

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 737

H.P. 542

House of Representatives, March 5, 2021

**An Act To Increase the Value of Property Exempt from Attachment
and Execution**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TEPLER of Topsham.
Cosponsored by President JACKSON of Aroostook and
Representatives: BROOKS of Lewiston, MATHIESON of Kittery, Senators: BAILEY of
York, CARNEY of Cumberland, SANBORN of Cumberland, VITELLI of Sagadahoc.

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

2 **Sec. 1. 14 MRSA §3126-A, sub-§3, ¶B**, as enacted by PL 1999, c. 587, §3, is
3 amended to read:

4 B. The amount by which the sum of disposable earnings and exempt income for that
5 week exceeds 40 times the minimum hourly wage prescribed by 29 United States Code,
6 Section 206(a)(1) or the state minimum hourly wage prescribed by Title 26, section
7 664, whichever is higher at the time the earnings are payable; or

8 **Sec. 2. 14 MRSA §4422**, as amended by PL 2017, c. 177, §§1 to 4 and c. 209, §1
9 and corrected by RR 2017, c. 1, §7, is further amended to read:

10 **§4422. Exempt property**

11 The following property is exempt from attachment and execution, except to the extent
12 that it has been fraudulently conveyed by the debtor:

13 **1. Residence.** A debtor's residence. The exemption of a debtor's residence is subject
14 to this subsection.

15 ~~A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed~~
16 ~~\$47,500 in value, in real or personal property that the debtor or a dependent of the~~
17 ~~debtor uses as a residence, in a cooperative that owns property that the debtor or a~~
18 ~~dependent of the debtor uses as a residence, or in a burial plot for the debtor or a~~
19 ~~dependent of the debtor, except that if minor dependents of the debtor have their~~
20 ~~principal place of residence with the debtor, the debtor's aggregate interest may not~~
21 ~~exceed \$95,000 and except that if the debtor's interest is held jointly with any other~~
22 ~~person or persons, the exemption may not exceed in value the lesser of \$47,500 or the~~
23 ~~product of the debtor's fractional share times \$95,000.~~

24 A-1. The debtor's aggregate interest in real or personal property that the debtor or a
25 dependent of the debtor uses as a residence, in a cooperative that owns property that
26 the debtor or a dependent of the debtor uses as a residence or in a burial plot for the
27 debtor or a dependent of the debtor is exempt. For the purposes of this paragraph, the
28 debtor's aggregate interest is deemed the median home price in the State for the
29 preceding year, if available, as provided in this paragraph.

30 (1) For the purposes of this paragraph, the median home price in the State as of
31 December 2020 is \$225,000.

32 (2) Beginning January 1, 2022 and each January 1st thereafter, the value
33 established in subparagraph (1) must be adjusted to reflect the median home price
34 in the State for the preceding year.

35 A-2. In addition to the aggregate interest described in paragraph A-1, the debtor's
36 interest in a residence not to exceed 2% of the value of the municipal assessment for
37 the residence plus the amount of property taxes assessed on the residence payable by
38 the debtor for the preceding year is exempt.

39 ~~B. The debtor's aggregate interest, not to exceed \$95,000 in value, in property~~
40 ~~described in paragraph A, if the debtor or a dependent of the debtor is either a person~~
41 ~~60 years of age or older or a person physically or mentally disabled and because of~~
42 ~~such disability is unable to engage in substantial gainful employment and whose~~

1 disability has lasted or can be expected to last for at least 12 months or can be expected
2 to result in death; except that if the debtor's interest is held jointly with any other person
3 or persons, the exemption may not exceed in value the lesser of \$95,000 or the product
4 of the fractional share of the debtor's interest times \$190,000. This paragraph does not
5 apply to liens obtained prior to its effective date or to judgments based on torts
6 involving other than ordinary negligence on the part of the debtor.

7 C. That portion of the proceeds from any sale of property which ~~that~~ is exempt under
8 this section ~~shall be~~ is exempt for a period of ~~6~~ 12 months from the date of receipt of
9 such proceeds for purposes of reinvesting in a residence within that period.;

10 **2. Motor vehicle.** The debtor's interest, not to exceed ~~\$7,500~~ \$15,000 in value, in one
11 motor vehicle; ~~and an amount equal to 2% of the manufacturer's suggested retail price for~~
12 that motor vehicle plus the amount of any excise tax on that motor vehicle payable by the
13 debtor for the preceding year;

14 **3. Clothing; furniture; appliances; and similar items.** The debtor's interest, not to
15 exceed ~~\$200~~ \$558 in value in any particular item, in household furnishings, household
16 goods, wearing apparel, appliances, books, animals, crops or musical instruments; that are
17 held primarily for the personal, family or household use of the debtor or a dependent of the
18 debtor.;

19 **4. Jewelry.** The debtor's aggregate interest, not to exceed ~~\$750~~ \$1,422 in value, in
20 jewelry held primarily for the personal, family or household use of the debtor or a
21 dependent of the debtor and the debtor's interest in a wedding ring and an engagement ring.;

22 **5. Tools of the trade.** The debtor's aggregate interest, not to exceed ~~\$5,000~~ \$9,485 in
23 value, in any implements, professional books or tools of the trade of the debtor or the trade
24 of a dependent of the debtor, including, but not limited to, power tools, materials and stock
25 designed and procured by the debtor and necessary for carrying on the debtor's trade or
26 business and intended to be used or wrought in that trade or business.;

27 **6. Furnaces, stoves and fuel.** The debtor's interest in the following items held
28 primarily for the personal, family or household use of the debtor or a dependent of the
29 debtor:

30 A. One cooking stove;

31 B. All furnaces or stoves used for heating; and

32 C. All cooking and heating fuel not to exceed 10 cords of wood, 5 tons of coal, 1,000
33 gallons of petroleum products or its equivalent.;

34 **7. Food, produce and animals.** The debtor's interest in the following items held
35 primarily for the personal, family or household use of the debtor or a dependent of the
36 debtor:

37 A. All food provisions, whether raised or purchased, reasonably necessary for 6
38 months;

39 B. All seeds, fertilizers, feed and other material reasonably necessary to raise and
40 harvest food through one growing season; and

41 C. All tools and equipment reasonably necessary for raising and harvesting food.;

1 **8. Farm equipment.** The debtor's interest in one of every type of farm implement
2 reasonably necessary for the debtor to raise and harvest agricultural products commercially,
3 including any personal property incidental to its maintenance and operation;

4 **9. Fishing boat.** The debtor's interest in one boat, not exceeding 46 feet in length,
5 used by the debtor primarily for commercial fishing;

6 **9-A. Logging implements.** The debtor's interest in one of every type of professional
7 logging implement reasonably necessary for the debtor to harvest and haul wood
8 commercially, including any personal property incidental to its maintenance and
9 operation;

10 **10. Life insurance contract.** Any unmatured life insurance contract owned by the
11 debtor, other than a credit life insurance contract;

12 **11. Life insurance dividends, interest and loan value.** The debtor's aggregate
13 interest, not to exceed in value ~~\$4,000~~ \$4,588 less any amount of property of the estate
14 transferred in the manner specified in ~~the 11~~ United States Code, ~~Title 11~~, Section 542(d),
15 in any accrued dividend or interest under, or loan value of, any unmatured life insurance
16 contract owned by the debtor under which the insured is the debtor or an individual of
17 whom the debtor is dependent;

18 **12. Health aids.** Professionally prescribed health aids for the debtor or a dependent
19 of the debtor;

20 **13. Disability benefits; pensions.** The debtor's right to receive the following:

21 A. A social security benefit, unemployment compensation or a federal, state or local
22 public assistance benefit, including, but not limited to, the federal earned income tax
23 credit and additional child tax credit;

24 B. A veterans' benefit;

25 C. A disability, illness or unemployment benefit;

26 D. Alimony, support or separate maintenance, to the extent reasonably necessary for
27 the support of the debtor and any dependent of the debtor; or

28 E. A payment or account under a stock bonus, pension, profit-sharing, annuity or
29 similar plan or contract on account of illness, disability, death, age or length of service,
30 to the extent reasonably necessary for the support of the debtor and any dependent of
31 the debtor, unless:

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

34 (2) The payment is on account of age or length of service; and

35 (3) The plan or contract does not qualify under the United States Internal Revenue
36 Code of 1986, Section 401(a), 403(a), 403(b), 408 or 409;

37 **13-A. Retirement funds.** Retirement funds to the extent those funds are in a fund or
38 account that is exempt from taxation under the United States Internal Revenue Code of
39 1986, Section 401, 403, 408, 408A, 414, 457 or 501(a), up to an aggregate value of
40 ~~\$1,000,000~~ \$1,054,000. This subsection does not exempt:

41 A. Amounts contributed to the account or fund within 120 days before:

1 (1) The debtor files for bankruptcy if this exemption is being applied in a federal
2 bankruptcy proceeding; or

3 (2) If this exemption is being applied in a proceeding other than a federal
4 bankruptcy proceeding or for child support or spousal support covered by
5 paragraph B, the earlier of the entry of judgment or other ruling against the debtor
6 or the issuance of the levy, attachment, garnishment or other execution or order
7 against which this exemption is being applied; or

8 B. Amounts in the account or fund necessary to satisfy child support or spousal support
9 obligations;

10 **14. Legal awards; life insurance benefits.** The debtor's right to receive or property
11 that is traceable to the following:

12 A. An award under a crime victim's reparation law;

13 B. A payment on account of the wrongful death of an individual of whom the debtor
14 was a dependent, to the extent reasonably necessary for the support of the debtor and
15 any dependent of the debtor;

16 C. A payment under a life insurance contract that insured the life of an individual of
17 whom the debtor was a dependent on the date of the individual's death, to the extent
18 reasonably necessary for the support of the debtor and any dependent of the debtor;

19 D. A payment, not to exceed ~~\$12,500~~ \$23,713, on account of personal bodily injury,
20 not including pain and suffering or compensation for actual pecuniary loss, of the
21 debtor or an individual of whom the debtor is a dependent; or

22 E. A payment in compensation of loss of future earnings of the debtor or an individual
23 of whom the debtor is or was a dependent, to the extent reasonably necessary for the
24 support of the debtor and any dependent of the debtor;

25 **15. Other property.** The debtor's aggregate interest, not to exceed in value \$400
26 \$1,117, in any property, whether or not otherwise exempt under this section;

27 **16. Unused residence exemption for other exemptions.** The debtor's interest, equal
28 to any unused amount of the exemption provided under subsection 1 but not exceeding
29 ~~\$6,000~~ \$11,382, in any property exempt under subsections 3 and 5 and subsection 14,
30 paragraph D; and

31 **17. Cash; bank account.** The debtor's interest in cash or in a deposit account or other
32 account of a financial institution, equal to any amount in cash or in the deposit account or
33 other account of a financial institution but not exceeding \$5,000, or \$10,000 if the amount
34 is in a joint account. A garnishment order issued against an account in a financial institution
35 may not reduce an account balance below \$5,000, or \$10,000 for an account held jointly.

36 Beginning January 1, 2022 and each January 1st thereafter, the maximum values for
37 exempt property identified in this section except as provided in subsection 1 must be
38 adjusted to account for inflation. The adjustment must be measured by the percentage
39 change, if any, from January 1st to December 31st of the preceding year in the Consumer
40 Price Index for All Urban Consumers, annual city average, for the northeast region, or its
41 successor index, as published by the United States Department of Labor, Bureau of Labor
42 Statistics or its successor agency.

