

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 484, L.D. 664, Bill, "An Act to Increase the Residence Exemption for Elderly and Disabled Persons"

Amend the bill by inserting at the beginning of the first line after the enacting clause (page 1, line 3 in L.D.) the following: 'Sec. 1.'

Further amend the bill in subsection 1 by striking out all of paragraph B (page 1, lines 21 to 30 in L.D.) and inserting in its place the following:

'B. The debtor's aggregate interest, not to exceed \$60,000 in value, in property described in paragraph A, if the debtor or a dependent of the debtor is either a person 60 years of age or older or a person physically or mentally disabled and because of such disability is unable to engage in substantial gainful employment and whose disability has lasted or can be expected to last for at least 12 months or can be expected to result in death; provided that if the debtor's interest is held jointly with any other person or persons, the exemption shall not exceed in value the lesser of \$60,000 or the product of the fractional share of the debtor's interest times \$120,000. This paragraph does not apply to liens obtained prior to its effective date or to judgments based on torts involving other than ordinary negligence on the part of the debtor.'

Further amend the bill in subsection 1 in paragraph C in the last line (page 1, line 35 in L.D.) by striking out the following: "proceeds." and inserting in its place the following: 'proceeds for purposes of reinvesting in a residence within that period.'

1 Further amend the bill by inserting at the end before the
statement of fact the following:

3
5 'Sec. 2. 14 MRSA §4426, as enacted by PL 1981, c. 431, §2, is
amended to read:

7 **§4426. Exemptions in bankruptcy proceedings**

9 Notwithstanding anything to the contrary in the United
States Code, Title 11, Section 522(b), a debtor may exempt from
11 property of his the debtor's estate under United States Code,
Title 11, only that property exempt under the United States Code,
13 Title 11, Section 522(b)(2)(A) and (B), except that any debtor
eligible for a residence exemption under section 4422, subsection
15 1, paragraph B, may exempt the amount allowed in that paragraph.'

17 **STATEMENT OF FACT**

19 This amendment adds a phrase in the Maine Revised Statutes,
21 Title 14, section 4422, paragraph B, further defining
"disability" which is consistent with the federal definition
23 under the Social Security laws.

25 This amendment clarifies that the higher residence exemption
does not apply to judgments rendered in a case in which the
27 debtor is liable for conduct other than ordinary negligence.

29 This amendment clarifies that the 6-month period during
which the proceeds of the sale of the residence are exempt is to
31 enable the debtor to purchase a new home. If the proceeds are
not used in that way, they are not exempt.

33 This amendment also amends the exemptions applicable to
35 bankruptcy proceedings. Under current state law, a person is
eligible for the exemptions listed in federal law, not state
37 law. This amendment would allow a person eligible for the larger
residence exemption to use that larger exemption for bankruptcy
39 proceedings.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
5/25/89 (Filing No. H-303)