2009 DRAFTING REQUEST

Bill

Received: **07/21/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **Eric**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters: **rnelson2**

Subject: **Courts - miscellaneous**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Amount of property exemptions

Instructions:

Senate companion for LRB -2462

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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FE Sent For:

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7/21

FE Sent For:

<END>

Shovers, Marc

From: Peterson, Eric
Sent: Monday, July 20, 2009 2:06 PM
To: Shovers, Marc
Subject: Drafting

Please draft a senate companion to LRB 2462/2 for Senator Taylor and jacket

Eric

Eric M. Peterson
Chief of Staff, Senator Lena C. Taylor
Wisconsin State Senator - 4th Senate District
t - 608-266-5810 f - 608-267-2353

State of Wisconsin
2009 – 2010 LEGISLATURE

LRB-~~2462/2~~
RPN:jld&kjf:md

2009 BILL

AN ACT ***to renumber and amend*** 815.18 (3) (b); ***to amend*** 815.18 (3) (d), 815.18 (3) (g), 815.18 (3) (i) 1. c., 815.20 (1) and (2), 815.21 (2), 815.21 (4) and 815.21 (5); and ***to create*** 815.18 (2) (bc), 815.18 (3) (b) 2. and 815.20 (3) of the statutes; **relating to:** the homestead exemption and increases in the value of the exemption for various property that is exempt from execution.

Analysis by the Legislative Reference Bureau

Under current law, a debtor's interest in certain property and the value of certain property are exempt from execution, from the lien of every judgment, and from liability for the debtor's debts, allowing the debtor to keep that property rather than have the property taken to pay the amounts owed to creditors. This bill raises the value of some of the property that is exempt as shown by the following table:

Property	Current exempt value	Exempt value under the bill
Business equipment, inventory, farm products, and professional books	$7,500	$15,000
Consumer goods, including household furnishing, appliances, clothes, jewelry, sporting goods, and firearms	$5,000	$12,000
Motor vehicles	$1,200	$4,000
Payments for a personal injury	$25,000	$50,000

The bill also allows a person who does not take an exemption for business equipment, inventory, farm products, or professional books to take an exemption of any interest the debtor has in a closely held business, up to a maximum amount of $15,000.

In addition, the bill requires the Department of Administration every three years, beginning in January 2011, to adjust the exemption for the debtor's homestead, currently set at $40,000, to reflect the change in the consumer price index for all urban consumers for the previous three–year period. Current law extends the homestead exemption to land owned by a husband and wife jointly or in common and allows either to claim the exemption or to divide the exemption between them. The bill allows the husband and wife to each claim a homestead exemption of not more than the adjusted $40,000 amount.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 815.18 (2) (bc) of the statutes is created to read:

2 815.18 **(2)** (bc) "Closely held business" means a corporation whose stocks are
3 held by not more than 25 individuals, a partnership of not more than 25 partners who
4 are individuals, or a limited liability company of not more than 25 members who are
5 individuals.

6 **SECTION 2.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and
7 amended to read:

8 815.18 **(3)** (b) 1. Equipment, inventory, farm products, and professional books
9 used in the business of the debtor or the business of a dependent of the debtor, not
10 to exceed ~~$7,500~~ $15,000 in aggregate value.

11 **SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

12 815.18 **(3)** (b) 2. If the debtor does not claim an exemption under subd. 1., any
13 interest of the debtor, not to exceed $15,000 in aggregate value, in a closely held
14 business that employs the debtor or in whose business the debtor is actively involved.

SECTION 4. 815.18 (3) (d) of the statutes is amended to read:

815.18 **(3)** (d) *Consumer goods.* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals, or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed ~~$5,000~~ $12,000 in aggregate value.

SECTION 5. 815.18 (3) (g) of the statutes is amended to read:

815.18 **(3)** (g) *Motor vehicles.* Motor vehicles not to exceed ~~$1,200~~ $4,000 in aggregate value. Any unused amount of the aggregate value from par. (d) may be added to this exemption to increase the aggregate exempt value of motor vehicles under this paragraph.

SECTION 6. 815.18 (3) (i) 1. c. of the statutes is amended to read:

815.18 **(3)** (i) 1. c. A payment, not to exceed ~~$25,000~~ $50,000, resulting from personal bodily injury, including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

SECTION 7. 815.20 (1) and (2) of the statutes are amended to read:

815.20 **(1)** An exempt homestead as defined in s. 990.01 (14) selected by a resident owner and occupied by him or her shall be exempt from execution, from the lien of every judgment, and from liability for the debts of the owner to the amount of $40,000, as adjusted under sub. (3), except mortgages, laborers', mechanics', and purchase money liens and taxes and except as otherwise provided. The exemption shall not be impaired by temporary removal with the intention to reoccupy the premises as a homestead nor by the sale of the homestead, but shall extend to the proceeds derived from the sale to an amount not exceeding $40,000, as adjusted under sub. (3), while held, with the intention to procure another homestead with the

proceeds, for 2 years. The exemption extends to land owned by husband and wife jointly or in common or as marital property, and ~~when they reside in the same household may be claimed by either or may be divided in any proportion between them, but the exemption may not exceed $40,000 for the household. If the husband and wife fail to agree on the division of exemption, the exemption shall be divided between them by the court in which the first judgment was taken~~ each spouse may claim a homestead exemption of not more than $40,000, as adjusted under sub. (3). The exemption extends to the interest therein of tenants in common, having a homestead thereon with the consent of the cotenants, and to any estate less than a fee.

(2) Any owner of an exempt homestead against whom a judgment has been rendered and entered in the judgment and lien docket, and any heir, devisee, or grantee of the owner, or any mortgagee of the homestead, may proceed under s. 806.04 for declaratory relief if the homestead is less than $40,000, as adjusted under sub. (3), in value and the owner of the judgment shall fail, for 10 days after demand, to execute a recordable release of the homestead from the judgment owner's judgment lien.

SECTION 8. 815.20 (3) of the statutes is created to read:

815.20 **(3)** The department of administration shall adjust the amount of the homestead exemption under this section and s. 815.21 every 3 years, beginning in January 2011, or on the effective date of this subsection .... [LRB inserts date], whichever is later, to reflect the change in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor for the previous 3–year period. By March 1 of 2011, and of every 3rd year thereafter, the department of administration shall notify the director of state courts of the adjusted

amount of the homestead exemption, which shall apply to all executions issued on or after that date.

SECTION 9. 815.21 (2) of the statutes is amended to read:

815.21 **(2)** If such plaintiff is dissatisfied with the quantity selected or the estimate of the value thereof, the officer shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form. After the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be of greater value than $40,000, as adjusted under s. 815.20 (3), the officer may still advertise and sell the premises so set off, and out of the proceeds of such sale pay to the exempt homestead claimant the sum of $40,000, as adjusted under s. 815.20 (3), and apply the balance of the proceeds of such sale on the execution; but no sale shall be made in the case last mentioned unless a greater sum than $40,000, as adjusted under s. 815.20 (3), is paid for said premises. The expenses of such survey and sale shall be collected on the execution if the owner claimed as the owner's homestead a greater quantity of land or land of greater value than the owner was entitled to; otherwise such expenses shall be borne by the plaintiff.

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

815.21 **(4)** A homestead so selected and set apart by such officer shall be the exempt homestead of such person. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall affect such levy, only as to such homestead; and the failure of such person to select that person's homestead shall not impair that person's right thereto, but only that person's right to select the same when such selection is lawfully made by such officer. After such homestead is thus set off by such officer, if, in the officer's opinion or in the opinion of the plaintiff, the premises are of greater value than $40,000, as

1 adjusted under s. 815.20 (3), the officer may sell the same as where the owner makes
2 the selection.

3 **SECTION 11.** 815.21 (5) of the statutes is amended to read:

4 815.21 **(5)** If the land claimed as an exempt homestead exceeds in value
5 $40,000, as adjusted under s. 815.20 (3), the officer shall not be bound to set off any
6 portion thereof but may sell the same, unless the debtor shall make the debtor's
7 selection of such a portion thereof as shall not exceed $40,000, as adjusted under s.
8 815.20 (3), in value.

9 **SECTION 12. Initial applicability.**

10 (1) This act first applies to executions issued on the effective date of this
11 subsection.

12 **(END)**