute provides that at three-year intervals beginning on April 1, 2013, the Judicial Council shall submit to the Legislature the amount by which the dollar amounts of the homestead exemptions in effect immediately before that date as provided in Code of Civil Procedure section 704.730(a) may be increased under the formula set forth in section 703.150(d), should the Legislature approve such an adjustment.

Code of Civil Procedure section 703.150(d) provides that the Judicial Council is to determine the amount of the potential adjustment based on

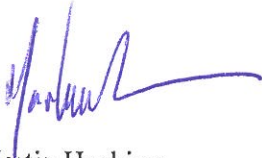
Ms. Diane F. Boyer-Vine
Mr. Daniel Alvarez
Mr. E. Dotson Wilson
March 30, 2016
Page 2

the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, for the most recent three-year period ending on December 31 preceding the adjustment date, with each adjusted amount rounded to the nearest twenty-five dollars (\$25). The council has calculated that the adjusted amounts based on the formula attached to this report would be as follows:

- The exemption amount in section 704.730(a)(1) (currently \$75,000) would be increased to \$78,625.
- The exemption amount in section 704.730(a)(2) (currently \$100,000) would be increased to \$104,825.
- The exemption amount in section 704.730(a)(3) (currently \$175,000) would be increased to \$183,450.

If you have any questions related to this report, please contact Deborah Brown, Chief Counsel at deborah.brown@jud.ca.gov.

Sincerely,



Martin Hoshino
Administrative Director
Judicial Council

MH/AMR
Attachment

cc: Shaun Naidu, Principal Consultant, Office of Senate President pro Tempore Kevin de León
Margie Estrada, Chief Counsel, Senate Judiciary Committee
Alf Brandt, Senior Counsel, Office of Assembly Speaker Anthony Rendon
Anita Lee, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Mike Petersen, Consultant, Senate Republican Policy Office
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee

Ms. Diane F. Boyer-Vine

Mr. Daniel Alvarez

Mr. E. Dotson Wilson

March 30, 2016

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Paul Dress, Consultant, Assembly Republican Office of Policy & Budget

Cory T. Jasperson, Director, Governmental Affairs, Judicial Council

Deborah Brown, Chief Counsel, Legal Services, Judicial Council

Laura Speed, Principal Manager, Governmental Affairs, Judicial Council

Peter Allen, Public Affairs Officer, Public Affairs, Judicial Council

Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial Council

Calculation of Dollar Amounts of Exemptions

Under Code of Civil Procedure Sections 704.730(a) (April 1, 2016)

The possible adjustments to the current dollar amounts of the exemptions provided in Code of Civil Procedure section 704.730(a) are calculated as follows:

1. Formula

Under Code of Civil Procedure section 703.150(c)–(d) the adjustments to the dollar amount of the exemptions in sections 704.730(a) would be computed as follows:

$$\text{Adjusted dollar amount} = \left[\frac{\text{annual CCPI (Dec. 2015)} - \text{annual CCPI (Dec. 2012)}}{\text{annual CCPI (Dec. 2012)}} + 1 \right] \times \text{Previous dollar amount}$$

2. Definition

“CCPI” stands for the California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics.

3. Current Calculation (as of April 1, 2016)

The calculation for the adjusted dollar amounts of the exemptions in section 703.140(b) and 704.010 et seq. is based on the following formula:

$$\text{Adjusted dollar amount} = \left[\frac{249.666 - 238.155}{238.155} + 1 \right] \times \text{Previous dollar amount} = 1.0483 \times \text{Previous dollar amount}$$

The calculation of the dollar amounts of each of the individual exemptions is calculated by multiplying the amounts of the individual exemptions by 1.0483 with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)



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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

Report Summary

Report title: *Report on Potential Adjustments of Dollar Amounts of Homestead Exemptions*

Code section: Code of Civil Procedure section 703.150(c)

Date of report: March 30, 2016

The Judicial Council has submitted a report to the Legislature in accordance with Code of Civil Procedure section 703.150(c).

The following summary of the report is provided under the requirements of Government Code section 9795.

The report describes potential adjustments to the dollar amounts of homestead exemptions in Code of Civil Procedure section 704.730(a).

The full report can be accessed here: <http://www.courts.ca.gov/7466.htm>.

A printed copy of the report may be obtained by calling 415-865-7446.

Instructions for Review and Action by Circulating Order

Voting members

- Please indicate your **vote, sign, and return by 5pm, Tuesday, March 25, 2016**, if possible by one of these methods:
 1. Fax the signature pages to the attention of Judicial Council Support, Leadership Services Division at 415-865-4391
 2. Reply to the e-mail message with “I approve,” “I disapprove,” or “I abstain.”
- If you are unable to reply by March 25, 2016 please do so as soon as possible thereafter.
- Additionally, **return the original** signature page to the Judicial Council Support, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California, 94102-3688. **Please keep a copy for your records.**

Advisory members

The circulating order is being faxed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

The Judicial Council:

1. Approves, effective April 1, 2016, revised *Current Dollar Amounts of Exemptions from Enforcement of Judgments* (form EJ-156), as recommended by the Rules and Projects Committee; and
2. Approves, effective March 30, 2016, the report to the Legislature on potential adjustments to the dollar amounts of homestead exemptions from enforcement of civil judgments, in conformance with Code of Civil Procedure section 703.150(c); and directs the Administrative Director to submit the report to the Legislature.

My vote is as follows:

☒ Approve

☐ Disapprove

☐ Abstain

Tani G. Cantil-Sakauye, Chair

_____/s/
Marla O. Anderson

Brian John Back

Richard Bloom

_____/s/
Mark G. Bonino

_____/s/
Daniel J. Buckley

_____/s/
Ming W. Chin

_____/s/
Samuel K. Feng

_____/s/
Harry E. Hull, Jr.

_____/s/
James M. Humes

My vote is as follows:

☒ Approve

☐ Disapprove

☐ Abstain

_____/s/
Hannah-Beth Jackson

_____/s/
Patrick M. Kelly

_____/s/
Donna D'Angelo Melby

_____/s/
Douglas P. Miller

_____/s/
Gary Nadler

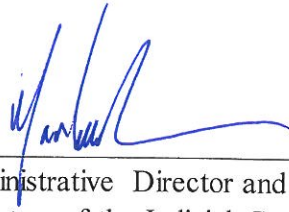
_____/s/
Debra Elaine Pole

_____/s/
David M. Rubin

_____/s/
Dean T. Stout

Date: March 29, 2016

Attest:

A handwritten signature in blue ink, consisting of stylized, overlapping loops and strokes, positioned above a horizontal line.

Administrative Director and
Secretary of the Judicial Council