

State of Wisconsin



2009 Senate Bill 259

Date of enactment: **December 1, 2009**
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2009 WISCONSIN ACT 80

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

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

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

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

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

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

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

815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any interest of the debtor, not to exceed \$15,000 in aggregate value, in a closely held 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 6m. 815.18 (3) (k) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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~~, \$75,000, 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~~, \$75,000, 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 \$75,000. 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~~ \$75,000 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 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~~, \$75,000, 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~~ \$75,000 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~~ \$75,000 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~~ \$75,000 the officer may sell the same as where the owner makes the selection.

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

815.21 (5) If the land claimed as an exempt homestead exceeds in value ~~\$40,000~~, \$75,000, the officer shall not be bound to set off any portion thereof but may 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.

SECTION 12. Initial applicability.

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