

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 718

H.P. 513

House of Representatives, February 10, 2005

An Act To Increase the Amount of Equity in a Principal Residence That Is Exempt from Attachment

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative COLLINS of Wells.
Cosponsored by Senator STRIMLING of Cumberland and
Representatives: CANAVAN of Waterville, CARR of Lincoln, GERZOFISKY of Brunswick,
NASS of Acton, PELLETIER-SIMPSON of Auburn, SHERMAN of Hodgdon, Senators:
ANDREWS of York, BROMLEY of Cumberland.

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

Sec. 1. 14 MRSA §4422, sub-§1, as amended by PL 2003, c. 47, §§1 and 2, is further amended to read:

1. **Principal residence.** The exemption of a debtor's principal residence is subject to this subsection. For purposes of this subsection, "principal residence" means that place where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed ~~\$35,000~~ \$100,000 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, ~~or in a burial plot for the debtor or a dependent of the debtor, provided that if minor dependents of the debtor have their principal place of residence with the debtor, the debtor's aggregate interest may not exceed \$70,000 and provided further~~ except that if the debtor's interest is held jointly with any other person or persons, the exemption may not exceed in value the lesser of ~~\$35,000~~ \$100,000 or the product of the debtor's fractional share times ~~\$70,000~~ \$100,000.

B. The debtor's aggregate interest, not to exceed ~~\$70,000~~ \$200,000 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 may not exceed in value the lesser of ~~\$70,000~~ \$200,000 or the product of the fractional share of the debtor's interest times ~~\$140,000~~ \$200,000. 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.

C. That portion of the proceeds from any sale of property ~~which that~~ is exempt under this section shall be exempt for a period of 6 months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period.

Sec. 2. 14 MRSA §4422, sub-§17 is enacted to read:

17. Burial plots. The debtor's interest, not to exceed \$35,000, in a burial plot for the debtor or a dependent of the debtor.

SUMMARY

Current law provides an exemption from attachment and execution of certain property of a debtor. The amount of the debtor's interest in a residence of the debtor that is exempt is \$35,000, unless the resident is 60 years of age or older, in which case the exempt amount of the residence is \$70,000.

This bill amends the law regarding exemption from attachment and execution in the following ways:

1. It clarifies that the exemption for a residence applies only to the principal residence of the debtor;

2. It increases the amount of the principal residence exemption for a debtor less than 60 years of age to \$100,000;

3. It increases the amount of the principal residence exemption for a debtor who is at least 60 years of age to \$200,000; and

4. It reallocates the exemption for burial plots from the subsection of law that deals with residences to a separate subsection.