

SENATE, No. 2423

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Concerns exemptions from bankruptcy proceedings.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning bankruptcy exemptions, amending N.J.S.2A:17-
2 19 and N.J.S.2A:17-56 and supplementing Title 2A of the New
3 Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. As used in this section:

9 "Condominium" means the form of real property ownership
10 provided for under the "Condominium Act," P.L.1969, c.257
11 (C.46:8B-1 et seq.).

12 "Dwelling house" means any residential property assessed as real
13 property but shall not include a unit in a condominium or a horizontal
14 property regime.

15 "Homestead" means:

16 (1) a dwelling house and the land on which that dwelling house
17 is located which constitutes the place of the owner's domicile and is
18 owned and used by the owner as the owner's principal residence;

19 (2) a condominium unit or a unit in a horizontal property regime
20 which constitutes the place of the owner's domicile and is owned and
21 used by the owner as the owner's principal residence; or

22 (3) a manufactured home as defined in section 2 of P.L.1990, c.61
23 (C.54:4-8.58).

24 "Horizontal property regime" means the form of real property
25 ownership provided for under the "Horizontal Property Act,"
26 P.L.1963, c.168 (C.46:8A-1 et seq.).

27 "Owner" means, but is not limited to, a purchaser under a deed of
28 trust, mortgage or contract

29 "Principal residence" means a homestead occupied by the owner
30 as the owner's permanent residence, as distinguished from a vacation
31 home, property owned and rented or offered for rent by the owner,
32 and other secondary real property holdings.

33 b. (1) Any resident of this State may hold exempt from
34 attachment, execution and forced sale a homestead exemption not
35 exceeding \$340,000 in value.

36 (2) The homestead exemption shall attach to the owner's interest
37 in identifiable cash proceeds from the voluntary or involuntary sale
38 of the homestead. The homestead exemption in identifiable cash
39 proceeds continues for 18 months after the date of the sale of the
40 homestead or until the person establishes a new homestead with the
41 proceeds, whichever period is shorter. Only one homestead
42 exemption at a time may be held by an owner under this act.

43 (3) A person who is entitled to a homestead exemption shall hold
44 that exemption by operation of law and no written claim or recording
45 shall be required.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. If the owner is married, the homestead may consist of the
2 jointly owned property of the spouses or the separate property of the
3 spouses. Each spouse may claim a homestead exemption in an
4 amount not to exceed the value provided in paragraph (1) of
5 subsection b. of this act.

6 d. (1) A homestead exemption may be abandoned by any of the
7 following:

8 (a) a declaration of abandonment or waiver;

9 (b) a transfer of the homestead property by deed of conveyance
10 or contract for conveyance; or

11 (c) a permanent removal of the owner as a resident of this State.
12 The owner may remove from the homestead for up to two years
13 without an abandonment or a waiver of the exemption.

14 (2) A declaration of abandonment or waiver shall be executed by
15 the owner and acknowledged. A declaration of abandonment or
16 waiver is effective only from the time of its recording in the office of
17 the county clerk.

18 e. The homestead exemption provided pursuant to this act shall
19 not affect or apply to attachments, executions and sales in connection
20 with:

21 (1) government liens, including, but not limited to, taxes, special
22 assessments or charges for other government services that, under
23 State law, are senior liens;

24 (2) voluntarily created liens, including, but not limited to,
25 mortgages and liens secured by real property;

26 (3) liens created pursuant to the "Construction Lien Law,"
27 P.L.1993, c.318 (C.2A:44A-1 et al.); and

28 (4) court judgments concerning:

29 (a) fraud;

30 (b) fraudulent transfers or conveyances;

31 (c) duress; or

32 (d) fraud, deceit or manipulation in a fiduciary capacity.

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34 2. N.J.S.2A:17-19 is amended to read as follows:

35 2A:17-19. Goods and chattels, shares of stock or interests in any
36 corporation and personal property of every kind, not exceeding in
37 value, exclusive of wearing apparel, **【\$1,000.00】** \$15,000, all
38 essential and ordinary household goods, any bank account valued at
39 an amount less than \$5,000 , and all wearing apparel, the property of
40 a debtor shall be reserved, both before and after his death, for his use
41 or that of his family or his estate, and shall not be liable to be seized
42 or taken by virtue of any execution or civil process whatever, issued
43 out of any court of this State.

44 Nothing herein contained shall be deemed or held to protect from
45 sale under execution or other process any goods, chattels or property,

1 for the purchase whereof the debt or demand for which the judgment
2 on which such execution or process was issued, shall have been
3 contracted, or to apply to process issued for the collection of taxes
4 or assessments.

5 (cf: P.L.1973, c.162, s.1)

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7 3. N.J.S.2A:17-56 is amended to read as follows:

8 2A:17-56. a. In no case shall the amount specified in an
9 execution issued out of any court against the wages, debts, earnings,
10 salary, income from trust funds or profits due and owing, or which
11 may thereafter become due and owing to a judgment debtor, exceed
12 **【10%】** 10 percent, unless the income of such debtor shall exceed
13 **【250 %】** 400 percent of the poverty level for an individual taking
14 into account the size of the individual's family, in which case the
15 court out of which the execution shall issue may order a larger
16 percentage.

17 b. Notwithstanding subsection a. or any other law to the
18 contrary, for all wage execution applications filed by the State
19 pursuant to subsection b. of N.J.S.2A:17-50 after the effective date
20 of P.L.2005, c.124 (C.2A:16-11.1 et al.), the State may seek a wage
21 execution of up to **【25%】** 25 percent of the debtor's gross earnings,
22 provided that after the execution the debtor's income will not be less
23 than **【250%】** 400 percent of the poverty level for an individual taking
24 into account the size of the individual's family.

25 Nothing in this subsection shall be construed to violate any
26 provision of federal law.

27 (cf: P.L.2005, c.124, s.11)

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29 4. This act shall take effect 90 days after enactment.
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32 STATEMENT

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34 This bill expands the list of personal property that is exempt from
35 seizure in bankruptcy proceedings.

36 The bill provides New Jersey residents with a homestead
37 exemption from attachment, execution and forced sale in an amount
38 not exceeding \$340,000. The homestead exemption attaches to the
39 owner's interest in identifiable cash proceeds from the voluntary or
40 involuntary sale of the property and is exempt from attachment,
41 execution and forced sale. If the owner is married, each spouse may
42 claim a homestead exemption in an amount not exceeding \$340,000,
43 for a total married couple exemption of up to \$680,000.

44 The bill also amends existing law to increase the value of personal
45 property that is exempt from seizure from \$1,000 to \$15,000, makes

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1 all household goods exempt from seizure, and specifies that bank
2 accounts valued at less than \$5,000 are exempt from seizure. It also
3 amends existing law to increase the threshold for seizing income. No
4 more than 10 percent of income can be seized in a court action unless
5 the individual has an income that exceeds 400 percent of the poverty
6 level, an increase from the previous threshold of 250 percent of the
7 poverty level.