

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1497

S. P. 462

In Senate, March 19, 1973

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Brennan of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Amend the Personal Property and Homestead Exemption Laws to Provide for Realistic and Liberalized Exemptions.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 14, § 4401, sub-§ 1, amended. Subsection 1 of section 4401 of Title 14 of the Revised Statutes, as amended by section 2 of chapter 412 of the public laws of 1967, is further amended to read as follows:

1. Apparel, household furniture and goods, bed. The debtor's apparel; household furniture and goods necessary for himself, wife and children, not exceeding \$500 in value, and one bed, bedstead and necessary bedding for each such person, one radio and one television not exceeding \$200 in total values, guns not exceeding \$150 in value and one automobile or truck not exceeding \$600 in value;

Sec. 2. R. S., T. 14, § 4551, repealed and replaced. Section 4551 of Title 14 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4551. Homestead exemption

Except as provided in section 4552, a homestead whenever acquired shall be exempt from attachment, execution or forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon; provided that only so much of such property as does not exceed \$3,000 in value is exempt. The term "homestead" means a lot of land and the buildings thereon, owned by the householder, who uses the same as his principal place of abode.

Sec. 3. R. S., T. 14, § 4552, repealed and replaced. Section 4552 of Title 14 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 4552. Exceptions

The homestead shall not be exempt from any of the following:

1. Claims secured by real estate mortgages on the homestead;
2. Claims secured by security interests in the homestead;
3. Claims of lien creditors pursuant to Title 10, chapter 603.

Sec. 4. R. S., T. 14, § 4553, repealed and replaced. Section 4553 of Title 14 of the Revised Statutes, as amended by section 3 of chapter 315 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 4553. Creditors claiming greater value

If the interest of a householder in his homestead exceeds \$3,000 it may be subjected to a forced sale. The householder may set off such part thereof which is of a value of \$3,000 and designate that portion as exempt from sale. If the householder fails to so designate such portion, the whole of the property shall be sold and the proceeds of said sale shall be distributed as follows:

1. To the householder in the amount of \$3,000; and said \$3,000 shall remain exempt from attachment and execution by any creditor for a period of one year. At the end of said period, if the \$3,000 is not reinvested in property which qualifies for a homestead exemption, the \$3,000 shall become subject to attachment and execution;
2. To the creditor attaching or executing on the homestead to the extent of his claim;
3. To the householder, the balance of the proceeds.

Sec. 5. R. S., T. 14, § 4554, repealed and replaced. Section 4554 of Title 14 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4554. Death of householder; mechanics liens

Subject to the exceptions in section 4552, the exempt portion of the homestead shall not be subject to claims of creditors of the householder or of his estate in the event of his death, testate or intestate.

Sec. 6. R. S., T. 18, § 1858, additional. Title 18 of the Revised Statutes is amended by adding a new section 1858 to read as follows:

§ 1858. Homestead exemption; exemptions from attachment and execution

Anything provided in this Title to the contrary notwithstanding, any part of the decedent's estate, whether real or personal property and whether the decedent died testate or intestate, which shall be exempt under Title 14, sections 4401 and 4552 on the date of death of decedent, shall not be liable for

payment of debts of the decedent or claims against his estate and shall not be subject to sale by license of the probate court for payment of debts of the decedent or any other process or action for the payment of debts of the decedent.

STATEMENT OF FACT

Present Maine Law provides for no exemption from personal property attachment and execution for such items as an automobile or truck. This legislation recognizes that, particularly in rural Maine, an automobile or truck is a necessity for maintaining one's livelihood. Accordingly, a personal automobile or truck to a value of \$600 is exempted from attachment by creditors.

Under present law, a Maine citizen is not entitled to a homestead exemption unless, prior to contracting a debt, he shall file a certificate claiming such an exemption in the Registry of Deeds. This procedure is so seldom utilized that the homestead exemption in Maine is virtually meaningless. This legislation would create an automatic homestead exemption for each householder in the amount of \$3,000, thereby making the exemption realistically available to all Maine householders, not just to the few who, acting upon proper legal advice, file an exemption certificate in the Registry of Deeds.