

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1677

H. P. 1361

House of Representatives, April 13, 1977

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tarbell of Bangor.

Cosponsor: Mr. Boudreau of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Concerning Debtor's Property Exemptions from Attachment
and Bankruptcy Proceedings.**

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

Sec. 1. 14 MRSA § 4151 is repealed and the following is enacted to read:

§ 4151. Property subject to attachment

All personal property or interest in personal property of the defendant may be attached and held as security to satisfy the judgment for damages and costs which the plaintiff may recover, except such property or interest in property made exempt from attachment by the provisions of this Title. Such property or interest in property may be attached on writs issued by the District Court in any division, when directed to the proper officer.

Sec. 2. 14 MRSA § 4401, as last amended by PL 1973, c. 512, § 1, is repealed and the following enacted in its place:

§ 4401. Items exempt

The following personal property is exempt from attachment and execution and such right of exemption may not be waived, pledged, or given as security or collateral, except as security for the purchase thereof and only if not prescribed by any other statute.

1. Property exempt without limitation. An individual is entitled to exemption of the following property:

A. Benefits which the individual has received or is entitled to receive, which are subject to the provisions of Title 22, section 3180, Title 26, sec-

tion 1044, Title 39, section 67 or which are provided under any other federal social security or federal, state or local public assistance agencies;

B. Benefits or interest in benefits received or to be received under a state retirement allowance or municipal pension fund, which are subject to the provisions of Title 5, section 1003 or Title 30, section 152;

C. Professionally prescribed health aids for the debtor or a dependant of the debtor;

D. Veteran's benefits;

E. An award under a crime victim's compensation act; and

F. An unmatured life insurance contract owed by the debtor, other than a credit life insurance contract.

2. Property exempt to extent reasonably necessary for health or support. An individual is entitled to an exemption of the following property:

A. To the extent reasonably necessary for the health and support of him and his dependents:

(1) Benefits paid or payable for medical, surgical or hospital care;

(2) Money or property received and rights to receive money or property for alimony, child support or separate maintenance;

(3) Proceed of insurance, a judgment, a settlement, or other rights accruing as a result of a bodily injury of the debtor or of the wrongful death or body injury of another individual of whom the debtor was or is a dependent, but such exemption shall not include compensation for pain and suffering loss of consortium or other intangible damages or for actual pecuniary loss;

(4) Proceeds or benefits paid or payable on the death of an insured, if the defendant was the spouse or dependent of the insured; and

(5) Assets held, payments made, and amounts payable under a stock bonus, pension, profit sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability or length of service;

B. The phrase "property to the extent reasonably necessary for the health and support of him and his dependents" means property required to meet the present and anticipated needs of the debtor and individuals who derive support primarily from the debtor as determined by the court after consideration of the debtor's responsibilities and all the present and anticipated property and income of the debtor, including that which is exempt; and

C. This subsection shall not affect property exempt under subsection 1.

3. Property exempt to the extent of value limitations. A debtor is entitled to an exemption of the following property or interest in property to the extent of the following value limitations:

A. The debtor's interest, not to exceed \$300 in any individual item, in household furnishings, household goods, appliances or wearing apparel, which are held primarily for the personal use by the debtor or his dependents, provided that the exemption shall only apply to furnishings, goods and appliances of the debtors principal place of residence;

B. The debtor's aggregate interest, not to exceed \$1,500, in any family portrait or family heirloom that is of particular sentimental value to the debtor or a dependent of the debtor;

C. The debtor's aggregate interest, not to exceed \$500, in jewelry held primarily for the personal use of the debtor or his dependent;

D. The debtor's aggregate interest, not to exceed \$1,500, in any implements, farm animals, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

E. The debtor's aggregate interest, not to exceed \$500, in coal, oil, gas, gasoline or any other fuel held for heating, cooking or automotive purposes and for personal use by the debtor or his dependents;

F. The debtor's aggregate interest, not to exceed \$500, in produce or crops from a farm in which the debtor has an ownership interest;

G. The debtor's interest, not to exceed \$1,500, in one motor vehicle;

H. The debtor's aggregate interest, not to exceed \$1,500, in accrued dividends or interest under, or cash surrender value of, any unmaturred life insurance contracts owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent; and

I. The debtor's aggregate interest, in cash or any additional property, not to exceed:

(1) Five hundred dollars if the debtor claims a homestead exemption under section 4551; or

(2) One thousand five hundred dollars, if the debtor does not claim a homestead exemption.

4. Other exemptions. The exemptions permitted in this section are in addition to those permitted by Title 9-A, section 5.105.

Sec. 3. 14 MRSA § 4402 is enacted to read:

§ 4402. Change of value limitations

The dollar amounts specified in subsection 4401, subsection 3, shall increase on January 1st of each even-numbered year by an amount equal to 10% of the dollar amounts specified in the corresponding provisions of section 4401, subsection 3, as of January 1, 1978. Such new dollar amount shall remain in effect until January 1st of the next even-numbered year.

Sec. 4. 14 MRSA § 4403 is enacted to read:

§ 4403. Tracing exempt property

If property, or any part thereof that could have been claimed as an exemption under section 4401, subsection 1, paragraph C or under section 4401, subsection 3, paragraphs A, C, D, E or F has been sold or taken by condemnation, or has been lost, damaged or destroyed and the owner has been indemnified therefor, the debtor is entitled to an exemption of proceeds that are traceable for 18 months after the proceeds are received, and which are within the value limitations of section 4401.

Money or other property exempt under section 4401, subsection 1, paragraphs A, B, D and E or exempt to the extent reasonably necessary for health and support under section 4401, subsection 2, remains exempt after its receipt by, and while it is in the possession of, the debtor or in any other form into which it is traceable.

Sec. 5. 14 MRSA § 4551 as repealed and replaced by PL 1973, c. 512, § 2 is repealed and the following enacted in its place:

§ 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 or interest in property as does not exceed \$10,000 in value is exempt. The term "homestead" means the debtor's aggregate interest in: Real and personal property that the debtor or dependent of the debtor uses as a principal place of residence, or a cooperative that owns property that the debtor or a dependent of the debtor uses as a principal place of residence; and a burial plot for the debtor or dependent of the debtor.

Sec. 6. 14 MRSA § 4553, as last repealed and replaced by PL 1973, c. 512, § 4, is repealed and the following enacted in its place:

§ 4553. Creditors claiming greater value

If the interest of a debtor in his homestead exceeds \$10,000, it may be subject to a force sale. The debtor may set off such part thereof which is of a value of \$10,000 and designate that portion as exempt from sale. If the debtor fails to so designate such portion, the whole of the property shall be sold and the proceeds of the sale shall be distributed as follows:

1. To the debtor in the amount of \$10,000; and \$10,000 shall remain exempt from attachment and execution by any creditor for a period of 18 months. At the end of this period, if the \$10,000 is not reinvested in property which qualifies for a homestead exemption, the \$10,000 shall become subject to attachment and execution;

2. To each creditor attaching or executing on the homestead to the extent of his claim; and

3. To the debtor, the balance of the proceeds.

Sec. 7. 14 MRSA § 4555 is enacted to read:

§ 4555. Change of value limitations in homestead exemption

On January 1st of each year, the dollar amounts specified in sections 4551 and 4553 shall increase by \$500, and such new dollar amount shall remain in effect until January 1st of the following year.

Sec. 8. 14 MRSA § 4556 is enacted to read:

§ 4556. Tracing exempt property

If property, or any part thereof, that could have been claimed as a homestead exemption under section 4551 has been sold or taken by condemnation, or has been lost, damaged or destroyed and the owner has been indemnified therefor, the debtor is entitled to an exemption of proceeds that are traceable for 18 months after the proceeds are received and which are within the value limitations of section 4551.

Sec. 9. 24-A MRSA § 2428, sub-§ 2, 1st sentence, as enacted by PL 1969, c. 132, § 1, is amended to read:

Except in cases of transfers with intent to defraud creditors, if a contract of life endowment annuity or accident insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself or is assigned or in any way made payable to any other person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such contract of insurance or executors or administrators of such insured or of the person so effecting such contract of insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person affecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the contract of insurance is made payable to the person whose life is insured or to the executor or administrator of such person if the beneficiary or assignee shall predecease such person, and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails is made available for his use, to the extent of the exemption allowed by Title 14, section 4401.

Sec. 10. Effective date. This chapter shall become effective January 1, 1978.

STATEMENT OF FACT

The purpose of this bill is to revise and clarify exemptions under the State Bankruptcy Law.