



2009 ASSEMBLY BILL 189

April 2, 2009 – Introduced by Representatives HEBL, BLACK, BERCEAU, POPE-ROBERTS, TURNER, A. WILLIAMS, ZEPNICK, FIELDS, SPANBAUER and MOLEPSKE JR., cosponsored by Senators TAYLOR, HOLPERIN, LEHMAN, MILLER, DECKER, ERPENBACH, WIRCH and VINEHOUT. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to amend* 815.20 (1), 815.20 (2), 815.21 (2), 815.21 (4) and 815.21 (5) of
2 the statutes; **relating to:** increasing the amount of the homestead exemption.

Analysis by the Legislative Reference Bureau

Under current law, a circuit court may order a sheriff to seize a debtor's property and sell as much of the nonexempt property as is necessary to pay the amount owed under a judgment that a creditor has obtained from the court. This process is known as an "execution." Currently, certain items are exempt from execution, including \$40,000 of the value of a person's homestead. A "homestead" is defined under current law as a dwelling, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home.

This bill increases the amount of a homestead's value that is exempt from \$40,000 to \$75,000.

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

3 **SECTION 1.** 815.20 (1) of the statutes is amended to read:
4 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
5 resident owner and occupied by him or her shall be exempt from execution, from the
6 lien of every judgment, and from liability for the debts of the owner to the amount

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

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

16 815.20 (2) Any owner of an exempt homestead against whom a judgment has
17 been rendered and entered in the judgment and lien docket, and any heir, devisee or
18 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
19 806.04 for declaratory relief if the homestead is less than ~~\$40,000~~ \$75,000 in value
20 and the owner of the judgment shall fail, for 10 days after demand, to execute a
21 recordable release of the homestead from the judgment owner's judgment lien.

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

23 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
24 estimate of the value thereof, the officer shall cause such lands to be surveyed,
25 beginning at a point to be designated by the owner and set off in compact form. After

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

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

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

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

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

25 (END)