

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 542 - L.D. 737

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

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

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

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

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

§4422. Exempt property

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

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

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed ~~\$47,500~~ \$80,000 in value, in real or 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 in a burial plot for the debtor or a dependent of the debtor, except that if minor dependents of the debtor have their principal place of residence with the debtor, the debtor's aggregate interest may not exceed ~~\$95,000~~ \$160,000 and 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 ~~\$47,500~~ \$80,000 or the product of the debtor's fractional share times ~~\$95,000~~ \$160,000.

B. The debtor's aggregate interest, not to exceed ~~\$95,000~~ \$160,000 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; 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 ~~\$95,000~~ \$160,000 or the product of the fractional share of the debtor's interest times ~~\$190,000~~ \$240,000. ~~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. If the property is both the surviving owner's and deceased joint owner's primary residence, the maximum exemption for debtors who are joint owners may not be reduced due to the death of one of the joint owners when either:~~

(1) The deceased joint owner dies at 67 years of age or older and the surviving joint owner is at least 60 years of age; or

(2) The surviving joint owner is at least 67 years of age.

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

D. Any exemption claimed under this subsection does not apply to judgments based on torts involving other than ordinary negligence on the part of the debtor.

E. The amount of any exemption claimed under this subsection is limited to the amount of the exemption in effect on the date of the recording of the lien on the property against which the exemption is claimed;

2. Motor vehicle. The debtor's interest, not to exceed ~~\$7,500~~ \$10,000 in value, in one motor vehicle-;

3. Clothing; furniture; appliances; and similar items. The debtor's interest, not to exceed ~~\$200~~ \$500 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 the personal, family or household use of the debtor or a dependent of the debtor-;

4. Jewelry. The debtor's aggregate interest, not to exceed ~~\$750~~ \$1,000 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor and the debtor's aggregate interest, not to exceed \$4,000, in a wedding ring and an engagement ring-;

5. Tools of the trade. The debtor's aggregate interest, not to exceed ~~\$5,000~~ \$9,500 in value, in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor, including, but not limited to, power tools, materials and stock designed and procured by the debtor and necessary for carrying on the debtor's trade or business and intended to be used or wrought in that trade or business-;

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

A. One cooking stove;

B. All furnaces or stoves used for heating; and

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

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

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

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

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

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

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

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

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

11. Life insurance dividends, interest and loan value. The debtor's aggregate interest, not to exceed in value \$4,000 ~~\$5,000~~ less any amount of property of the estate transferred in the manner specified in ~~the~~ 11 United States Code, ~~Title 11~~, Section 542(d), in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is dependent;

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

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

A. A social security benefit, unemployment compensation or a federal, state or local public assistance benefit, including, but not limited to, all tax refunds attributable to the federal earned income tax credit and ~~additional~~ any child tax credit;

B. A veterans' benefit;

C. A disability, illness or unemployment benefit;

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

E. A payment or account 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:

- (1) 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;
- (2) The payment is on account of age or length of service; and
- (3) The plan or contract does not qualify under the United States Internal Revenue Code of 1986, Section 401(a), 403(a), 403(b), 408 or 409;

13-A. Retirement funds. Retirement funds to the extent those funds are in a fund or account that is exempt from taxation under the United States Internal Revenue Code of 1986, Section 401, 403, 408, 408A, 414, 457 or 501(a), up to an aggregate value of ~~\$1,000,000~~ \$1,054,550. This subsection does not exempt:

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

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

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

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

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

B. A payment on account of 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;

C. 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;

D. A payment, not to exceed ~~\$12,500~~ \$20,000, 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

E. 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;

15. Other property. The debtor's aggregate interest, not to exceed in value ~~\$400~~ \$500, in any property, whether or not otherwise exempt under this section;

16. Unused residence exemption for other exemptions. The debtor's interest, equal to any unused amount of the exemption provided under subsection 1 but not exceeding ~~\$6,000~~ \$10,500, in any property exempt under subsections 3 and 5 and subsection 14, paragraph D; and

17. Cash; bank account. The debtor's interest in cash or in deposit accounts or other accounts of a financial institution, equal to any amount in cash or in the deposit account or other account of financial institutions, but not exceeding \$3,000. The plaintiff, defendant or any other account owner may file an ex parte motion for dissolution of modification in the court in which a judgment or prejudgment order was entered for a hearing to establish how and to which account any exemption should be applied.

The exemptions set forth in this section are automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning April 1, 2024 and every 3 years thereafter. The Supreme Judicial Court shall publish the 3-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next \$50.

Sec. 3. 14 MRSA §4426, as amended by PL 2011, c. 203, §1, is further amended to read:

§4426. Exemptions in bankruptcy proceedings

Notwithstanding anything to the contrary in ~~the 11~~ United States Code, ~~Title 11~~, Section 522(b), a debtor may exempt from property of the debtor's estate under ~~11~~ United States Code, ~~Title 11~~, only that property exempt under ~~the 11~~ United States Code, ~~Title 11~~, Section 522(b)(3)(A) and (B), except that any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph ~~B~~; A-1 may exempt the amount allowed in that paragraph.