

HOUSE BILL REPORT

SSB 5068

As Passed House
April 15, 1993

Title: An act relating to homestead exemptions.

Brief Description: Changing the homestead exemption.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, McCaslin, Nelson, Erwin, Vognild and Roach).

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DP;
Passed House, April 15, 1993, 95-3.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 14 members:
Representatives Appelwick, Chair; Ludwig, Vice Chair;
Padden, Ranking Minority Member; Ballasiotes, Assistant
Ranking Minority Member; Campbell; Chappell; Johanson; Long;
Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Minority Report: Do not pass. Signed by 1 member:
Representative Forner.

Staff: Bill Perry (786-7123).

Background: Generally, a creditor who obtains a judgment against a delinquent debtor may recover his or her judgment out of the debtor's property. The judgment creditor may force the debtor to sell the property to repay the debt. Also, if a debtor goes through bankruptcy, the debtor's property may be liquidated by a bankruptcy sale. The proceeds of the sale, after expenses, are then applied toward satisfying creditors.

Some of a debtor's property is usually protected against judgment creditors and against creditors in bankruptcy proceedings. Both federal and state law contain some protections. The federal law allows a debtor in bankruptcy to choose between the federal and state exemptions. Examples of exemptions under Washington law include: most wearing apparel; two cars up to an aggregate value of \$2,500; and tools of the trade up to a value of \$5,000.

Exemptions of varying amounts are also provided for other kinds of personal property and for pension benefits. Some exemptions are subject to limitations for certain obligations such as child support and taxes.

Under this state's law, certain property of a debtor is protected by the so-called "homestead" exemption. The homestead exemption protects the debtor's equity in the real estate or mobile home where the debtor resides or plans to reside. The exemption generally is limited to the lesser of (1) \$30,000 or (2) the total net value of the homestead property. Net value is defined as the market value of the property less all liens and encumbrances.

The federal provision analogous to the state homestead exemption protects the debtor's interest in "real property or personal property that the debtor or a dependent of the debtor uses as a residence ..." This definition includes living accommodations beyond houses and mobile homes.

The Creditor-Debtor Section of the Washington State Bar Association has recommended that the state law's homestead exemption definition be expanded to resemble more closely the federal law. Some people have developed equity in "homes" that do not meet the current state definition of a homestead. A number of people in this state live on boats, rather than in houses or mobile homes. Others live in motor homes or cars.

Summary of Bill: The homestead exemption is expanded to include personal property, as well as real property. The amount of the homestead exemption in personal property is limited to the lesser of: (1) the net value of the personal property claimed as a homestead; or (2) \$15,000.

References to liens against which the homestead exemption is ineffective are amended to include maritime and automobile repair liens.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: An increasing number of people live in motor vehicles or on boats. There is no reason they should not have the same protections as people who live in houses or mobile homes. The federal law already allows a personal property homestead exemption.

Testimony Against: None.

Witnesses: Susan Stanley, Washington State Bar Association
(pro).