

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 711**

H. P. 630

House of Representatives, February 9, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Aloupis of Bangor.

Cosponsor: Senator Clark of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Specify the Exemptions which will Apply in Bankruptcy Cases.**

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

Sec. 1. 14 MRSA § 4403 is enacted to read:

§ 4403. Exemptions which apply in bankruptcy cases

1. Personal property which may be exempted. Notwithstanding section 4401 and the United States Code, Title 11, Section 522, a debtor may exempt from the estate created by commencement of a case under the United States Code, Title 11, Sections 301, 302 or 303, only the personal property specified in this section as follows:

- A. The debtor's aggregate interest, not to exceed \$2,500 in value in personal property, that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or any burial plot for the debtor or a dependent of the debtor;
- B. The debtor's interest, not to exceed \$1,000 in value, in one motor vehicle;
- C. The debtor's interest, not to exceed \$200 in value, in any particular item in household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of the debtor or a dependent of the debtor;

**D. The debtor's aggregate interest, not to exceed \$500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;**

**E. The debtor's aggregate interest, not to exceed \$750 in value, in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;**

**F. Any unmaturing life insurance contract owned by the debtor other than a credit life insurance contract;**

**G. Professionally prescribed health aids for the debtor or a dependent of the debtor;**

**H. The debtor's right to receive:**

**(1) A social security benefit, unemployment compensation;**

**(2) A local public assistance benefit;**

**(3) A veterans' benefit;**

**(4) A disability, illness or unemployment benefit;**

**(5) Alimony, support or separate maintenance to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and**

**(6) A payment under a stock bonus, pension, profit sharing, annuity or similar plan or contract on account of illness, disability, death, age or length of service to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless:**

**(a) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;**

**(b) The payment is on account of age or length of service; and**

**(c) The plan or contract does not qualify under the United States Internal Revenue Code of 1954, Sections 401(a), 403(a), 403(b), 408 or 409; United States Code, Title 26, Sections 401(a), 403(b), 408 or 409; and**

**I. The debtor's right to receive or property that is traceable to:**

**(1) An award under a crime victims reparation law;**

**(2) A payment on account for the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;**

**(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;**

(4) A payment not to exceed \$7,500 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss of the debtor or an individual of whom the debtor is a dependent; or

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

Sec. 2. 14 MRSA § 4555 is enacted to read:

**§ 4555. Real properties exemption in bankruptcy cases**

Notwithstanding section 4551 and the United States Code, Title 11, Section 522, a debtor may exempt from the estate created by commencement of a case under the United States Code, Title 11, Sections 301, 302 or 303, only the real property specified as follows:

1. **Residence; burial plot.** The debtor's aggregate interest, not to exceed \$5,000 in value, real property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, for any burial plot for the debtor or a dependent of the debtor.

**STATEMENT OF FACT**

The United States Code, Title 11, Section 522(b) (1), the Bankruptcy Act of 1978, provides that an individual commencing a bankruptcy case may choose between the federal exemptions itemized in the United States Bankruptcy Code, Title 11, Section 522(d), as an alternative, exemptions provided by state law unless the state law that is applicable to the debtor specifically does not so authorize. The Maine Revised Statutes, Title 14, sections 4403 and 4551 are meant to set forth the exemptions allowed to an individual under state law and to preclude the election by the debtor of the exemption set forth in the United States Code, Title 11, Section 522(d).