

Understanding Bankruptcy Exemptions Covering September 11th Victim Compensation Fund Payments

Prepared by 911 Health Watch Inc.

Some injured and ill 9/11 responders and survivors, who have experienced personal bankruptcy are now finally receiving compensation for the 9/11 injuries under the federal legislation. Questions have been directed to us at 911 Health Watch Inc. about the relationship between payments from the September 11th Victim Compensation Fund 9/11 Fund payments and bankruptcy. In order to assist generally as much as we can, 9/11 Health Watch has prepared a memorandum that addresses these matters.

This memorandum can provide some information to you and your lawyer and should be helpful, but it is important to understand that 9/11 Health Watch does not provide legal advice and every individual case is different. Also the law in a State may have changed since this Memo was drafted.

If you are an injured 9/11 responder or survivor who has undergone bankruptcy and has received or expects to receive an award from the September 11th Victim Compensation Fund, we urge you to contact a lawyer to discuss the potential impact of a prior or future bankruptcy on your award.

The memorandum we have provided is not to be construed as legal advice by 9/11 Health Watch or anyone else, and no responder or survivor is entitled to rely upon it and hold 9/11 Health Watch responsible for any such reliance or the memorandum's contents. Nor is 9/11 Health Watch in a position, in light of its mission and staffing, to answer questions about this memorandum or legal questions generally.

We are making this memorandum available in the hope that it will assist injured 9/11 responders and survivors as they begin to navigate their individual circumstances, and as always we wish all well in doing so.

What is a bankruptcy exemption?

Not all of the property of an individual filing for bankruptcy (a “debtor”) is required to be used to satisfy his or her debts. Federal and state bankruptcy law permits a debtor to set aside, or “exempt,” certain property from his or her estate and, as a result, protect that property from the claims of creditors. Exempt property may include a debtor’s home, car or other property (in many cases, up to a statutory maximum value). The types and amounts of property that may be exempted varies from state to state.

What is the difference between federal and state exemptions?

The debtor and creditor laws of all fifty states and the District of Columbia provide exemptions that a debtor may use in bankruptcy. The federal bankruptcy code also sets out a list of exemptions, although thirty-one states and the District of Columbia prohibit their citizens from using these exemptions. Therefore, in those jurisdictions, debtors may only make use of the exemptions available under state law.

In the nineteen states that have not “opted out” of the federal exemptions, debtors may elect to use *either* the federal *or* the state exemptions, but not both; a debtor may not “mix and match” state and federal exemptions. Whether a debtor should use the federal or state exemptions depends on the amount and type of property owned by the debtor and the state exemptions available to the debtor. A debtor should consult with his or her attorney to choose the alternative that allows him or her to protect the greatest amount of property or the property that he or she most wants to keep.

How to protect 9/11 Fund payments with bankruptcy exemptions for crime victims’ reparations

Awards received from the September 11th Victim Compensation Fund (the “9/11 Fund”) could be eligible for different bankruptcy exemptions relating to crime victims’ reparations payments in different states. The following table details potentially applicable exemptions for crime victims’ reparations payments in each of the fifty states. The following sections contain instructions for how to protect 9/11 Fund payments using these exemptions, along with alternate exemptions that may also be available in states that do not offer an applicable crime victims’ reparation exemption.

State	Does a state crime victims’ exemption cover 9/11 Fund payments?	Is the federal crime victims’ exemption available?	State	Does a state crime victims’ exemption cover 9/11 Fund payments?	Is the federal crime victims’ exemption available?
Alabama	N	N	Montana	N	N
Alaska	Y	N	Nebraska	N	N
Arizona	N	N	Nevada	N	N
Arkansas	N	Y	New	N	Y

			Hampshire		
California	Y	N	New Jersey	N	Y
Colorado	Y	N	New Mexico	N	Y
Connecticut	Y	Y	New York	Y	Y
Delaware	N	N	North Carolina	N	N
D.C.	Y	Y	North Dakota	Y	N
Florida	N	N	Ohio	N	N
Georgia	Y	N	Oklahoma	N	N
Hawaii	N	Y	Oregon	Y	N
Idaho	N	N	Pennsylvania	N	Y
Illinois	Y	N	Rhode Island	N	Y
Indiana	N	N	South Carolina	Y	N
Iowa	N	N	South Dakota	N	N
Kansas	N	N	Tennessee	Y	N
Kentucky	Y	Y	Texas	N	Y
Louisiana	N	N	Utah	N	N
Maine	Y	N	Vermont	Y	Y
Maryland	N	N	Virginia	N	N
Massachusetts	N	Y	Washington	N	Y
Michigan	N	Y	West Virginia	Y	N
Minnesota	N	Y	Wisconsin	N	Y
Mississippi	N	N	Wyoming	N	N
Missouri	N	N			

How to protect 9/11 Fund payments under the federal exemption

The federal bankruptcy code provides an exemption for “a debtor’s right to receive . . . an award under a crime victim’s reparation law.”¹¹ Awards received from the 9/11 Fund should qualify for this exemption since the fund was established to provide “compensation to any individual . . . who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001 or the rescue and recovery efforts during the immediate aftermath of such crashes.” Therefore, a resident of a state that has not opted out of the federal exemptions should be able to exempt the full amount of the award received from the 9/11 fund under the federal exemptions.

The following table provides a list of states that have not opted out of the federal exemptions and, as a result, in which residents may use the federal crime victim’s reparation exemption to exempt payments received from the 9/11 Fund.

¹¹ 11 U.S.C. § 522(d)(11)(A).

States that Permit the Use of Federal Exemptions			
Arkansas	Kentucky	New Jersey	Texas
Alaska	Massachusetts	New Mexico	Vermont
Connecticut	Michigan	New York	Washington
District of Columbia	Minnesota	Pennsylvania	Wisconsin
Hawaii	New Hampshire	Rhode Island	

How to protect 9/11 Fund payments under the state exemptions

If a debtor would prefer to use state exemptions instead of the federal exemptions, or if the federal exemptions are not available in the relevant state, the debtor may exempt payments received from the 9/11 Fund in certain states (but not in others) pursuant to the states' particular crime victim's reparation exemptions. For example, New York law permits a debtor to exempt his or her "right to receive, or property that is traceable to: . . . an award under a crime victim's reparation law."² As discussed above with respect to the federal crime victim's reparation exemption, payments received from the 9/11 Fund are intended to compensate victims of the crimes committed on September 11, 2001 and, as such, should qualify as awards under a crime victim's reparation law. Further, similar to the federal exemption, there is no maximum dollar amount that may be exempted under the New York exemption, so a debtor's entire 9/11 Fund payment should be exempt.

The following table provides a list of states with crime victim's reparation exemptions that would permit a resident to exempt payments received from the 9/11 Fund, and includes the text of the relevant law. Please note that while Tennessee's crime victim's reparation exemption should cover 9/11 Fund payments, the exemption is capped at five thousand dollars, meaning that any amount received from the 9/11 Fund above five thousand dollars would not be exempt.

States with a Crime Victim's Reparation Exemption for 9/11 Fund Payments	
State	Statutory Text
Alaska	<p>Alaska Stat. § 09.38.015. Property exempt without limitation</p> <p>(a) An individual is entitled to exemption of the following property:</p> <p>. . . (4) an award under AS 18.67 (Violent Crimes Compensation Board) or a crime victim's reparations act of another jurisdiction;</p>

² N.Y. Debt. & Cred. Law § 282.

States with a Crime Victim's Reparation Exemption for 9/11 Fund Payments	
State	Statutory Text
California	<p>Cal. Civ. Proc. Code 703.140. Federal bankruptcy; applicable exemptions</p> <p>(b) The following exemptions may be elected as provided in subdivision (a):</p> <p>... (11) The debtor's right to receive, or property that is traceable to, any of the following:</p> <p>(A) An award under a crime victim's reparation law.</p>
Colorado	<p>Colo. Rev. Stat. Ann. § 13-54-102. Property exempt--definitions</p> <p>(1) The following property is exempt from levy and sale under writ of attachment or writ of execution:</p> <p>... (q) The debtor's right to receive, or property that is traceable to, an award under a crime victim's reparation law;</p>
Connecticut	<p>Conn. Gen. Stat. Ann. § 52-352b. Exempt property</p> <p>The following property of any natural person shall be exempt:</p> <p>... (o) An award under a crime reparations act</p>
District of Columbia	<p>D.C. Code Ann. § 15-501. Exempt property of householder; property in transitu; debt for wages.</p> <p>(a) The following property of the head of a family or householder residing in the District of Columbia, or of a person who earns the major portion of his livelihood in the District of Columbia, being the head of a family or householder, regardless of his place of residence, is free and exempt from distraint, attachment, levy, or seizure and sale on execution or decree of any court in the District of Columbia:</p> <p>... (11) the debtor's right to receive property that is traceable to:</p> <p>(A) an award under a crime victim's reparation law;</p>
Georgia	<p>Ga. Code Ann. § 44-13-100. Exemption extended to insolvent estates</p> <p>(a) In lieu of the exemption provided in Code Section 44-13-1, any debtor who is a natural person may exempt, pursuant to this article, for purposes of bankruptcy, the following property:</p> <p>... (11) The debtor's right to receive, or property that is traceable to:</p> <p>(A) An award under a crime victim's reparation law;</p>

States with a Crime Victim's Reparation Exemption for 9/11 Fund Payments	
State	Statutory Text
Illinois	<p>735 Ill. Comp. Stat. Ann. 5/12-1001. Personal property exempt</p> <p>The following personal property, owned by the debtor, is exempt from judgment, attachment, or distress for rent:</p> <p>. . . (h) the debtor's right to receive, or property that is traceable to:</p> <p>(1) an award under a crime victim's reparation law;</p>
Kentucky	<p>Ky. Rev. Stat. Ann. § 427.150. Property totally or partially exempt</p> <p>. . . (2) An individual shall be entitled to exemption of the following property:</p> <p>(a) An award under a crime victim's reparation law;</p>
Maine	<p>Me. Rev. Stat. tit. 14, § 4422. Exempt property</p> <p>The following property is exempt from attachment and execution, except to the extent that it has been fraudulently conveyed by the debtor.</p> <p>. . . 14. Legal awards; life insurance benefits. The debtor's right to receive or property that is traceable to the following:</p> <p>A. An award under a crime victim's reparation law;</p>
New York	<p>N.Y. Debt. & Cred. Law § 282. Permissible exemptions in bankruptcy</p> <p>Under section five hundred twenty-two of title eleven of the United States Code, entitled "Bankruptcy", an individual debtor domiciled in this state may exempt from the property of the estate, to the extent permitted by subsection (b) thereof, only</p> <p>. . . (iii) the following property:</p> <p>3. Bankruptcy exemption for right to receive certain property. The debtor's right to receive, or property that is traceable to: (i) an award under a crime victim's reparation law;</p>
North Dakota	<p>N.D. Cent. Code Ann. § 28-22-03.1. Additional exemptions for residents</p> <p>In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select:</p> <p>9. The debtor's right to receive, or property that is traceable to:</p> <p>a. An award under a crime victim's reparation law.</p>

States with a Crime Victim's Reparation Exemption for 9/11 Fund Payments	
State	Statutory Text
Oregon	<p>Or. Rev. Stat. Ann. § 18.345. Property against which writ may be levied; selected exemptions</p> <p>(1) All property, including franchises, or rights or interest therein, of the judgment debtor, shall be liable to an execution, except as provided in this section and in other statutes granting exemptions from execution. The following property, or rights or interest therein of the judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:</p> <p style="padding-left: 40px;">. . . (j) The debtor's right to receive, or property that is traceable to, an award under any crime victim reparation law.</p>
South Carolina	<p>S.C. Code Ann. § 15-41-30. Property exempt from attachment, levy, and sale.</p> <p>(A) The following real and personal property of a debtor domiciled in this State is exempt from attachment, levy, and sale under any mesne or final process issued by a court or bankruptcy proceeding:</p> <p style="padding-left: 40px;">(12) The debtor's right to receive or property that is traceable to:</p> <p style="padding-left: 80px;">(a) an award under a crime victim's reparation law;</p>
Tennessee	<p>Tenn. Code Ann. § 26-2-111. Miscellaneous exemptions</p> <p>In addition to the property exempt under § 26-2-103, the following shall be exempt from execution, seizure or attachment in the hands or possession of any person who is a bona fide citizen permanently residing in Tennessee:</p> <p style="padding-left: 40px;">. . . (2) The debtor's right not to exceed in the aggregate fifteen thousand dollars (\$15,000) to receive or property that is traceable to:</p> <p style="padding-left: 80px;">(A) An award not to exceed five thousand dollars (\$5,000) under a crime victim's reparation law;</p>

States with a Crime Victim's Reparation Exemption for 9/11 Fund Payments	
State	Statutory Text
Vermont	<p>Vt. Stat. Ann. tit. 12, § 2740. Goods and chattels; exemptions from</p> <p>The goods or chattels of a debtor may be taken and sold on execution, except the following articles, which shall be exempt from attachment and execution, unless turned out to the officer to be taken on the attachment or execution, by the debtor:</p> <p style="padding-left: 40px;">. . . (19) property traceable to or the debtor's right to receive, to the extent reasonably necessary for the support of the debtor and any dependents of the debtor:</p> <p style="padding-left: 80px;">. . . (E) compensation awarded under a crime victim's reparation law;</p>
West Virginia	<p>W. Va. Code Ann. § 38-10-4. Exemptions of property in bankruptcy proceedings</p> <p>Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:</p> <p style="padding-left: 40px;">(k) The debtor's right to receive or property that is traceable to:</p> <p style="padding-left: 80px;">(1) An award under a crime victim's reparation law;</p>

How to protect 9/11 Fund payments under state bodily injury exemptions

In certain states that have opted out of the federal exemptions *and* do not have a crime victim's reparation exemption that would cover 9/11 Fund payments, a debtor may still exempt the 9/11 Fund payments as payments received as a result of bodily injury, though the bodily injury exemption is often capped. Payments received from the 9/11 Fund should be exempt under the bodily injury exemptions because, as discussed above, the 9/11 Fund was established to compensate individuals who were "physically injured or killed" as a result of the 9/11 attacks or subsequent debris removal.

The following table provides a list of states that have bodily injury exemptions, and includes the text of the relevant law. Again, many states cap the amount of the award that can be exempted, meaning that any amount received from the 9/11 Fund above a state's cap would not be exempt.

States with no Crime Victim’s Reparation Exemption, but with a Bodily Injury Exemption

State	Statutory Text
Idaho	<p>Idaho Code Ann. § 11-604. Property exempt to extent reasonably necessary for support</p> <p>(1) An individual is entitled to exemption of the following property to the extent reasonably necessary for the support of him and his dependents:</p> <p style="padding-left: 40px;">(c) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent; and</p>
Iowa	<p>Iowa Code Ann. § 627.6. General exemptions</p> <p>A debtor who is a resident of this state may hold exempt from execution the following property:</p> <p style="padding-left: 40px;">16. The debtor's interest in payments reasonably necessary for the support of the debtor or the debtor's dependents to or for the benefit of the debtor or the debtor's dependents, including structured settlements, resulting from personal injury to the debtor or the debtor's dependents or the wrongful death of a decedent upon which the debtor or the debtor's dependents were dependent.</p>
Louisiana	<p>La. Rev. Stat. Ann. § 20:1. Declaration of homestead; exemption from seizure and sale; debts excluded from exemption; waiver; certain proceeds from property insurance exempted</p> <p>(2) The homestead is exempt from seizure and sale under any writ, mandate, or process whatsoever, except as provided by Subsections C and D of this Section. This exemption extends to thirty-five thousand dollars in value of the homestead, except in the case of obligations arising directly as a result of a catastrophic or terminal illness or injury, in which case the exemption shall apply to the full value of the homestead based upon its value one year before such seizure</p> <p>(3) For the purposes of this Section, “catastrophic or terminal illness or injury” shall mean an illness or injury which creates uninsured obligations to health care providers of more than ten thousand dollars and which are greater than fifty percent of the annual adjusted gross income of the debtor, as established by an average of federal income tax returns for the three preceding years.</p>

States with no Crime Victim's Reparation Exemption, but with a Bodily Injury Exemption	
State	Statutory Text
Maryland	<p>Md. Code Ann., Cts. And Jud. Proc. § 11-504. Items excluded from execution of judgment</p> <p>... (b) The following items are exempt from execution on a judgment:</p> <p style="padding-left: 40px;">... (2) Except as provided in subsection (i) of this section, money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.</p> <p>This Maryland personal injury exemption does not cover lost wages or money received on account of dischargeable prepetition medical costs. <i>See In re Hurst</i>, 239 B.R. 89, 92 (Bankr. D. Md. 1999) (lost wages may not be exempted in a bankruptcy case under Maryland's personal injury claim exemption); <i>In re Short</i>, 2010 WL 4736209, at *1 (Bankr. D. Md. Nov. 16, 2010), as amended (Nov. 29, 2010) (denying a debtor an exemption for his personal injury claim to the extent that the proceeds related to prepetition unpaid medical bills).</p>
Minnesota	<p>Minn. Stat. Ann. § 550.37. Property exempt</p> <p>Subdivision 1. Exemption. The property mentioned in this section is not liable to attachment, garnishment, or sale on any final process, issued from any court.</p> <p style="padding-left: 40px;">Subd. 22. Rights of action. Rights of action for injuries to the person of the debtor or of a relative whether or not resulting in death.</p> <p>The court in <i>In re Carlson</i>, 40 B.R. 746 (Bankr. D. Minn. 1984) has interpreted this Minnesota personal injury exemption very broadly, ruling that it encompasses claims for permanent disability, pain and suffering, past or future medical expenses, loss of past or future income, or other economic loss.</p> <p>Please note an entire 9/11 award could be exempt under the federal exemptions or this state bodily injury exemption should a debtor wish to use state exemptions.</p>

States with no Crime Victim's Reparation Exemption, but with a Bodily Injury Exemption	
State	Statutory Text
Mississippi	<p>Miss. Code Ann. § 85-3-17. Personal injury judgments</p> <p>The proceeds of any judgment not exceeding \$10,000 recovered by any person on account of personal injuries sustained, shall inure to the party or parties in whose favor such judgment may be rendered, free from all liabilities for the debts of the person injured.</p>
Montana	<p>Mont. Code Ann. § 25-13-608. Property exempt without limitation—exceptions</p> <p>(1) A judgment debtor is entitled to exemption from execution of the following:</p> <p style="padding-left: 40px;">. . . (f) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be used to pay for the care;</p>
Nebraska	<p>Neb. Rev. Stat. § 25-1563.02. Lump-sum settlement; structured settlement; exempt from certain process; when</p> <p>(1) Except as provided in subsection (2) of this section, all proceeds and benefits, including interest earned thereon, which are paid either in a lump sum or are accruing under any structured settlement providing periodic payments, which lump-sum settlement or periodic payments are made as compensation for personal injuries or death, shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors of the beneficiary or the beneficiary's surviving dependents unless a written assignment to the contrary has been obtained by the claimant.</p> <p>(2) All proceeds and benefits, including interest earned thereon, which are paid for personal injuries may be garnished by a county attorney or authorized attorney pursuant to section 43-512.03 or garnished for child support as defined in section 43-1705 by an obligee as defined in section 43-1713.</p>

States with no Crime Victim's Reparation Exemption, but with a Bodily Injury Exemption

State	Statutory Text
Nevada	<p>Nev. Rev. Stat. Ann. § 21.090. Property exempt from execution</p> <p>1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:</p> <p> . . . (u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.</p>
North Carolina	<p>N.C. Gen. Stat. Ann. § 1C-1601. What property exempt; waiver; exceptions</p> <p>(a) Exempt property. -- Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of creditors:</p> <p> . . . (8) Compensation for personal injury, including compensation from private disability policies or annuities, or compensation for the death of a person upon whom the debtor was dependent for support, but such compensation is not exempt from claims for funeral, legal, medical, dental, hospital, and health care charges related to the accident or injury giving rise to the compensation.</p> <p>This North Carolina personal injury exemption covers lost wages. <i>See In re Thompson</i>, 313 B.R. 683 (Bankr. M.D. N.C. 2004) (debtor may exempt that portion of her personal injury recovery attributable to lost wages).</p>

States with no Crime Victim's Reparation Exemption, but with a Bodily Injury Exemption	
State	Statutory Text
North Dakota	<p>N.D. Cent. Code Ann. § 28-22-03.1. Additional exemptions for residents</p> <p>In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select:</p> <p style="padding-left: 40px;">9. The debtor's right to receive, or property that is traceable to:</p> <p style="padding-left: 80px;">d. A payment, not to exceed eighteen thousand four hundred fifty dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.</p> <p>Please note it would be more beneficial for a debtor to use the North Dakota state crime victim's reparation statute to exempt the entire 9/11 award, rather than up to the cap listed in the bodily injury exemption.</p>
Ohio	<p>Ohio Rev. Code § 2329.66. Property that person domiciled in this state may hold exempt</p> <p>(A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:</p> <p style="padding-left: 40px;">(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:</p> <p style="padding-left: 80px;">. . . (c) Except in cases in which the person who receives the payment is an inmate, as defined in section 2969.21 of the Revised Code, and in which the payment resulted from a civil action or appeal against a government entity or employee, as defined in section 2969.21 of the Revised Code, a payment, not to exceed twenty thousand two hundred dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the person or an individual for whom the person is a dependent;</p>

States with no Crime Victim's Reparation Exemption, but with a Bodily Injury Exemption	
State	Statutory Text
Oklahoma	<p>Okla. Stat. Ann. tit. 31, § 1. Property exempt from attachment, execution or other forced sale--Bankruptcy proceedings</p> <p>A. Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:</p> <p style="padding-left: 40px;">. . . 21. Such person's interest in a claim for personal bodily injury, death or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$50,000.00), but not including any claim for exemplary or punitive damages;</p>
Utah	<p>Utah Code Ann. § 78B-5-505. Property exempt from execution</p> <p>(1)(a) An individual is entitled to exemption of the following property:</p> <p style="padding-left: 40px;">. . . (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;</p>
Virginia	<p>Va. Code Ann. § 34-28.1. Personal injury and wrongful death actions exempt; exceptions</p> <p>Except for liens created under Article 7.1 (§ 8.01-66.2 et seq.) of Title 8.01, Article 5 (§ 54.1-3932 et seq.) of Title 54.1, and Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, all causes of action for personal injury or wrongful death and the proceeds derived from court award or settlement shall be exempt from creditor process against the injured person or statutory beneficiary as defined in Article 5 (§ 8.01-50 et seq.) of Title 8.01.</p>

How to Protect 9/11 Fund Payments Under Disability Payment Exemptions

One potential path for residents of a couple of states that do not have a solution under the above-mentioned exemptions would be to argue the payments fall into an existing exemption for

payments made for illness or disability. Two of these states, Florida and Kansas, permit a debtor to use the federal exemptions listed in subsection 522(d)(10). This subsection exempts the debtor’s right to receive “(C) a disability, illness, or unemployment benefit,” which could arguably include the 9/11 Fund payments, although no court has ruled on it.

States with Exemptions for Disability or Illness Payments	
State	Statutory Text
Florida	<p>West’s F.S.A. § 222.201. Availability of federal bankruptcy exemptions.</p> <p>--</p> <p>(1) Notwithstanding s. 222.20, an individual debtor under the federal Bankruptcy Reform Act of 1978 may exempt, in addition to any other exemptions allowed under state law, any property listed in subsection (d)(10) of s. 522 of that act.</p>
Kansas	<p>K.S.A. 60-2312. No right to elect exemptions under federal law, exception.</p> <p>(b) An individual debtor under the federal bankruptcy reform act of 1978 may exempt, in addition to any other exemptions allowed under state law, any property listed in subsection (d)(10) of section 522 of such federal act. The provisions of this subsection shall apply to any bankruptcy action which:</p> <p>(1) Is filed on or after July 1, 1986; or (2) was filed on or after April 26, 1980, and is pending or on appeal on July 1, 1986.</p>

States Without Bankruptcy Protection for 9/11 Fund Payments

Unfortunately, not all states provide a clear avenue through which recipients of 9/11 Fund payments may exempt their awards. The following table provides a list of states in which the federal exemptions are not available, where there is no state crime victim’s exemption, no bodily injury exemption available and no exemptions that cover disability benefit payments.

States Without Exemptions for 9/11 Fund Payments	
Alabama	Arizona
Delaware	Indiana
Missouri ³	South Dakota

³ Missouri does have a disability payment exemption, but there is unhelpful case law limiting the exemption to the debtor’s “right to receive” benefits that would bar a debtor from exempting payments already received.

Wyoming	
---------	--