

**2005 DRAFTING REQUEST**

**Bill**

Received: 10/24/2005

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: Lisa

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Homestead exemption

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rnelson2 10/25/2005	jdye 11/18/2005	jfrantze 11/18/2005	_____	lnorthro 11/18/2005	lnorthro 03/06/2006	

FE Sent For:

<END>

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/?	rnelson2	1 11/18 jcd		 11/18			

FE Sent For:

<END>

**Nelson, Robert P.**

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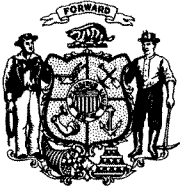
**From:** Kunkel, Mark  
**Sent:** Monday, October 24, 2005 2:35 PM  
**To:** Nelson, Robert P.  
**Subject:** Homestead exemption for bankruptcy

Lisa in Rep. Kreuser's office wants to increase the homestead exemption for bankruptcy from \$45,000 to \$75,000. (I think she misspoke. There's an exemption in ch. 815 that's \$40,000, not \$45,000.) According to her, the current exemption went into effect in 1985. She talked to LFB, who suggested that, to account for inflation, you should change it \$75,000.

Is this your's? Mine? I don't know. Like I said, there's a current law exemption in ch. 815.

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Mark D. Kunkel  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3917/1

RPN: a:...

4/23

JLD

2005 BILL

Gen

for that homestead

1 AN ACT ...; relating to: increasing the amount of the homestead exemption. ✓

*Analysis by the Legislative Reference Bureau*

Under current law, a resident owner of a homestead, a dwelling, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, has the right to claim a homestead exemption from execution, from a lien of a judgment, and from liability for debts, in the amount of \$40,000. This bill increases the homestead exemption amount to \$75,000. ✓

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

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  
5 lien of every judgment, and from liability for the debts of the owner to the amount  
6 of \$40,000 \$75,000, except mortgages, laborers', mechanics' and purchase money  
7 liens and taxes and except as otherwise provided. The exemption shall not be  
8 impaired by temporary removal with the intention to reoccupy the premises as a

**BILL****SECTION 1**

1 homestead nor by the sale of the homestead, but shall extend to the proceeds derived  
2 from the sale to an amount not exceeding ~~\$40,000~~ \$75,000, while held, with the  
3 intention to procure another homestead with the proceeds, for 2 years. The  
4 exemption extends to land owned by husband and wife jointly or in common or as  
5 marital property, and when they reside in the same household may be claimed by  
6 either or may be divided in any proportion between them, but the exemption may not  
7 exceed ~~\$40,000~~ \$75,000 for the household. If the husband and wife fail to agree on  
8 the division of exemption, the exemption shall be divided between them by the court  
9 in which the first judgment was taken. The exemption extends to the interest therein  
10 of tenants in common, having a homestead thereon with the consent of the cotenants,  
11 and to any estate less than a fee.

12 **History:** 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.20; 1983 a. 186; 1985 a. 153; 1993 a. 486; 1995 a. 224.

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

13 815.20 (2) Any owner of an exempt homestead against whom a judgment has  
14 been rendered and entered in the judgment and lien docket, and any heir, devisee or  
15 grantee of the owner, or any mortgagee of the homestead, may proceed under s.  
16 806.04 for declaratory relief if the homestead is less than ~~\$40,000~~ \$75,000 in value  
17 and the owner of the judgment shall fail, for 10 days after demand, to execute a  
18 recordable release of the homestead from the judgment owner's judgment lien.

19 **History:** 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.20; 1983 a. 186; 1985 a. 153; 1993 a. 486; 1995 a. 224.

**SECTION 3.** 815.21 (2) of the statutes is amended to read:

20 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the  
21 estimate of the value thereof, the officer shall cause such lands to be surveyed,  
22 beginning at a point to be designated by the owner and set off in compact form. After  
23 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be  
24 of greater value than ~~\$40,000~~ \$75,000, the officer may still advertise and sell the

**BILL**

1 premises so set off, and out of the proceeds of such sale pay to the exempt homestead  
2 claimant the sum of ~~\$40,000~~ \$75,000 and apply the balance of the proceeds of such  
3 sale on the execution; but no sale shall be made in the case last mentioned unless a  
4 greater sum than ~~\$40,000~~ \$75,000 is paid for said premises. The expenses of such  
5 survey and sale shall be collected on the execution if the owner claimed as the owner's  
6 homestead a greater quantity of land or land of greater value than the owner was  
7 entitled to; otherwise such expenses shall be borne by the plaintiff.

8 **History:** 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.21; 1985 a. 153; 1993 a. 486.

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

10 815.21 (4) A homestead so selected and set apart by such officer shall be the  
11 exempt homestead of such person. The costs of such notice and survey shall be  
12 collected upon the execution. A failure of the officer to set apart such homestead shall  
13 affect such levy, only as to such homestead; and the failure of such person to select  
14 that person's homestead shall not impair that person's right thereto, but only that  
15 person's right to select the same when such selection is lawfully made by such officer.  
16 After such homestead is thus set off by such officer, if, in the officer's opinion or in  
17 the opinion of the plaintiff, the premises are of greater value than ~~\$40,000~~ \$75,000  
the officer may sell the same as where the owner makes the selection.

18 **History:** 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.21; 1985 a. 153; 1993 a. 486.

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

20 815.21 (5) If the land claimed as an exempt homestead exceeds in value  
21 ~~\$40,000~~ \$75,000, the officer shall not be bound to set off any portion thereof but may  
22 sell the same, unless the debtor shall make the debtor's selection of such a portion  
thereof as shall not exceed ~~\$40,000~~ \$75,000 in value.

23 **History:** 1973 c. 168; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.21; 1985 a. 153; 1993 a. 486.

(END)

**Northrop, Lori**

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**From:** Wilson, A.J.  
**Sent:** Monday, March 06, 2006 3:45 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-3917/1 Topic: Homestead exemption

It has been requested by <Wilson, A.J.> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3917/1 Topic: Homestead exemption