



2003 ASSEMBLY BILL 149

March 13, 2003 – Introduced by Representatives ALBERS, SCHOOFF, BIES, HUBER, AINSWORTH, OWENS, PLOUFF, HAHN, BLACK, LOEFFELHOLZ and MUSSER, cosponsored by Senator SCHULTZ. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 815.20 (1) and (2), 815.21 (2), 815.21 (4) and 815.21 (5) of the
2 statutes; **relating to:** increasing the value of the homestead exemption.

Analysis by the Legislative Reference Bureau

Under current law, a resident of this state has the right to claim \$40,000 as a homestead exemption from execution, from the lien of every judgment, and from liability for the resident's debts, except mortgages, taxes, and certain other debts. To be a homestead eligible for the \$40,000 exemption, the property must be occupied by the person, but the exemption is not lost if the person temporarily leaves with the intent to reoccupy the premises. If the homestead is sold, \$40,000 of the proceeds of the sale are exempt while held for up to two years for the purpose of purchasing another homestead.

This bill increases the amount of the exemption to \$68,800, based on the change in the consumer price index since the amount was last increased.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 815.20 (1) and (2) of the statutes are amended to read:
4 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
5 resident owner and occupied by him or her shall be exempt from execution, from the

ASSEMBLY BILL 149**SECTION 1**

1 lien of every judgment and from liability for the debts of the owner to the amount of
2 \$40,000 \$68,800, except mortgages, laborers', mechanics' and purchase money liens
3 and taxes and except as otherwise provided. The exemption shall not be impaired
4 by temporary removal with the intention to reoccupy the premises as a homestead
5 nor by the sale of the homestead, but shall extend to the proceeds derived from the
6 sale to an amount not exceeding \$40,000 \$68,800, while held, with the intention to
7 procure another homestead with the proceeds, for 2 years. The exemption extends
8 to land owned by husband and wife jointly or in common or as marital property, and
9 when they reside in the same household may be claimed by either or may be divided
10 in any proportion between them, but the exemption may not exceed \$40,000 \$68,800
11 for the household. If the husband and wife fail to agree on the division of exemption,
12 the exemption shall be divided between them by the court in which the first judgment
13 was taken. The exemption extends to the interest therein of tenants in common,
14 having a homestead thereon with the consent of the cotenants, and to any estate less
15 than a fee.

16 (2) Any owner of an exempt homestead against whom a judgment has been
17 rendered and entered in the judgment and lien docket, and any heir, devisee or
18 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
19 806.04 for declaratory relief if the homestead is less than \$40,000 \$68,800 in value
20 and the owner of the judgment shall fail, for 10 days after demand, to execute a
21 recordable release of the homestead from the judgment owner's judgment lien.

22 **SECTION 2.** 815.21 (2) of the statutes is amended to read:

23 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
24 estimate of the value thereof, the officer shall cause such lands to be surveyed,
25 beginning at a point to be designated by the owner and set off in compact form. After

ASSEMBLY BILL 149

1 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be
2 of greater value than \$40,000 \$68,800, the officer may still advertise and sell the
3 premises so set off, and out of the proceeds of such sale pay to the exempt homestead
4 claimant the sum of \$40,000 \$68,800 and apply the balance of the proceeds of such
5 sale on the execution; but no sale shall be made in the case last mentioned unless a
6 greater sum than \$40,000 \$68,800 is paid for said premises. The expenses of such
7 survey and sale shall be collected on the execution if the owner claimed as the owner's
8 homestead a greater quantity of land or land of greater value than the owner was
9 entitled to; otherwise such expenses shall be borne by the plaintiff.

10 **SECTION 3.** 815.21 (4) of the statutes is amended to read:

11 815.21 (4) A homestead so selected and set apart by such officer shall be the
12 exempt homestead of such person. The costs of such notice and survey shall be
13 collected upon the execution. A failure of the officer to set apart such homestead shall
14 affect such levy, only as to such homestead; and the failure of such person to select
15 that person's homestead shall not impair that person's right thereto, but only that
16 person's right to select the same when such selection is lawfully made by such officer.
17 After such homestead is thus set off by such officer, if, in the officer's opinion or in
18 the opinion of the plaintiff, the premises are of greater value than \$40,000 \$68,800
19 the officer may sell the same as where the owner makes the selection.

20 **SECTION 4.** 815.21 (5) of the statutes is amended to read:

21 815.21 (5) If the land claimed as an exempt homestead exceeds in value
22 \$40,000 \$68,800, the officer shall not be bound to set off any portion thereof but may
23 sell the same, unless the debtor shall make the debtor's selection of such a portion
24 thereof as shall not exceed \$40,000 \$68,800 in value.

25 (END)