

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2423

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2020

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2423.

This bill expands the list of property that may be held exempt from property of a bankruptcy estate.

The bill provides that any resident of this State who is an individual debtor in a bankruptcy proceeding may hold exempt from property of the bankruptcy estate a homestead exemption not exceeding \$340,000 in value.

Pursuant to the bill, the homestead exemption attaches to the owner's interest in identifiable cash proceeds from the voluntary or involuntary sale of the homestead. The homestead exemption in identifiable cash proceeds continues for 18 months after the date of the sale of the homestead or until the person establishes a new homestead with the proceeds, whichever period is shorter. Only one homestead exemption at a time may be held by an owner under the bill.

A person who is entitled to a homestead exemption holds that exemption by operation of law and no written claim or recording is required.

If the owner is married, in a civil union, or domestic partnership, the homestead may consist of the jointly owned property of the spouses or partners or the separate property of the spouses or partners.

The bill provides that a homestead exemption may be abandoned under certain circumstances.

The homestead exemption provided under the bill does not affect or apply to attachments, executions and sales in connection with:

- (1) government liens, including, but not limited to, taxes, special assessments or charges for other government services that, under State law, are senior liens;
- (2) voluntarily created liens, including, but not limited to, mortgages and liens secured by real property;
- (3) liens created pursuant to the "Construction Lien Law," P.L.1993, c.318 (C.2A:44A-1 et al.); and
- (4) certain court judgments.

The bill provides that any resident of this State who is an individual debtor in a bankruptcy proceeding may hold exempt from

property of the bankruptcy estate goods and chattels, shares of stock or interests in any corporation and personal property of every kind, not exceeding in value, exclusive of wearing apparel, \$10,000; all essential and ordinary household goods; any bank account valued at an amount less than \$5,000; and all wearing apparel.

The bill provides that any resident of this State who is an individual debtor in a bankruptcy proceeding may hold exempt from property of the bankruptcy estate payments made to the individual under federal law relating to the national emergency declared by the President of the United States under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019.

The bill provides that on the September 30 of the third year next following the effective date of the bill, and on September 30 of each third year thereafter, the dollar amounts in the bill are to be increased, effective the following January 1, by any increase during the three years prior to that September 30 in the consumer price index for all urban wage earners and clerical workers as calculated by the federal government.

Nothing in the bill may be construed to violate any provision of federal law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1. Revise the provisions of the bill to provide that the bill applies only to individual debtors in bankruptcy proceedings.
2. Clarify that the homestead exemption provisions of the bill apply to individuals in civil unions and domestic partnerships.
3. Remove a provision of the bill that allows spouses or partners to each claim a homestead exemption.
4. Provide that individuals may hold exempt from property of the bankruptcy estate goods and chattels, shares of stock or interests in any corporation and personal property of every kind, not exceeding in value, exclusive of wearing apparel, \$10,000; all essential and ordinary household goods; any bank account valued at an amount less than \$5,000; and all wearing apparel.
5. Provide that individuals may hold exempt from property of the bankruptcy estate payments made to the individual under federal law relating to the national emergency declared by the President of the United States under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019.
6. Remove provisions that allowed individuals to waive the exemptions provided by the bill under certain circumstances.
7. Provide that the dollar amounts of the exemptions in the bill will be increased, effective the following January 1, by any increase during the three years prior to that September 30 in the consumer price

index for all urban wage earners and clerical workers as calculated by the federal government, every three years.

8. Provide that the bill is effective immediately and applies prospectively to proceedings commenced on or after the bill's effective date.