



1995 SENATE BILL 575

February 28, 1996 - Introduced by LAW REVISION COMMITTEE.

1 **AN ACT to amend** 815.20 (1) of the statutes; **relating to:** homestead exemption.

Analysis by the Legislative Reference Bureau

Under current law, a homestead is exempt from execution, liens and liability for debts of the owner in an amount up to \$40,000. Current law provides that this exemption is not impaired by the sale of the premises. Under current law, the proceeds of the sale (up to \$40,000) may be held for 2 years if the intent is to purchase another homestead. In *Moore v. Krueger*, 179 Wis. 2d 449, 507 N.W. 2d 155 (Ct. App. 1993), the court had to determine if the person had to be living in the homestead up until the time of the sale to be eligible for the exemption related to the sale of the homestead. The court held that, if the owner intended to use the proceeds of the sale for the purchase of a homestead, the owner was not required to live in the home until the property was sold. This bill codifies that court decision.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c) 1., stats. After careful consideration of the court of appeals decision in *Moore v. Krueger*, 179 Wis. 2d 449, 507 N.W. 2d 155 (Ct. App. 1993), the law revision committee has determined that codifying this decision is desirable as a matter of public policy.

2 **SECTION 1.** 815.20 (1) of the statutes is amended to read:

3 815.20 (1) An exempt homestead, as defined in s. 990.01 (14), selected by a
4 resident owner and occupied by him or her shall be exempt from execution, from the

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

17 (END)