



ENGROSSED 2009 ASSEMBLY BILL 387

September 24, 2009 - Printed by direction of SENATE CHIEF CLERK.

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

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 2009 Assembly Bill 387 consists of the bill, as passed by the assembly on September 22, 2009, as affected by the following documents adopted in the assembly on September 22, 2009: Assembly Amendment 3. The text also includes the September 24, 2009, chief clerk's correction to Assembly Amendment 3.

Content of Engrossed 2009 Assembly Bill 387:

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:

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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
Personal depository accounts	\$1,000	\$5,000

The bill 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 increases the homestead exemption from \$40,000 to \$75,000. 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 \$75,000.

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:

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

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

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

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

11 815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed ~~\$1,200~~ \$4,000 in
12 aggregate value. Any unused amount of the aggregate value from par. (d) may be
13 added to this exemption to increase the aggregate exempt value of motor vehicles
14 under this paragraph.

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

16 815.18 (3) (i) 1. c. A payment, not to exceed ~~\$25,000~~ \$50,000, resulting from
17 personal bodily injury, including pain and suffering or compensation for actual
18 pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

19 **SECTION 6m.** 815.18 (3) (k) of the statutes is amended to read:

20 815.18 (3) (k) *Depository accounts.* Depository accounts in the aggregate value
21 of ~~\$1,000~~ \$5,000, but only to the extent that the account is for the debtor's personal
22 use and is not used as a business account.

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

24 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
25 resident owner and occupied by him or her shall be exempt from execution, from the

ENGROSSED ASSEMBLY BILL 387**SECTION 7**

1 lien of every judgment, and from liability for the debts of the owner to the amount
2 of \$40,000, \$75,000, except mortgages, laborers', mechanics', and purchase money
3 liens and taxes and except as otherwise provided. The exemption shall not be
4 impaired by temporary removal with the intention to reoccupy the premises as a
5 homestead nor by the sale of the homestead, but shall extend to the proceeds derived
6 from the sale to an amount not exceeding \$40,000, \$75,000, while held, with the
7 intention to procure another homestead with the proceeds, for 2 years. The
8 exemption extends to land owned by husband and wife jointly or in common or as
9 marital property, and ~~when they reside in the same household may be claimed by~~
10 ~~either or may be divided in any proportion between them, but the exemption may not~~
11 ~~exceed \$40,000 for the household. If the husband and wife fail to agree on the division~~
12 ~~of exemption, the exemption shall be divided between them by the court in which the~~
13 ~~first judgment was taken~~ each spouse may claim a homestead exemption of not more
14 than \$75,000. The exemption extends to the interest therein of tenants in common,
15 having a homestead thereon with the consent of the cotenants, and to any estate less
16 than a fee.

17 (2) Any owner of an exempt homestead against whom a judgment has been
18 rendered and entered in the judgment and lien docket, and any heir, devisee, or
19 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
20 806.04 for declaratory relief if the homestead is less than \$40,000 \$75,000 in value
21 and the owner of the judgment shall fail, for 10 days after demand, to execute a
22 recordable release of the homestead from the judgment owner's judgment lien.

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

24 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
25 estimate of the value thereof, the officer shall cause such lands to be surveyed,

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1 beginning at a point to be designated by the owner and set off in compact form. After
2 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be
3 of greater value than ~~\$40,000~~, \$75,000, the officer may still advertise and sell the
4 premises so set off, and out of the proceeds of such sale pay to the exempt homestead
5 claimant the sum of ~~\$40,000~~ \$75,000 and apply the balance of the proceeds of such
6 sale on the execution; but no sale shall be made in the case last mentioned unless a
7 greater sum than ~~\$40,000~~ \$75,000 is paid for said premises. The expenses of such
8 survey and sale shall be collected on the execution if the owner claimed as the owner's
9 homestead a greater quantity of land or land of greater value than the owner was
10 entitled to; otherwise such expenses shall be borne by the plaintiff.

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

12 815.21 (4) A homestead so selected and set apart by such officer shall be the
13 exempt homestead of such person. The costs of such notice and survey shall be
14 collected upon the execution. A failure of the officer to set apart such homestead shall
15 affect such levy, only as to such homestead; and the failure of such person to select
16 that person's homestead shall not impair that person's right thereto, but only that
17 person's right to select the same when such selection is lawfully made by such officer.
18 After such homestead is thus set off by such officer, if, in the officer's opinion or in
19 the opinion of the plaintiff, the premises are of greater value than ~~\$40,000~~ \$75,000
20 the officer may sell the same as where the owner makes the selection.

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

22 815.21 (5) If the land claimed as an exempt homestead exceeds in value
23 ~~\$40,000~~, \$75,000, the officer shall not be bound to set off any portion thereof but may
24 sell the same, unless the debtor shall make the debtor's selection of such a portion
25 thereof as shall not exceed ~~\$40,000~~ \$75,000 in value.

