

# Wisconsin's New Exemptions Law

*A Lou Jones Breakfast Club  
Presentation*



January 12, 2010  
Len Leverson  
Bruce A. Lanser

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### **A Discussion of the New Wisconsin Exemption Provisions**

**Facilitated by Len Levenson and Bruce A. Lanser**

- I. First, Some History:**
  - A. Homestead exemption was last adjusted effective April 1986. (See Exhibit A, which is the state exemptions as they existed in 1987.)**
  - B. State exemptions, including dollar amounts of non-homestead exemptions were overhauled effective May 1990. (See Exhibit B, 1989 Wisconsin Act 278.)**
  - C. October 1999, Terry Byrne suggested to Len Levenson that the previous exemption committee convene to discuss whether there was a need to amend Wisconsin's exemptions, especially but not exclusively, to take into account inflation.**
  - D. Len solicited practitioners for ideas and comments and received letters from:**
    - Bruce Lanser (Exhibit C)**
    - Mike Runde (Exhibit D)**
    - Judge Eisenberg (Exhibit E)**
  - E. Committee met and produced an initial set of recommendations, November 1999. ( See Exhibit F)**
    - An exemption for an ownership interest in a small business;**
    - Exemption for multiple personal injury claims;**
    - An increase in all exemptions to adjust for inflation.**
  - F. Committee presented specific proposed language to the BICR board, April 2000. (See Exhibit G)**
    - BICR board approved proposed revisions except for the business exemption; (It was felt that the language needed more work), and the concept of eliminating the "marriage penalty" on the homestead exemption.**
  - G. Committee continued to meet and ultimately produced its "Proposed Revisions to Exemption Statutes," February 2002. (See Exhibit H)**
  - H. March 2003, BICR Board submitted the proposed revisions along with a list of bullet points (Exhibit I) to the State Bar, Board of Governors.**
  - I. With the assistance of state bar lobbyists, legislation needed to be drafted and sponsors for a bill needed to be enlisted. Exhibit J is BICR's June 2003 memo to the Assembly regarding a bill proposed by Rep. Sheryl Albers and her September 2003 memo to the rest of the legislators.**

- J. Legislation proposed in 2003 failed to reach a vote of any kind and the BICR proposals stalled pending efforts to find a new sponsor. In the interim, in May 2004, the insurance industry was able to get legislation passed increasing the exemption for cash value life insurance and annuities to \$150,000. (See Exhibit K)
  - K. March 2009, BICR lobbyist, Cale Battles, notified BICR board members that Rep. Gary Hebl wanted to propose a bill increasing the homestead exemption to \$75,000. Seeming like this was the perfect opportunity to get our proposed legislation back on track, a meeting was scheduled with Rep. Hebl. (See Exhibit L)
  - L. March 2009, several members of the BICR board met with Rep. Hebl to discuss his proposal to increase the homestead exemption as well as the various other changes that had previously been proposed by BICR. (Exhibit M was the most recent version of the proposed legislation incorporating those changes.) The hope was to get a bill introduced and ultimately passed that would contain both the BICR proposals and the increased homestead exemption.
  - M. The bill that eventually passed was the result of compromises in the Senate, (See Exhibit N).
  - N. 2009 Wisconsin Act 80 (Exhibit O) took effect December 16, 2009.
- II. Discussion of Specific Changes (See Exhibit P for a comparison chart of “the old,” “the new,” and the current federal exemptions.
- A. Business Exemption
    - 1. Limit adjusted from \$7,500 to \$15,000.
    - 2. Applies to assets of a sole proprietorship or to a debtor’s interest in a closely held business.
  - B. Consumer goods limit adjusted from \$5,000 to \$12,000.
  - C. Motor vehicles limit adjusted from \$1,200 to \$4,000.
  - D. Personal injury limit adjusted from \$25,000 to \$50,000.
    - 1. It was the intention of the committee to apply the personal injury exemption to each occurrence, although specific language to that affect does not appear in the statute.
  - E. Depository accounts limit adjusted from \$1,000 to \$5,000.
  - F. Homestead exemption:
    - 1. Limit adjusted from \$40,000 to \$75,000.
    - 2. “Marriage penalty” has been eliminated so that, just as with the rest of the exemptions, each debtor is entitled to the exemption. Consequently, for a married couple, the total homestead exemption is now \$150,000.

**815.01 EXECUTIONS****CHAPTER 815****EXECUTIONS**

815.01	Judgments enforced.	815.31	Notice of sale of realty; manner; adjournment.
815.02	Judgments, enforced by execution.	815.33	Execution; sale in parcels; limitation.
815.03	Executions, kinds.	815.34	Execution sale without notice.
815.04	Execution, when issued.	815.35	Execution; taking down notice.
815.05	Execution, how issued; contents.	815.36	Execution sale, want of notice, when immaterial.
815.06	Execution, when returnable.	815.37	Execution sale; officer not to purchase.
815.07	To what county issued.	815.38	Execution, certificate of sale, filing.
815.08	Sheriff to indorse date of receipt.	815.39	Execution sale; redemption of real estate.
815.09	Execution against debtor's person.	815.40	Execution sale; who may redeem.
815.10	Execution against body only remedy, exception.	815.43	Execution sale; redemption makes sale void.
815.11	Writs of assistance.	815.44	Execution; purchaser's interest.
815.12	Execution; death of person arrested.	815.48	Execution sale; creditors may acquire title of preceding creditor.
815.13	Execution against sheriff.	815.52	Payment on acquisition of purchaser's or creditor's interest.
815.14	Execution after debtor's death.	815.53	Execution sale; evidences of right of creditor to acquire title.
815.15	Execution after judgment creditor's death.	815.54	Execution sale; title when divested, action for injury to premises.
815.17	Execution; who acts on sheriff's death or removal.	815.55	Execution sale; deed when to issue; limitation.
815.18	Property exempt from execution.	815.56	Sheriff's deed; grantee if purchaser dead.
815.19	Levy on personal property; appraisal.	815.57	Sheriff's deed, recovery of purchase price on eviction.
815.195	Levy on real property; how made.	815.58	Execution sale; judgment, creditor's further remedy.
815.20	Homestead exemption definition.	815.59	Contribution when lands of several are sold on execution.
815.21	Homestead, how set apart after levy.	815.61	Proceedings to recover contribution.
815.24	Indemnity may be required.	815.62	Lien, how preserved after execution sale; clerk's fee.
815.25	Money applied; negotiable instruments sold.	815.63	Sheriff's deed; writ of assistance.
815.26	Equities sold.	815.64	Judgment lien, how discharged on redemption.
815.29	Notice of sale of personal property, manner, adjournment.		

**815.01 Judgments enforced.** The owner of a judgment may enforce the same in the manner provided by law.

**History:** Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.01.

**815.02 Judgments, enforced by execution.** A judgment which requires the payment of money or the delivery of property may be enforced in those respects by execution. Where it requires the performance of any other act a certified copy of the judgment may be served upon the party, person or officer who is required to obey the same, and if he refuse he may be punished for contempt, and his obedience enforced.

**History:** Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.02.

**815.03 Executions, kinds.** There are three kinds of executions: One against the property of the judgment debtor, another against his person, and the third for the delivery of property, or such delivery with damages for withholding the same. They are the process of the court, and shall be as prescribed by s. 815.05.

**History:** Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.03.

**815.04 Execution, when issued.** (1) Upon any judgment of a court of record perfected as specified in s. 806.06 or any judgment of any other court docketed in a court of record, execution may issue at any time within 5 years after the rendition thereof, and when an execution shall have been so issued and returned unsatisfied in whole or in part other executions may issue at any time upon application of the judgment creditor. But if no execution was issued within said 5 years, or, if application be made by one other than the judgment creditor, execution shall issue only upon leave of the court, in its discretion, upon prior notice to the judgment debtor, served as a summons is served, in a court of record. If the judgment debtor is absent or a nonresident, service of the notice may be by a class 3 notice, under ch. 985, or in such other manner as the court directs. Application shall be by the petition of the judgment creditor or of the assignee, setting forth that such judgment or a portion thereof remains unpaid, and that the petitioner is the bona fide owner thereof, for value; but no executions shall issue or any proceedings be

had upon any judgment after 20 years from the rendition thereof.

(2) When the sheriff holds an execution against property any person indebted to the judgment debtor may pay to the sheriff the amount of his debt not exempt from execution or so much thereof as shall be necessary to satisfy the execution, and the sheriff's receipt shall be a sufficient discharge for the amount so paid.

**History:** Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.04.

**815.05 Execution, how issued; contents.** The execution must be issued from and be sealed with the seal of the court and signed by the clerk where the judgment roll, or a certified copy thereof, or the transcript of the municipal judge's judgment is filed, directed to the sheriff, or coroner if the sheriff is a party or interested, countersigned by the owner or his or her attorney, and must intelligibly refer to the judgment, stating the court, the county where the judgment roll or a certified copy thereof or the transcript is filed, the names of the parties, the amount of the judgment, if it is for money, and the amount due thereon, and the time of docketing in the county to which the execution is issued, and shall require the officer, substantially as follows:

(1) If it be against the property of the judgment debtor, to satisfy the judgment out of the personal property of such debtor, and if sufficient personal property cannot be found, out of the real property belonging to him on the day when the judgment was docketed in the county or at any time thereafter.

(2) If real estate shall have been attached and judgment rendered for the plaintiff, the execution may also direct a sale of the interest which the defendant had in such real estate at the time it was attached or at any time thereafter.

(3) If upon a judgment to enforce a lien upon specific property, to sell the interest which the defendant had in such property at the time such lien attached.

(4) If it be against property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, to satisfy the judgment out of such property.

Exhibit A

(5) If it be against the person of the judgment debtor, to arrest him and commit him to the county jail until he shall pay the judgment or be discharged according to law.

(6) If it is for the delivery of property, to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may require the officer to satisfy any costs, damages or rents and profits covered by the judgment out of the personal property of the party against whom it was rendered, and shall specify the value of the property for which the judgment was recovered; if a delivery of the property cannot be had and if sufficient personal property cannot be found, then out of the real property belonging to him on the day when the judgment was docketed or at any time thereafter. When a judgment in replevin is entered against the principal and also against his sureties under s. 810.15, the execution shall direct that the property of the surety shall not be levied on unless the property found, belonging to the principal, is not sufficient to satisfy the judgment.

(7) When the judgment is not all due the execution may issue for the collection of such instalments as have become due, and shall direct the sheriff to collect the amount then due, with interest and costs, stating the amount of each; the judgment shall remain as security for the instalments thereafter to become due and whenever any further instalments shall become due execution may in like manner be issued for their collection.

(8) Except as provided in s. 807.01 (4), every execution upon a judgment for the recovery of money shall direct the collection of interest at the rate of 12% per year on the amount recovered from the date of the entry thereof until paid.

History: 1971 c. 141; Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.05; 1977 c. 305; 1979 c. 110 s. 60 (13); 1979 c. 271, 355.

Cross References: The law by which the debtor may be discharged from jail is in ch. 898.

See 59.30 for provision that sheriff is to collect his fees on execution in the same manner as the sum collected under the writ.

In counties which adopt the medical examiner system, the execution should be directed to the county clerk when the sheriff is a party; see 59.34 (5).

Where a transcript of a judgment docket is filed in another county, the court of that county has no jurisdiction to issue an execution; execution may issue only from the court of the county of entry. *Wilson v. Craite*, 60 W (2d) 350, 210 NW (2d) 700.

**815.06 Execution, when returnable.** Every execution shall be made returnable, within sixty days after its receipt by the officer, to the clerk of the court from which it issued but if the officer has levied upon property previous to the expiration of said sixty days he may retain such execution until he has sold the property. The officer shall state in his return how he executed the writ.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.06.

**815.07 To what county issued.** When the execution is against the property of the judgment debtor it may be issued to the sheriff of any county where the judgment is docketed. When it requires the delivery of real or personal property it must be issued to the sheriff of the county where the property or some part thereof is situated. Executions may be issued at the same time to different counties.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.07.

**815.08 Sheriff to indorse date of receipt.** Upon receipt of any execution the sheriff or other officer shall indorse thereon the year, month, day and hour of the day when he received the same.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.08.

**815.09 Execution against debtor's person.** If the action be one in which the defendant might have been arrested, as provided in ch. 818, an execution against the person of the judgment debtor may be issued after the return of an execu-

tion against his property unsatisfied in whole or in part; but if the defendant be imprisoned on execution in another action, or upon mesne process in the same action, an execution may issue against his body without any previous execution against his property.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.09; Sup. Ct. Order, 83 W (2d) xiii.

**815.10 Execution against body only remedy, exception.** When a party shall have been arrested on an execution no other execution upon the same judgment can be issued against him or his property except as provided by s. 898.10; but if he shall escape he may be retaken by a new execution against his body or an execution against his property may be issued in the same manner as if he had never been arrested on execution.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.10.

**815.11 Writs of assistance.** When any order or judgment is for the delivery of possession of property real or personal the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.11.

Cross References: 815.11 is the general rule for writs of execution or assistance to enforce orders or judgments for delivery of possession of real or personal property. The following are special provisions for writs of execution or assistance:

32.05 (8), 32.06 (9) (c) Condemnation proceedings.

779.12 Lien foreclosure.

799.44 Eviction actions.

815.63 Sale of land upon execution.

842.19 Partition.

843.17 Actions for possession of real property.

Ch. 846 Mortgage foreclosure.

**815.12 Execution; death of person arrested.** If any person arrested on execution shall die while under arrest a new execution may issue against his property in the same manner as if he had never been arrested; but such new execution shall not be levied upon any real estate which the deceased shall have sold in good faith nor upon any real estate which shall have been sold under any other judgment against him.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.12.

**815.13 Execution against sheriff.** Whenever a judgment shall be recovered in any court of record against the sheriff instead of directing the execution thereon to the coroner of the county it may be directed and delivered to any person (except a party in interest) designated by order of the court; and such person shall perform the duties of a sheriff and be liable in all respects to all the provisions of law respecting sheriffs, as far as the same may be applicable.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.13.

**815.14 Execution after debtor's death.** After the expiration of one year from the death of a judgment debtor execution may be issued against any property upon which the judgment was a lien at the time of the debtor's death, and may be executed in the same manner and with the same effect as if he were still living; but no such execution shall issue except upon an order, made upon sufficient cause shown. If such judgment be against such deceased debtor and others jointly execution may issue against surviving judgment debtors without delay.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.14.

**815.15 Execution after judgment creditor's death.** If the judgment creditor dies before satisfaction of the judgment an execution may be issued by his attorney of record in the name of such decedent or in the name of his executor or administrator. Before an execution shall issue in the name of an executor or administrator he shall file with the clerk a copy of his letters testamentary or of administration, and the clerk

**815.15 EXECUTIONS**

shall file such papers with the other papers in the action or proceeding and enter at the foot of the judgment, in the judgment record, the fact of the death of such creditor, the name and date of appointment of such executor or administrator. The moneys collected thereon shall be paid to the executors or administrators of such creditor; but if there be none then the moneys so collected shall be paid to the clerk of the court.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.15; 1983 a. 302 s. 8.

**815.17 Execution; who acts on sheriff's death or removal.** If any sheriff shall die or be removed from office before the execution be returned, his undersheriff or deputy shall proceed thereon in the same manner as the sheriff might have done.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.17.

**815.18 Property exempt from execution.** No property hereinafter mentioned shall be liable to seizure or sale on execution or on any provisional or final process issued from any court or any proceedings in aid thereof, except as otherwise specially provided in the statutes:

- (1) **BIBLE.** The family Bible.
- (2) **PICTURES AND BOOKS.** Family pictures and school books.
- (3) **LIBRARY.** The library of the debtor and every part thereof; but this provision shall not be deemed to extend to circulating libraries.
- (4) **PEW.** A seat or pew in any house or place of public worship.
- (5) **WEARING APPAREL, HOUSEHOLD GOODS AND FIREARMS.** All wearing apparel of the debtor and his family; jewelry and other articles of personal adornment not exceeding \$400 in value; one television set; one radio; all beds, bedsteads and bedding kept and used for the debtor and his family; all stoves and appendages put up or kept for the use of the debtor and his family; all cooking utensils and all other household furniture not herein enumerated, not exceeding \$200 in value; and one gun, rifle or other firearm, not exceeding \$50 in value.
- (6) **LIVE STOCK, FARM IMPLEMENTS AND AUTOMOBILE.** Eight cows, 10 swine, 50 chickens, 2 horses or 2 mules, one automobile of the debtor not exceeding \$1,000 in value, 10 sheep, and the wool from the same, either in the raw material or manufactured into yarn or cloth; the necessary food for all the stock mentioned in this section for one year's support, either provided or growing or both, as the debtor may choose; also one wagon, cart or dray, one sleigh, one plow, one drag, one binder, one tractor, not to exceed in value the sum of \$1,500; one corn binder, one mower, one springtooth harrow, one disc harrow, one seeder, one hay loader, one corn planter, one set of heavy harness and other farming utensils, also small tools and implements, not exceeding \$300 in value.
- (7) **PROVISIONS.** The provisions for the debtor and his family necessary for one year's support, either provided or growing, or both, and fuel necessary for one year.
- (8) **TOOLS FOR TRADE.** The tools, implements and stock in trade of any mechanic, miner, merchant, trader or other person, used or kept for the purpose of carrying on his trade or business, not exceeding two hundred dollars in value.
- (9) **SEWING MACHINE.** All sewing machines owned by individuals and kept for the use of themselves or families.
- (10) **KEEPSAKES.** Any sword, plate, books or other articles presented or given to any person by congress, the legislature or either of the United States, or by either body of congress or

of such legislature, whether presented by a vote or raised by subscription of the members of either of the aforesaid bodies.

(11) **PRINTING PRESS AND SUPPLIES.** Printing materials and press or presses used in the business of any printer or publisher to an amount not exceeding fifteen hundred dollars in value; provided, that no sum exceeding four hundred dollars shall be exempt from execution for payment of wages of laborers or servants for services rendered the defendant.

(12) **ACCOUTREMENTS.** The uniform, arms and equipments of every member of the Wisconsin national guard, and all military property of any company, regiment or brigade thereof.

(13) **SUPPLIES FOR ABSTRACTS.** All books, maps, plats and other papers kept or used by any person for the purpose of making abstracts of title to land.

(14) **PATENTS.** The interest owned by any inventor in any invention secured to him by letters patent of the United States.

(15) **INCOME.** (a) "Income" for the purpose of this subsection means gross receipts less federal and state withholding and social security taxes.

(b) A basic exemption of 60% of the income of any individual without dependents for each 30-day period prior to service of process in the proceeding to collect a debt, but not less than \$75 nor more than \$100. The one claiming the exemption may elect to have the exemption computed on a 90-day basis.

(c) A basic exemption on the income of any individual with dependents for each 30-day period prior to service of process in the proceeding to collect a debt, of \$120 plus an additional \$20 for each dependent. The amount allowed as exemption for dependents shall be limited to such an amount that the total amount exempt shall not exceed 75% of the income. The one claiming the exemption may elect to have the exemption computed on a 90-day basis.

(d) A dependent is any individual including a spouse who requires and is actually receiving substantial support and maintenance from the debtor. The use to which the income of any one claimed as a dependent is put shall be considered by the court in determining whether the individual is in fact a dependent. All crops, livestock, dairy products and all other products grown or produced by a person to which his personal effort or that of his minor children has contributed, and all proceeds from the sale of such crops, livestock, dairy products and other products are deemed earnings within the meaning of this subsection, but such definition of earnings shall not limit any other exemption provided by this section.

(e) The amount which may be reached by seizure, sale or execution, provisional or final process or proceedings in aid thereof, in any 30 or 90-day period shall be only that amount in excess of exempt income for the same period.

(16) **FIRE ENGINES AND EQUIPMENT.** All fire engines, apparatus and equipments, including hose, hose carts and hooks and ladders, belonging to or which may hereafter belong to any town, city or village in this state, and which are or may be kept and used for the protection of property in such town, city or village from fire, together with the engine houses and hooks and ladder houses for the protection of the same, and the lot or lots on which such engine and hook and ladder houses may be situated, when owned by any such town, city or village; and any lot or lots owned, used and occupied by any such town, city or village for corporate purposes.

(17) **FIRE INSURANCE.** All moneys arising from insurance of any property exempted from sale on execution, including the homestead, when such property has been destroyed by fire.

(18) **PRIVATE PROPERTY FROM EXECUTION AGAINST MUNICIPALITIES.** All private property shall be exempt from seizure

and sale upon any execution or other process issued to enforce any judgment or decree of any court which has been rendered against any county, town, city, village, vocational, technical and adult education district or school district in this state.

(19) **LIFE INSURANCE.** If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance, or the executors or administrators of such insured or of the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person; provided, that, subject to the statute of limitations, the amount of any premiums for said insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the company shall have written notice, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed; and all moneys or other benefit, charity, relief or aid to be paid, provided or rendered by any mutual beneficiary or fraternal corporation, society, order or association providing insurance on the assessment plan and authorized to do business in this state, shall be exempt against the creditors of a member thereof or of his beneficiary or beneficiaries to the amount of \$5,000 in all cases where the insured pays the premiums or assessments or any part thereof, but if some other person pays such premiums or assessments the insurance shall be absolutely exempt.

(20) **CEMETERY LOTS.** Cemetery lots owned by individuals and all monuments therein, the coffins and other articles for the burial of any dead person, and the tombstone or monument for his grave by whomsoever purchased.

(21) **FIRE AND POLICE PENSION FUND.** All money paid or ordered to be paid to any member of any fire or police department or to the surviving spouse or guardian of the minor child or children of a deceased or retired member of any such department, which money has been paid or ordered to be paid to any such person as a pension on account of the service of any person in any such department in any city in this state whose population exceeds one hundred thousand.

(22) **SAVINGS ACCOUNTS.** The savings account held by a member of a local savings and loan association as defined in s. 215.01 (24), the savings account held by a member of a federal savings and loan association organized and existing under the laws of the United States and the savings account held by a depositor of a bank or credit union, to the value of \$1,000 at the time of the withdrawal thereof; but this subsection does not apply to any person owning a homestead which is exempt.

(23) **U.S. BONDS, ETC.** All defense bonds, war savings bonds, defense stamps, thrift stamps, war savings stamps, victory notes, or any other governmental issue of bonds or savings stamps, held by any person, to the value of \$200 in the aggregate.

(24) **WAR PENSION.** All money received by a person, a resident of this state, as pension, compensation, government

insurance, or adjusted compensation, back pension, compensation or insurance from the United States government on account of military or naval service, and all other money received by a person on account of military or naval service from the United States government administered by the veterans' administration, whether the same is in the actual possession of such person, on deposit, or loaned.

(25) **ACCIDENT INSURANCE.** All sums due or to become due and payable or paid to any person by any life insurance company or association or health and accident insurance company or association, for partial, total, temporary or permanent disability under any contract or policy of insurance, but not exceeding one hundred fifty dollars per month.

(26) **COUNTY FAIRS AND AGRICULTURAL SOCIETIES.** All sums paid as state aid under s. 93.23 (1) to county fairs and agricultural societies.

(27) **FEDERAL DISABILITY INSURANCE BENEFITS.** All moneys received or receivable by a person as federal disability insurance benefits under subchapter II of 42 USC.

(30) **LIMITATIONS ON EXEMPTIONS.** (a) The exemptions provided for in subs. (3), (6), (7), (8), (9), (11), (13), (14), (17), (19) and (22) shall extend only to debtors having an actual residence in this state, and when such debtors and their families or any of them shall be removing from one place of residence to another, and those granted in subs. (5), (6), (11), (13), (14), (15), (17), (19) and (22) shall not be claimed as against an attachment or execution issued upon a judgment for the plaintiff in an action brought to recover compensation for any manual or domestic labor rendered or performed by any female in or about the dwelling of another. No property exempted by the provisions of this section shall be exempt from execution or attachment brought by any person for the recovery of the whole or any part of the purchase money of the same property. All articles so exempted may be selected by the debtor, the debtor's agent, clerk or legal representative, when necessary to distinguish the same; and if they shall fail or neglect to claim such exemption, the debtor's spouse, unless the spouse has deserted the debtor, may, before sale, select the same and maintain an action for the recovery of the possession, or the value thereof, if the same shall have been taken away, provided the claim of exemption and selection have been made; any or all of the exemptions granted by this chapter may be denied if, in the discretion of the court having jurisdiction, the debtor procured, concealed or transferred assets with the intention of defrauding creditors.

(b) With respect to any provisional or final process issued from any court, or to any proceedings in aid of that process, to enforce against marital property an obligation described under s. 766.55 (2) (b), each spouse is entitled to and may claim the exemptions under this section. Unless provided otherwise by law, if the property exempt under this section is limited to a specified maximum dollar amount, each spouse is entitled to one exemption. That exemption is limited to the specified maximum dollar amount, which may be combined with the other spouse's exemption in the same property or applied to different property included under the same exemption. The exemption under sub. (15) may not be combined with the other spouse's exemption under sub. (15) and applied to the same property.

(31) **EMPLOYEE RETIREMENT BENEFITS.** (a) The term "plan" as used in this subsection means any retirement, pension, disability, death benefit, stock bonus or profit-sharing plan created by an employer for the exclusive benefit of himself, if self-employed or of some or all of his employees, or their dependents or beneficiaries, to which contributions are made by such employer, or employees, or both, for the purpose of distributing in accordance with such plan to such employees,

or their dependents or beneficiaries, the earnings or the principal, or both, of a trust created as part of the plan, or annuity, insurance or other benefits under such a plan whether or not purchased by a trust; if it is impossible under a trust created as part of a plan at any time prior to the satisfaction of all liabilities with respect to employes and their dependents and beneficiaries under the trust, for any part of the principal or income to be at any time used for or diverted to purposes other than for the exclusive benefit of such employes, or their dependents or beneficiaries. The term "employer" as used in this subsection shall be deemed to include a group of employers creating a combined plan for the benefit of their employes or the beneficiaries of such employes.

(b) The income arising from any personal property held in any employes' trust created as part of a plan may be permitted to accumulate in accordance with the terms of said trust and the plan of which said trust forms a part for such time as may be necessary to accomplish the purposes for which such trust has been created. Any such employes' trust shall not be deemed to be invalid as violating the rule against perpetuities or any law or rule against perpetuities or the suspension of the power of alienation of title to property, but such a trust may continue for such time as may be necessary to accomplish the purposes for which it has been created.

(c) The interest of any person in any employes' benefit plan as defined in this subsection and any pension or other benefit derived therefrom shall not be subject to any garnishment, attachment, execution, sequestration, levy or any other legal or equitable process and no assignment of any such interest, pension or other benefit shall be valid or recognized.

History: 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 W (2d) 761; 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37.

Cross Reference: For provisions exempting specific retirement benefits from execution, see the index to this volume under "Exemptions from execution".

Sub. (31) does not violate Art. I, sec. 17: *North Side Bank v. Gentile*, 129 W (2d) 208, 385 NW (2d) 133 (1986).

Under (6), haybine is "mower" and baler is "hayloader". *Matter of Erickson*, 815 F (2d) 1090 (7th Cir. 1987).

Court did not abuse discretion under 272.18 (30) (a), 1969 stats., [now 815.18 (30) (a)] in ruling that bankrupt, by fraudulently concealing and transferring assets, forfeited any right to exemptions, only with respect to collection of trustee's judgment. In *Re Schroeder*, 356 F Supp. 417 (E. D. Wis. 1973).

**815.19 Levy on personal property; appraisal.** (1) Personal property shall be bound from the time it is seized. Whenever personal property is seized on attachment or execution and any part of the property is exempt therefrom and the exemption is claimed by the debtor or the debtor's spouse, the officer making the seizure shall, upon request by either of them, or may upon the officer's motion, cause the exempt property to be appraised by 2 disinterested freeholders of the county, who shall first be sworn by the officer to make a true appraisal thereof, which appraisal shall be in writing, be signed by the appraisers and be prima facie evidence of the value of the property appraised. The appraisal, together with the true inventory of all the property seized, shall be returned with the writ. The fees of the appraisers are prescribed in s. 814.72.

(2) If the property seized is an automobile which is appraised and can be sold for more than \$1,000 or if the property seized is a tractor used in farming operations which is appraised and can be sold for more than \$1,500, the officer may sell such automobile or tractor and out of the proceeds of such sale the officer shall pay to the debtor or the debtor's spouse the exempted value of such automobile or tractor. The balance of the proceeds of such sale shall be applied on the execution or attachment.

History: Sup. Ct. Order, 67 W (2d) 761; 1975 c. 94 s. 91 (3); 1975 c. 199; Stats. 1975 s. 815.19; 1979 c. 355; 1981 c. 317; 1983 a. 186.

**815.195 Levy on real property; how made.** Levy of execution on real property is made by indorsing on the execution a description of the property on which the levy was made, and filing a copy of the execution, so indorsed, in the office of the register of deeds.

History: 1973 c. 189; Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.195.

**815.20 Homestead exemption definition.** (1) An exempt homestead as defined in s. 990.01 (14) selected by a resident owner and occupied by him or her shall be exempt from execution, from the lien of every judgment and from liability for the debts of the owner to the amount of \$40,000, except mortgages, laborers', mechanics' and purchase money liens and taxes and except as otherwise provided. The exemption shall not be impaired by temporary removal with the intention to reoccupy the premises as a homestead nor by the sale of the homestead, but shall extend to the proceeds derived from the sale to an amount not exceeding \$40,000, while held, with the intention to procure another homestead with the proceeds, for 2 years. The exemption extends to land owned by husband and wife jointly or in common or as marital property, and when they reside in the same household may be claimed by either or may be divided in any proportion between them, but the exemption may not exceed \$40,000 for the household. If the husband and wife fail to agree on the division of exemption, the exemption shall be divided between them by the court in which the first judgment was taken. The exemption extends to the interest therein of tenants in common, having a homestead thereon with the consent of the cotenants, and to any estate less than a fee.

(2) Any owner of an exempt homestead against whom a judgment has been rendered and docketed, and any heir, devisee or grantee of such owner, or any mortgagee of such homestead, may proceed under s. 806.04 for declaratory relief if such homestead is less than \$40,000 in value and the owner of such judgment shall fail, for 10 days after demand, to execute a recordable release of such homestead from his judgment lien.

History: 1973 c. 168; Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.20; 1983 a. 186; 1985 a. 153.

A defendant who has moved to Michigan intending to stay there loses his Wisconsin homestead exemption. He cannot have an exemption in 2 states. *Plan Credit Corp. v. Swinging Singles, Inc.* 54 W (2d) 146, 194 NW (2d) 822.

A vendee in a land contract has an interest sufficient to sustain a homestead exemption. The holder of a judgment lien is subject to a mortgage dated after the judgment. A homestead exemption does not depend on a formal claim to it; occupancy at the time a lien attaches is sufficient. *Lupton v. Gupill*, 56 W (2d) 396, 202 NW (2d) 255.

The proceeds of rental income are exempt from lien or attachment by a judgment creditor. *Schwanz v. Teper*, 66 W (2d) 157, 223 NW (2d) 896.

Property purchased by a debtor subsequent to docketing of the judgment and immediately occupied as a homestead becomes exempt to the extent of the statutory protection. *Northern State Bank v. Toal*, 69 W (2d) 50; 230 NW (2d) 153.

Homestead exemption may arise in partition action. *Reckner v. Reckner*, 105 W (2d) 425, 314 NW (2d) 159 (Cl. App. 1981).

Homestead rights are no greater than underlying property rights when property rights have been limited by owners themselves. *Master Lock Credit Union v. Rayford*, 119 W (2d) 301, 349 NW (2d) 737 (Cl. App. 1984).

Although debts were contracted prior to effective date of increase in homestead exemption from \$10,000 to \$25,000, debtors were entitled to higher exemption. *Matter of Zahn*, 605 F (2d) 323 (1979).

Establishment and abandonment of a Wisconsin homestead. *Kreitler*, 1973 WLR 876.

Judgment lien claimants' rights against homestead exemption interests: An equitable distribution of mortgage foreclosure sale proceeds. 1981 WLR 697.

**815.21 Homestead, how set apart after levy.** (1) Whenever a levy shall be made upon lands of any person, he may notify the officer making such levy, at any time before the sale, that he claims an exempt homestead in such lands, giving a description thereof, and his estimate of the value thereof; and the remainder alone shall be subject to sale under such levy, unless the plaintiff in the execution shall deny the right to such exemption or be dissatisfied with the quantity or estimate of the value of the land selected.

(2) If such plaintiff is dissatisfied with the quantity selected or the estimate of the value thereof, the officer shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form. After the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be of greater value than \$40,000, the officer may still advertise and sell the premises so set off, and out of the proceeds of such sale pay to the exempt homestead claimant the sum of \$40,000 and apply the balance of the proceeds of such sale on the execution; but no sale shall be made in the case last mentioned unless a greater sum than \$40,000 is paid for said premises. The expenses of such survey and sale shall be collected on the execution if the owner claimed as his homestead a greater quantity of land or land of greater value than he was entitled to; otherwise such expenses shall be borne by the plaintiff.

(3) If such survey be made the land not exempt shall be sold, but if any person shall neglect or refuse to select his exempt homestead and notify such officer, such officer shall, upon request of the plaintiff, and may without such request, give notice to such person that at a time and place to be therein named he will survey and locate the exempt homestead, and unless such person shall on or before the time so fixed select such exempt homestead, such officer shall survey and locate and set the same off in a compact form. If the owner after such notice selects his exempt homestead, then the provisions of this section shall apply the same as if he had selected it before such notice.

(4) A homestead so selected and set apart by such officer shall be the exempt homestead of such person. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall affect such levy, only as to such homestead; and the failure of such person to select his homestead shall not impair his right thereto, but only his right to select the same when such selection is lawfully made by such officer. After such homestead is thus set off by such officer, if, in his opinion or in the opinion of the plaintiff, the premises are of greater value than \$40,000 he may sell the same as where the owner makes the selection.

(5) If the land claimed as an exempt homestead exceeds in value \$40,000, the officer shall not be bound to set off any portion thereof but may sell the same, unless the debtor shall make his selection of such a portion thereof as shall not exceed \$40,000 in value.

History: 1973 c. 168; Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.21; 1985 a. 153.

The strong public policy to protect the homestead exemption, even in the face of inaction, is demonstrated by ch. 272 [ch. 815]. Sub. (1) provides that, when there is a levy upon the lands of any person, he can make the claim of a homestead exemption at any time before sale. Anchor Savings & Loan Assn. v. Week, 62 W (2d) 169, 213 NW (2d) 737.

**815.24 Indemnity may be required.** If there is any reasonable doubt as to the ownership of the property or as to its liability to be taken on the execution the officer may require sufficient security to indemnify him for levying upon such property.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.24.

**815.25 Money applied; negotiable instruments sold.** Upon executions against property the officer shall levy upon any current money of the United States and shall pay and return the same without exposing it for sale, and he may also levy upon and sell any evidences of debt circulated as money, or a bond or other instrument for the payment of money which is negotiable or payable to the bearer or holder.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.25.

**815.26 Equities sold.** When personal property is subject to a security interest, the right and interest of the debtor in such property may be sold on execution against him, subject to the rights, if any, of the secured party.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.26.

**815.29 Notice of sale of personal property, manner, adjournment.** (1) No execution sale of personal property shall be made unless 20 days previous notice of such sale has been given by posting notices thereof in 3 public places of the town or municipality where such sale is to be had, specifying the time and place of sale but when any property seized is likely to perish or depreciate in value before the expiration of the 20 days the court or a judge may order the same to be sold in such manner and upon such terms as the best interests of the parties demand. Every such sale shall be made at auction between the hour of 9 a.m. and 5 p.m. and no property shall be sold unless it is in view of those attending the sale, except in the case of the sale of the interest of the judgment debtor in property in the possession of a secured party. It shall be offered for sale in such lots and parcels as is calculated to bring the highest price.

(2) Such sale may be adjourned as provided in s. 815.31 for sale of real estate.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.29.

**815.31 Notice of sale of realty; manner; adjournment.** (1) The time and place of holding any sale of real estate on execution shall be publicly advertised by posting a written notice describing the real estate to be sold with reasonable certainty in 3 public places in the town or municipality where such real estate is to be sold at least 3 weeks prior to the date of sale; and also in 3 public places of the town or municipality in which the real estate is situated, if it is not in the town or municipality where the sale is to be held.

(2) A copy of the notice of sale shall be printed each week for 6 successive weeks in a newspaper of the county prior to the date of sale.

(3) If there be no newspaper published in the county and the premises are not occupied by any person against whom the execution is issued or by some person holding as tenant or purchaser under him such notice shall be so published in a paper printed at Madison.

(4) The court, or a judge, upon application of the party issuing the execution shall direct, by order, the newspaper in which the publication of the notice is to be made.

(5) If at the time appointed for any such sale the sheriff shall deem it for the interest of all persons concerned he may adjourn the sale from time to time, not exceeding in all three months. In case of such adjournment public notice thereof shall be given at the time and place fixed for the sale. If the adjournment shall be for more than one day further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

(6) Every sale shall be at auction between 9 o'clock in the forenoon and 5 o'clock in the afternoon.

History: 1973 c. 189; Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.31.

**815.33 Execution; sale in parcels; limitation.** When real estate offered for sale on execution consists of several lots, tracts or parcels they shall be separately offered for sale; and if any person claiming to be the owner of any of such lots or parcels or an interest or estate therein or claiming to be entitled to redeem the same shall require it to be offered for sale separately, the sheriff shall offer the same for sale accordingly. No more shall be sold than shall appear necessary to satisfy the execution.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.33.

**815.34 EXECUTIONS**

**815.34 Execution sale without notice.** Any officer who shall sell real estate upon execution without having given the previous notices directed by s. 815.31, or otherwise than in the manner prescribed by law, shall be liable to the party injured in the sum of \$1,000 damage and also for the actual damages sustained.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.34.

**815.35 Execution; taking down notice.** If any person shall take down or deface any notice of a sale upon execution put up by any officer, previous to the day of sale therein specified, unless upon satisfaction of the execution or upon the consent of the parties to the action, such person shall be liable to the party suing out such execution in the sum of \$50.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.35.

**815.36 Execution sale, want of notice, when immaterial.** The omission of any officer to give the notice of execution sale required or the taking down or defacing of any such notice shall not affect the validity of any sale made to a purchaser in good faith, without notice of any such omission or offense.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.36.

**815.37 Execution sale; officer not to purchase.** The officer to whom any execution shall be directed and his deputy holding any execution and conducting any sale in pursuance thereof shall not, directly or indirectly, purchase any property at such sale; and every purchase made by such officer or deputy, or to his use, shall be void.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.37.

**815.38 Execution, certificate of sale, filing.** (1) Upon the sale of real estate on execution the officer making the same shall make out and subscribe duplicate certificates of such sale containing a particular description of the premises sold; the price bid for each distinct lot or parcel; the whole consideration money paid; and the time when such sale will become absolute and the purchaser will be entitled to a conveyance pursuant to law and shall file one of the said duplicate certificates within ten days after such sale in the office of the register of deeds and shall deliver the other to the purchaser. If there be two or more purchasers a certificate shall be delivered to each.

(2) Promptly following every execution sale the sheriff shall return the execution into court and file with it a detailed report of his doings upon the execution.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.38.

Cross Reference: See 59.30 for provision that sheriff is to collect his fees on execution in the same manner as the sum collected under the writ.

**815.39 Execution sale; redemption of real estate.** Within one year after an execution sale the real estate sold or any lot, tract or portion that was separately sold may be redeemed by the payment to the purchaser, his personal representatives or assigns, or to the then sheriff of the county where such real estate is situated, for the use of such purchaser, of the sum paid on the sale thereof, together with the interest from the time of the sale.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.39.

**815.40 Execution sale; who may redeem.** (1) Redemption from execution sale of real estate may be made by a person whose right and title was sold or if such person be dead by his devisee of the premises sold, and if the same shall not have been devised, by his heirs; or, by any grantee of such person who shall have acquired an absolute title to the premises sold, or to any lot, parcel or portion separately sold.

(2) Any such heir or devisee or grantee who shall have acquired an absolute title to a portion of the estate sold or a

portion of any lot, tract or parcel that shall have been separately sold may redeem the portion on the same terms and in the same manner as if he were grantee of the whole lot or parcel, and shall have the same remedy to enforce contributions from those who shall own the residue thereof as if the sum required to be paid by him to effect such redemption had been collected by a sale of the portion belonging to such grantee, heir or devisee.

(3) If there be joint tenants or tenants in common in premises sold each tenant may redeem the share or interest belonging to him by paying to the purchaser or officer, a sum that will bear the same proportion to the whole sum bid therefor as the redeemed share bears to the whole number of shares in such premises together with the interest.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.40.

**815.43 Execution sale; redemption makes sale void.** Upon redemption of any real estate sold on execution, the sale of the premises redeemed and the certificates of such sale, so far as they relate thereto, shall be null and void.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.43.

**815.44 Execution; purchaser's interest.** (1) WHO MAY ACQUIRE. In case the premises sold on execution or any part of them shall not be redeemed within the year prescribed by ss. 815.39 and 815.40 then the interest of the purchaser may be acquired within three months after the expiration of the redemption period by the persons and on the terms prescribed in this section.

(2) CREDITORS, MORTGAGEES, INTEREST. Any creditor of the person against whom such execution issued having a judgment or a recorded mortgage which is a lien upon the premises sold, or upon any lot or parcel or portion separately sold, may within fifteen months from the time of such sale by paying the sum paid on the sale thereof, together with interest from the time of such sale, thereby acquire all the rights of the original purchaser, subject to be defeated in the manner mentioned in s. 815.48.

(3) SALES OF UNDIVIDED INTERESTS. Any owner of such judgment or mortgage which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms and in the same manner, acquire the title of the original purchaser to such share or interest by paying such part of the whole purchase money of such real estate as shall be in a just proportion to the amount of such share or interest.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.44.

**815.48 Execution sale; creditors may acquire title of preceding creditor.** Whenever any creditor shall acquire the title of the original purchaser, pursuant to s. 815.44, any other creditor who might have acquired such title may become a purchaser thereof from the first creditor who acquired the same upon the following conditions:

(1) By paying to such first creditor, his personal representatives or assigns the sum which he paid to acquire such title, together with interest thereon from the time of his payment.

(2) If the judgment or mortgage by virtue of which the first creditor acquired the title of the original purchaser be prior to the judgment or mortgage of such second creditor and is still a lien as to such second creditor he shall also pay to such first creditor the amount due on his judgment or mortgage.

(3) In the same manner any third or other creditor who might have acquired the title of the original purchaser may become a purchaser thereof from the second, third or other creditor who may have become such purchaser from any other creditor, upon the terms and conditions before specified in this section.

(4) If the original purchaser of any premises shall also be a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser according to the preceding provisions, he may avail himself of his judgment or mortgage, in the manner and on the terms prescribed, to acquire the title which any creditor may have obtained.

(5) But the judgment creditor, under whose execution the real estate was sold cannot acquire the title of the original purchaser or of any creditor to the premises so sold by virtue of the judgment on which such execution issued.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.48.

**815.52. Payment on acquisition of purchaser's or creditor's interest.** The sums required to be paid to acquire the title of the original purchaser at the execution sale or to become a purchaser from any creditor may be paid to such purchaser or creditor, his representative or assigns or to the then sheriff of the county where the real estate is situated; upon such payment being made the title of the original purchaser shall be thereby transferred to the creditor acquiring the same and from such creditor to any other creditor becoming a purchaser thereof.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.52.

**815.53. Execution sale; evidences of right of creditor to acquire title.** To entitle any creditor to acquire the title of the original purchaser on the execution sale or to become a purchaser from any other creditor he shall exhibit to such purchaser or creditor or to the sheriff the following evidences of his right:

(1) A certified copy of the docket of his judgment or of the record of his mortgage.

(2) A certified copy of all assignments of such judgment or mortgage which are necessary to establish his claim.

(3) A certified copy of his letters of administration or letters testamentary, in case of an administrator or executor.

(4) An affidavit of such creditor or his attorney, or agent stating the sum due on such judgment or the sum owing on such mortgage at the time of claiming such right to purchase. Within three days after making such acquisition such creditor shall file such evidences of his right in the office of the register of deeds of the county where the original certificate of sale is filed.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.53.

**815.54. Execution sale, title when divested, action for injury to premises.** The right and title of the person against whom the execution was issued, to any real estate which shall be sold thereby, shall not be divested by such sale until the expiration of fifteen months from the time of sale; and if such real estate shall not have been redeemed and a deed shall be executed in pursuance of a sale the grantee shall be vested with the legal estate from the time of the sale for the purpose of an action for an injury to such real estate.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.54.

**815.55. Execution sale; deed when to issue; limitation.** If after the expiration of fifteen months from the time of the sale of any real estate upon execution any part of the premises sold shall remain unredeemed, the sheriff of the county in which such real estate is situated shall, on demand, execute a deed of the premises unredeemed to the person entitled thereto, which shall convey all the right, title and interest which was sold upon such execution. But no such deed shall be issued after twenty years from the date of the sale.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.55.

**815.56. Sheriff's deed; grantee if purchaser dead.** In case the person who would be entitled to a deed of real estate sold on execution dies before the delivery of that deed the sheriff shall execute a deed to the person's executors or administrators. The real estate so conveyed shall be held in trust for the use of the heirs or devisees of the deceased person, subject to the surviving spouse's right to elect under ss. 861.02 (1) and 861.03, but may be sold for the payment of debts in the same manner as lands of which the person died seized.

History: Sup. Ct. Order, 67 W (2d) 761; 1975 c. 94 s. 91 (5); 1975 c. 199; Stats. 1975 s. 815.56; 1983 a. 186; 1985 a. 37; 1987 a. 393 s. 53.

**815.57. Sheriff's deed, recovery of purchase price on eviction.** If the purchaser of real estate sold on execution, his heirs or assigns shall be evicted from such real estate, or if in an action for the recovery thereof judgment shall be rendered against him or them in consequence of any irregularity in such sale, or of the judgment upon which such execution issued being vacated or reversed, he or they may recover of the party for whose benefit such real estate was sold the amount paid on the purchase thereof, with interest.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.57.

**815.58. Execution sale; judgment, creditor's further remedy.** The party for whose benefit real estate was sold on execution and his personal representatives, upon recovery being had against him under s. 815.57 in consequence of any irregularity in such sale, may have further execution upon the judgment to levy the sum paid on such sale, with interest. Such judgment shall be effectual for that purpose against the defendant, his personal representative, heirs and devisees; but not against any purchaser in good faith or any incumbrancer whose title or whose incumbrance accrued before the levy of such execution.

History: Sup. Ct. Order, 67 W (2d) 761, 781; Stats. 1975 s. 815.58.

**815.59. Contribution when lands of several are sold on execution.** (1) When lands of several persons shall be liable to satisfy any final judgment and the whole of such judgment or more than a due proportion thereof shall be paid by one of such persons or shall be levied upon the lands of any one or more of such persons, the persons so aggrieved or their personal representatives may compel a just contribution by all the persons whose lands ought to contribute to said satisfaction.

(2) Such lands are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed.

(b) If they were sold under execution against the defendant, they are liable in succession, commencing with the lands sold under the youngest judgment.

(c) If there be lands so liable, which were conveyed by the defendant in execution, and also lands which were sold under execution against him they are liable in succession, according to the order herein prescribed.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 815.59.

**815.61. Proceedings to recover contribution.** In an action to compel contribution under s. 815.59 the court shall, in a proper case, permit the plaintiff to use the original judgment and issue execution thereon, for the amount which ought to be contributed by the lands subject to the lien of such judgment, and for that purpose such original judgment shall remain a lien, when preserved as provided in s. 815.62, for the term of 10 years from the date of the entry thereof, to the extent of the sum which ought to be so contributed, but in all

**815.61 EXECUTIONS**

cases such liens shall continue for the purposes above stated for 3 years after any sale under which contribution is claimed.

**History:** Sup. Ct. Order, 67 W.(2d) 761, 781; Stats. 1975 s. 815.61.

**815.62 Lien, how preserved after execution sale; clerk's fee.** To preserve the lien of the original judgment upon lands and subject them to sale on execution under s. 815.61, the person aggrieved shall, within 20 days after the payment for which he or she claims a contribution, file an affidavit with the clerk of the court in which the original judgment was rendered, stating the sum paid and his or her claim to use the judgment for the reimbursement thereof; and the clerk shall enter in the margin of the docket of the judgment, the sum so paid and that the judgment is claimed to be a lien to that amount. To preserve the lien upon property situated in some other county, a similar affidavit and notice must be filed with the clerk of the court and a like entry made upon the docket of the judgment in that county. The clerk's fee for making the entry upon the docket is prescribed in s. 814.61 (5).

**History:** Sup. Ct. Order, 67 W.(2d) 761, 781; Stats. 1975 s. 815.62; 1981 c. 317.

**815.63 Sheriff's deed; writ of assistance.** Whenever title has been perfected to any real estate sold on execution, or to any part or interest in the real estate, and the defendant in execution or any other person claiming under the defendant by title accruing subsequently to the docketing of the judgment upon which it issued shall be in possession of that real estate or part or interest in that real estate, and upon demand of the person in whom such title has been perfected, refuses to

surrender the possession the person may apply to the court from which the execution issued, by verified petition, for a writ of assistance to obtain possession. A copy of this petition, with a notice of the time and place when and where the petition will be presented, must be served upon the person against whom the writ is prayed at least 10 days before the petition is presented; the petition may be served as a summons in an action in the circuit court. The court may direct such writ to issue, and the writ shall be executed and return made in the same manner as upon a sale upon a judgment for foreclosure of a mortgage.

**History:** Sup. Ct. Order, 67 W.(2d) 761; Stats. 1975 s. 815.63; 1977 c. 449.

**Cross Reference:** The general provision for writs of assistance is 815.11.

**815.64 Judgment lien, how discharged on redemption.** When any judgment debtor or person claiming under him shall have redeemed the lands or any part thereof or interest therein sold on execution the person or officer to whom the redemption money was paid shall execute, acknowledge and deliver to the redeemer a certificate, attested by two witnesses, stating the fact of such redemption, the date thereof, the amount of money paid, with a description of the lands or interests therein so redeemed. Such certificates may be recorded in the office of the register of deeds of the county in which the lands are situated, and shall be presumptive evidence of the redemption of the lands therein described from such sale and from the lien of the judgment by virtue of which such sale was made.

**History:** Sup. Ct. Order, 67 W.(2d) 761; Stats. 1975 s. 815.64.

1989 Senate Bill 259

Date of enactment: April 20, 1990

Date of publication\*: May 3, 1990

## 1989 WISCONSIN ACT 278

AN ACT to amend 20.921 (1) (e), 49.41, 71.63 (6) (L), 700.16 (4) (f), 701.09 (4), 812.18 (2m) (b) and 990.01 (14); to repeal and recreate 701.09 (4) and 815.18; and to create 242.01 (2) (bm) of the statutes, relating to: property exempt from execution.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 20.921 (1) (e) of the statutes is amended to read:

20.921 (1) (e) No portion of the salary so requested to be used for the purchase of savings bonds, not exceeding 10% of the salary, is liable to seizure on execution or on any provisional or final process issued from any court or any proceedings in aid thereof, and such exemption shall be in addition to any exemption provided by s. 815.18 (15) of that process. Section 241.09 relating to assignments shall not apply to the requests made under par. (a).

SECTION 2. 49.41 of the statutes is amended to read:

49.41 Assistance grants exempt from levy. All grants of aid to families with dependent children, payments made for social services, and benefits under ~~s. ss. 49.032, 49.046 and 49.177~~ or federal Title XVI, are exempt from every tax, and from execution, garnishment, attachment and every other process and shall be inalienable.

SECTION 3. 71.63 (6) (L) of the statutes is amended to read:

71.63 (6) (L) To, or on behalf of, an employe or beneficiary from a plan or contract described in s. 815.18 (31) (a) (3) (j) under which the benefits are fully funded by life insurance or annuities.

SECTION 4. 242.01 (2) (bm) of the statutes is created to read:

242.01 (2) (bm) Property to the extent it is exempt under s. 815.18.

SECTION 5. 700.16 (4) (f) of the statutes is amended to read:

700.16 (4) (f) Employes' trusts created as part of a plan as or contract described in s. 815.18 (31) (3) (j).

SECTION 6. 701.09 (4) of the statutes is amended to read:

701.09 (4) EMPLOYE BENEFITS TRANSFERRED TO TRUST OF EMPLOYEE. A trustee named or to be named in the will of an employe covered by any employe benefit plan or contract described in s. 815.18 (31) (3) (j) or any annuity or insurance contract purchased by an employer which that is a religious, scientific, educational, benevolent or other corporation or association not organized or conducted for pecuniary profit may be designated payee of any benefits payable after the death of the employe if the designation is made in accordance with the terms of the plan or contract. After admission of the employe's will to probate and issuance of letters to ~~such the~~ trustee, the death benefits shall be paid to the trustee to be administered in accordance with the terms of the trust as they exist at the death of the employe, and ~~such the~~ benefits may be commingled with other assets passing to the trust. Death benefits paid to a testamentary trustee because of his or her designation as payee shall are not be subject to inheritance tax to any greater extent than if ~~such the~~ benefits were payable to a beneficiary other than the employe's estate. ~~Such The~~ benefits shall be inventoried for tax purposes only and shall are not be subject to taxes,

Exhibit B

1989 Senate Bill 259

debts or charges enforceable against the estate ~~nor~~ or otherwise considered assets of the employe's estate to any greater extent than if ~~such~~ the benefits were payable to a beneficiary other than the employe's estate.

SECTION 7. 701.09 (4) of the statutes, as affected by 1987 Wisconsin Act 27 and 1989 Wisconsin Act .... (this act), is repealed and recreated to read:

701.09 (4) EMPLOYE BENEFITS TRANSFERRED TO TRUST OF EMPLOYEE. A trustee named or to be named in the will of an employe covered by any employe benefit plan or contract described in s. 815.18 (3) (j) or any annuity or insurance contract purchased by an employer that is a religious, scientific, educational, benevolent or other corporation or association not organized or conducted for pecuniary profit may be designated payee of any benefits payable after the death of the employe if the designation is made in accordance with the terms of the plan or contract. After admission of the employe's will to probate and issuance of letters to the trustee, the death benefits shall be paid to the trustee to be administered in accordance with the terms of the trust as they exist at the death of the employe, and the benefits may be commingled with other assets passing to the trust. Death benefits paid to a testamentary trustee because of his or her designation as payee are not subject to the death tax to any greater extent than if the benefits were payable to a beneficiary other than the employe's estate. The benefits shall be inventoried for tax purposes only and are not subject to taxes, debts or charges enforceable against the estate or otherwise considered assets of the employe's estate to any greater extent than if the benefits were payable to a beneficiary other than the employe's estate.

SECTION 8. 812.18 (2m) (b) of the statutes is amended to read:

812.18 (2m) (b) If the property which is the subject of a garnishment action is the proceeds from the sale of crops, livestock, dairy products or another product grown or produced by a person or by his or her minor children, the garnishee shall pay over to the defendant on the date when the payment would normally be made any exempt amount under s. 815.18 (15), ~~except the maximum exemption under s. 815.18 (15) (b) is \$500 for each 30-day period and the maximum exemption under s. 815.18 (15) (c) is \$500 plus an additional \$50 for each dependent for each 30-day period (3) (h).~~

SECTION 9. 815.18 of the statutes, as affected by 1989 Wisconsin Act 56, is repealed and recreated to read:

815.18 Property exempt from execution. (1) STATUTORY CONSTRUCTION. This section shall be construed to secure its full benefit to debtors and to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges.

(2) DEFINITIONS. In this section:

(a) "Aggregate value" means the sum total of the debtor's equity in the property claimed exempt.

(b) "Business" means any lawful activity, including a farm operation, conducted primarily for the purchase, sale, lease or rental of property, for the manufacturing, processing or marketing of property, or for the sale of services.

(c) "Debtor" means an individual. "Debtor" does not include an association, corporation, partnership, cooperative or political body.

(d) "Dependent" means any individual, including a spouse, who requires and is actually receiving substantial support and maintenance from the debtor.

(e) "Depository account" means a certificate of deposit, demand, negotiated order of withdrawal, savings, share, time or like account maintained with a bank, credit union, insurance company, savings and loan association, securities broker or dealer or like organization. "Depository account" does not include a safe deposit box or property deposited in a safe deposit box.

(f) "Equipment" means goods used or bought for use primarily in a business, including farming and a profession.

(g) "Equity" means the fair market value of the debtor's interest in property, less the valid liens on that property.

(h) "Exempt" means free from any lien obtained by judicial proceedings and is not liable to seizure or sale on execution or on any provisional or final process issued from any court, or any proceedings in aid of court process.

(i) "Farm products" has the meaning given under s. 409.109 (3).

(j) "Inventory" has the meaning given under s. 409.109 (4).

(k) "Life insurance" means a policy issued by a stock or mutual life insurance company or by any mutual beneficiary or fraternal corporation, society, order or association to insure the life of an individual.

(m) "Motor vehicle" means a self-propelled vehicle. "Motor vehicle" does not include equipment.

(n) "Net income" means gross receipts paid or payable for personal services or derived from rents, dividends or interest less federal and state tax deductions required by law to be withheld.

(r) "Resident" means an individual who intends to maintain his or her principal dwelling in this state.

(t) "To the extent reasonably necessary for the support of the debtor and the debtor's dependents" means what the court determines is required to meet the present and anticipated needs of the debtor and the debtor's dependents, after consideration of the debtor's responsibilities, and the debtor's present and anticipated income and property, including exempt property.

## 1989 Senate Bill 259

(3) EXEMPT PROPERTY. The debtor's interest in or right to receive the following property is exempt, except as specifically provided in this section and ss. 70.20 (2), 71.91 (5m) and (6), 74.55 (2) and 102.28 (5):

(a) *Provisions for burial.* Cemetery lots, above-ground burial facilities, burial monuments, tombstones, coffins or other articles for the burial of the dead owned by the debtor and intended for the burial of the debtor or the debtor's family.

(b) *Business and farm property.* Equipment, inventory, farm products and professional books used in the business of the debtor or the business of a dependent of the debtor, not to exceed \$7,500 in aggregate value.

(c) *Child support, family support or maintenance payments.* Alimony, child support, family support, maintenance or separate maintenance payments to the extent reasonably necessary for the support of the debtor and the debtor's dependents.

(d) *Consumer goods.* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed \$5,000 in aggregate value.

(df) *County fairs and agricultural societies.* All sums paid as state aid under s. 93.23 (1) to county fairs and agricultural societies.

(ds) *Federal disability insurance benefits.* All moneys received or receivable by a person as federal disability insurance benefits under subchapter II of 42 USC.

(e) *Fire and casualty insurance.* For a period of 2 years after the date of receipt, insurance proceeds on exempt property payable to and received by the debtor, if the exempt property has been destroyed or damaged by fire or casualty of any nature.

(ef) *Fire and police pension fund.* All money paid or ordered to be paid to any member of any fire or police department or to the surviving spouse or guardian of the minor child or children of a deceased or retired member of any such department, which money has been paid or ordered to be paid to any such person as a pension on account of the service of any person in any such department in any city in this state whose population exceeds 100,000.

(em) *Fire engines and equipment.* All fire engines, apparatus and equipments, including hose, hose carts and hooks and ladders, belonging to or which may hereafter belong to any town, city or village in this state, and which are or may be kept and used for the protection of property in such town, city or village from fire, together with the engine houses and hooks and ladder houses for the protection of the same, and the lot or lots on which such engine and hook and ladder houses may be situated, when owned by any such town, city or village; and any lot or

lots owned, used and occupied by any such town, city or village for corporate purposes.

(f) *Life insurance.* Any unmaturing life insurance contract owned by the debtor and insuring the debtor, the debtor's dependent or an individual of whom the debtor is a dependent, other than a credit life insurance contract, and the debtor's aggregate interest, not to exceed \$4,000 in value, in any accrued dividends, interest or loan value of all unmaturing life insurance contracts owned by the debtor and insuring the debtor, the debtor's dependent or an individual of whom the debtor is a dependent.

(g) *Motor vehicles.* Motor vehicles not to exceed \$1,200 in aggregate value. Any unused amount of the aggregate value from par. (d) may be added to this exemption to increase the aggregate exempt value of motor vehicles under this paragraph.

(h) *Net income.* Seventy-five percent of the debtor's net income for each one week pay period. The benefits of this exemption are limited to the extent reasonably necessary for the support of the debtor and the debtor's dependents, but to not less than 30 times the greater of the state or federal minimum wage.

(i) *Life insurance claims, personal injury or wrongful death claims.* 1. Any of the following payments:

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

b. A payment resulting from the wrongful death of an individual of whom the debtor was a dependent, in an amount reasonably necessary for the support of the debtor and the debtor's dependents.

c. A payment, not to exceed \$25,000, resulting from personal bodily injury, including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

d. A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent in an amount reasonably necessary for the support of the debtor and the debtor's dependents.

2. Any property traceable to payments under subd. 1 is exempt.

(j) *Retirement benefits.* 1. Assets held or amounts payable under any retirement, pension, disability, death benefit, stock bonus, profit sharing plan, annuity, individual retirement account, individual retirement annuity, Keogh, 401-K or similar plan or contract providing benefits by reason of age, illness, disability, death or length of service and payments made to the debtor therefrom.

2. The plan or contract must meet one of the following requirements:

a. The plan or contract complies with the provisions of the internal revenue code.

## 1989 Senate Bill 259

b. The employer created the plan or contract for the exclusive benefit of the employer, if self-employed, or of some or all of the employees, or their dependents or beneficiaries and that plan or contract requires the employer or employees or both to make contributions for the purpose of distributing to the employer, if self-employed, the employees, or their dependents or beneficiaries, the earnings or the principal or both of a trust, annuity, insurance or other benefit created under the plan or contract and makes it impossible, at any time prior to the satisfaction of all liabilities with respect to beneficiaries under a trust created by the plan or contract, for any part of the principal or income of the trust to be used for or diverted to purposes other than for the exclusive benefit of those beneficiaries.

3. The plan or contract may permit the income created from personal property held in a trust created under the plan or contract to accumulate in accordance with the terms of the trust. The trust may continue until it accomplishes its purposes. The trust is not invalid as violating the rule against perpetuities or any law against perpetuities or the suspension of the power of alienation of title to property.

4. The benefits of this exemption with respect to the assets held or amounts payable under or traceable to an owner-dominated plan for or on behalf of a debtor who is an owner-employee shall be limited to the extent reasonably necessary for the support of the debtor and the debtor's dependents.

5. This exemption does not apply to an order of a court concerning child support, family support or maintenance payments, or to any judgment of annulment, divorce or legal separation.

6. In this paragraph:

a. "Employer" includes a group of employers creating a combined plan or contract for the benefit of their employees or the beneficiaries of those employees.

b. "Owner-dominated plan" means any plan or contract that meets the requirements of subd. 2 and under which 90% or more of the present value of the accrued benefits or 90% or more of the aggregate of the account is for the benefit of one or more individuals who are owner-employees. For purposes of this definition, the accrued benefits or account of an owner-employee under a plan or contract shall include the accrued benefits or account of the spouse and any ancestor, lineal descendant or spouse of a lineal descendant of the owner-employee under the same plan or contract.

c. "Owner-employee" means any individual who owns, directly or indirectly, the entire interest in an unincorporated trade or business, or 50% or more of the combined voting of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, or 50% or more of the capital interest or profits interest of a partnership.

(k) *Depository accounts.* Depository accounts in the aggregate value of \$1,000.

(m) *Private property from execution against municipalities.* All private property shall be exempt from seizure and sale upon any execution or other process issued to enforce any judgment or decree of any court that has been rendered against any county, town, city, village, vocational, technical and adult education district or school district in this state.

(n) *War pension.* All money received by a person, a resident of this state, as pension, compensation, government insurance, or adjusted compensation, back pension, compensation or insurance from the U.S. government on account of military or naval service, and all other money received by a person on account of military or naval service from the U.S. government administered by the U.S. department of veterans affairs, whether the same is in the actual possession of such person, on deposit, or loaned.

(4) **TRACING.** Property traceable to property that would be exempt under this section in the form of cash proceeds or otherwise is not exempt unless expressly provided for in this section.

(5) **AVAILABILITY.** A resident is entitled to the exemptions provided by this section. A nonresident is entitled to the exemptions provided by the law of the jurisdiction of his or her residence.

(6) **CLAIMING EXEMPTIONS.** (a) A debtor shall affirmatively claim an exemption or select specific property in which to claim an exemption. The debtor may make the claim at the time of seizure of property or within a reasonable time after the seizure, but shall make the claim prior to the disposition of the property by sale or by court order. Exempt property is not exempt unless affirmatively claimed as exempt. With respect to property partially exempt under this section, the claiming of an exemption includes the process of selection required of the debtor. The debtor or a person acting on the debtor's behalf shall make any required affirmative claim, either orally or in writing, to the creditor, the creditor's attorney or the officer seeking to impose a lien by court action upon the property in which the exemption is claimed. A debtor waives his or her exemption rights by failing to follow the procedure under this paragraph. A contractual waiver of exemption rights by any debtor before judgment on the claim is void. The court, in making a determination as to the extent property is reasonably necessary for the support of the debtor and the debtor's dependents, is not limited to the standard of living to which the debtor and the debtor's dependents have become accustomed. The court shall consider the amount and use of any income of any person claimed as a dependent when determining if that person is a dependent of a debtor.

(b) Notwithstanding sub. (13), this subsection does not apply to any of the following:

## 1989 Senate Bill 259

1. Public employe trust funds exempt under s. 40.08 (1).

2. Retirement benefits and allowances from retirement systems of 1st class cities exempt under s. 66.81.

3. Retirement benefits and allowances from retirement systems of counties having a population of 500,000 or more exempt under chapter 201, laws of 1937, section 11.

4. A homestead exempt under s. 815.20.

(7) VALUATION OF PROPERTY. The value of any property subject to exemption under this section shall be determined by agreement of the parties or by a commercially reasonable manner.

(8) MARITAL PROPERTY RIGHTS. Each spouse is entitled to and may claim the exemptions under this section. If the property exempt under this section is limited to a specified maximum dollar amount, each spouse is entitled to one exemption. That exemption is limited to the specified maximum dollar amount, which may be combined with the other spouse's exemption in the same property or applied to different property included under the same exemption. The exemption under sub. (3) (h) may not be combined with the other spouse's exemption under sub. (3) (h) and applied to the same property.

(9) PARTIALLY EXEMPT PROPERTY. In the case of property that is partially exempt, the debtor or any person acting on the debtor's behalf is entitled to claim the exempt portion of property. The exempt portion claimed shall be set apart for the debtor, or for the debtor's dependents, and the nonexempt portion shall be subject to a creditor's claim. If partially exempt property is indivisible, the property may be sold and the exempt value of the property paid to the debtor or the debtor's dependents. Any proceeds paid to the debtor or to the debtor's dependents shall be exempt while held by the debtor or the debtor's dependents as cash or in a depository account.

(10) FRAUDULENT TRANSFERS. A conveyance or transfer of wholly exempt property shall not be considered a fraudulent conveyance or transfer. Property that is not totally exempt in value under this section may be subject to a fraudulent transfer action under ch. 242 to set aside that transfer to the extent that the property's value is not exempt under this section. If a court is required to satisfy the claim of a creditor and if that relief is demanded, the court may determine the manner of dividing fraudulently transferred property into exempt and nonexempt portions, or may order the sale of the whole property and an accounting of the exempt portion. Any or all of the exemptions granted by this section may be denied if, in the discretion of the court having jurisdiction, the debtor procured, concealed or transferred assets with the intention of defrauding creditors.

(11) CONSUMER CREDIT TRANSACTION EXEMPTIONS. The debtor may claim either the exemptions listed in s. 425.106 or the exemptions under this section for an obligation arising from a consumer credit transaction.

(12) LIMITATIONS ON EXEMPTIONS. No property otherwise exempt may be claimed as exempt in any proceeding brought by any person to recover the whole or part of the purchase price of the property or against the claim or interest of a holder of a security interest, land contract, condominium or homeowners association assessment or maintenance lien or both, mortgage or any consensual or statutory lien.

(13) APPLICABILITY TO OTHER PROPERTY. Subsections (2), (4) to (7), (9), (10) and (12) apply to the following exempt property except as otherwise provided by law:

(a) Assistance benefits exempt under s. 49.41.

(b) Crime victim awards exempt under s. 949.07.

(c) Fraternal benefits exempt under s. 614.96.

(d) A homestead exempt under s. 815.20.

(e) Partnership property exempt under s. 178.21 (3)

(c).

(f) Public employe trust fund benefits exempt under s. 40.08 (1).

(g) Salary used to purchase savings bonds exempt under s. 20.921 (1) (e).

(h) Retirement benefits and allowances from retirement systems of 1st class cities exempt under s. 66.81.

(hm) Retirement benefits and allowances from retirement systems of counties having a population of 500,000 or more exempt under chapter 201, laws of 1937, section 11.

(i) Tenant's lease and stock interest of a housing corporation exempt under s. 182.004 (6).

(j) Unemployment compensation benefits exempt under s. 108.13.

(k) Veterans benefits exempt under s. 45.35 (8) (b).

(14) REVIEW OF DOLLAR AMOUNTS. By January 15, 1994, and by January 15 every 4 years thereafter, the legislative council shall review the dollar amounts in this section and determine if those dollar amounts should be changed. The legislative council shall report its recommendation to the speaker of the assembly and the president of the senate within 15 days of making its determination. If the legislative council recommends that an adjustment should be made in the dollar amounts, its report shall include proposed statutory language to accomplish that recommendation.

SECTION 10. 990.01 (14) of the statutes is amended to read:

990.01 (14) HOMESTEAD EXEMPTION. ~~The words "exempt "Exempt homestead" mean that part of the homestead~~ means the dwelling, including a building, condominium, mobile home, house trailer or cooperative, and so much of the land surrounding it as is reasonably necessary for its use as a home, but not less than 0.25 acre, if available, and not exceeding 40 acres, within the limitation as to value set forth in ~~under~~ s. 815.20, except as to liens attaching or rights of devisees or heirs of persons dying before the effective date of any increase of that limitation as to value.

- 6 -

**1989 Senate Bill 259**

**SECTION 11. Initial applicability.** This act first applies to exemptions claimed on the effective date of this SECTION.

the day after publication, except as follows:

(1) The repeal and recreation of section 701.09 (4) of the statutes takes effect on January 1, 1992.

**SECTION 12. Effective date.** This act takes effect on

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# BRUCE A. LANSER

ATTORNEY AT LAW

October 20, 1999

Mr. Leonard G. Levenson  
Kravit, Gass, Hovel & Leitner, S.C.  
5<sup>th</sup> Floor  
825 North Jefferson Street  
Milwaukee, WI 53202

RE: Update on Wisconsin Exemptions

Dear Len:

This letter is sent to you in your capacity as chairperson of the subcommittee appointed to discuss updating Wisconsin exemptions. I have comments on several exemptions as they currently exist.

1. **BUSINESS AND FARM PROPERTY.** Section 815.18(3)(b) permits the farmer and business Debtor to exempt up to \$7,500 worth of their equipment and inventory. This is certainly a needed and appropriate exemption for the sole proprietor, however, it penalizes the business person who operates under some other business form. So, for example, if a contractor is operating his business as a sole proprietor, there is an exemption available for him to protect his tools and equipment. However, if that same person forms a corporation of which he is the sole shareholder, and all of the tools and equipment are transferred to the corporation, there is no exemption available for him to protect his livelihood. I believe that this exemption should be expanded in order to cover a Debtor's business interest, regardless of whether those interests are in the form of hard assets or the value of the Debtor's stock/membership/partnership interest.

2. **PERSONAL INJURY PAYMENTS.** Currently, a Debtor is permitted to protect up the \$25,000 in the payment resulting from a personal injury. What if the Debtor has more than one personal injury claim? Several years ago, I had a client in a bankruptcy proceeding with this precise circumstance. Over the objection of the trustee, Judge Clevert permitted me to claim the exemption in each separate claim. It would be nice if this could be codified.

3. **RETIREMENT BENEFITS.** With this exemption, a Debtor is penalized for being a small business owner regardless of whether they operated a sole proprietorship or as some other business entity. Whereas most Debtors are allowed to exempt

Exhibit C

Mr. Leonard G. Levenson  
October 20, 1999  
Page 2

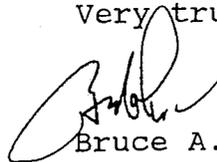
their IRAs or similar plans without regard to dollar amount, the small business owner is essentially limited by the "reasonably necessary" standard. This exemption should be changed in order to provide more equitable treatment across the board.

4. **DOLLAR LIMITS.** All of the various dollar amounts should be increased to something more reasonable considering that they are intended to permit a Debtor to keep the basic necessities of life. For exemption, the vehicle exemption of \$1,200 is almost like having no exemption at all.

As you know, with the exception of my work as a bankruptcy trustee, my entire practice is devoted to the representation of Debtors in bankruptcy proceedings. Because the state exemptions are worthless except in certain specific circumstances, the federal bankruptcy exemptions are almost always used. I believe that the state exemptions ought to be comparable to those currently provided in the Bankruptcy Code. I also believe that they should be indexed so that the dollar amounts automatically increase over time.

Len, I would be delighted to discuss any of these suggestions further with you or with any of your committee members. Thank you.

Very truly yours,



Bruce A. Lanser

BAL:lam

cc: Honorable James E. Shapiro  
Chief United States Bankruptcy Judge  
bruce\corresp\leverson.020

**DAVIS & KUELTHAU, S.C.**  
**111 E. Kilbourn Ave., Suite 1400**  
**Milwaukee, WI 53202**

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**FACSIMILE TRANSMITTAL COVER SHEET**

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**DATE:** October 28, 1999

**NUMBER OF PAGES: 3**  
(including this cover page)

**TO:** The Honorable James E. Shapiro (297-4088)  
Leonard G. Levenson (271-8135)  
Bruce A. Lanser (272-5799)

**FROM:** Michael C. Runde

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**MESSAGE:**

---

**TELEPHONE NUMBER:** (414) 276-0200

**OUR FAX NUMBER:** (414) 276-9369

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Exhibit D

**Davis & Kuelthau, s.c.**

ATTORNEYS AT LAW

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October 28, 1999

**VIA FACSIMILE ONLY  
297-4088**The Honorable James E. Shapiro  
Chief United States Bankruptcy Judge  
U.S. Federal Building  
517 E. Wisconsin Avenue  
Milwaukee, WI 53202**Re: Meeting of Exemption Committee**

Dear Judge Shapiro:

I received Len Levenson's letter today notifying of the committee's meeting tomorrow in your chambers. Unfortunately I have a prior commitment and will be out of the city and unable to attend. Following are a few brief comments regarding the suggestions in Bruce Lanser's letter.

I believe Bruce's point on the business and farm property exemption is a good one and that it deserves serious consideration. As there is no state wildcard exemption, the small business owner would not otherwise be able to exempt his ownership interest in the business entity. I do not remember the original committee considering the idea. The chief concern initially was equalizing the exemption benefit between the farmer and non-farm small business owner. I believe if debtor's attorneys are finding that a sufficient number of debtors are operating businesses in a separate legal entity, Bruce's point should be considered for a suggested amendment.

As to the personal injury proceeds exemption, the revisions to the prior statute created this exemption for the first time. In recommending the creation of the exemption, I do not recall that the committee considered circumstances where an unfortunate debtor would have more than one accident. I read the statute as limiting the exemption to \$25,000 regardless of the number of personal injuries.

The retirement benefits exemption as it exists was the result of political compromise after extensive input from a number of different interests, and the legislative drafters themselves created the current section. The distinction Bruce points to is in the statute, but with proper evidence presented by a small business owner, I would expect a court would find that a modest amount sought

The Honorable James E. Shapiro  
October 28, 1999  
Page 2

to be exempted would be protected. I believe the "owner dominated" concept, following the federal exemption, was an attempt to deal with potential abuse by a small business owner who would have excessive funds in a retirement plan. If in practice, small business owners with modest amounts in their plans are not being allowed the exemption, then I would agree that the statute is not functioning correctly. Perhaps the definition in Section 815.18(2)(t) should be addressed to remedy the problem.

I agree fully with the comments on the dollar limits. The original draft recommended by the committee contained an indexing provision which did not make it through the legislative process.

Thanks again for inviting me to your meeting and I am sorry that I will be unable to attend.

Very truly yours,



Michael C. Runde

MCR/kjr

cc: Leonard G. Leverson (via facsimile) (271-8135)  
Bruce A. Lanser (via facsimile) (272-5799)

# MEMO

**To:** Chief Judge James E. Shapiro  
**From:** Russ *Buzan*  
**Subject:** Exemptions  
**Date:** October 28, 1999

Respectfully, I suggest that your esteemed Committee think over:

1. (3)(b). Does this include IP? Is IP under development "equipment?"
2. (3)(d). Does value mean replacement value, FMV, or something else? (I just had a case in Green Bay where a debtor lost 25 pieces of old, used underwear in a fire and claimed exempt value of \$625, as his torn, holey (literally) underwear was difficult to replace. The fact that it was more than 10 years old was of no consequence to the debtor.) (7) is of little help.
3. (3)(d). Do household goods include property used outside the home, such as bikes, lawn mowers and golf clubs? There is no definition in (2).
4. (3)(i)1.a. One life insurance contract or more than one?
5. (3)(i)1.c. \$25M a claim or in the aggregate?
6. (3)(i)1.d. One payment or more than one payment?
7. (3)(i)2. How far is it necessary to trace? Proceeds of proceeds?
8. (10). The final sentence belongs in its own paragraph/subsection. It should be (13) and the current (13) renumbered (14).

When all is said and done, I still believe that Bob Boden was right. Individual exemptions are the wrong approach. Every debtor should be given a specific dollar sum for all exemptions taken at FMV, not replacement value, on the day of the filing of a petition. The debtor can use the exemption for everything from a belly-button brush to mutual funds. Clean and simple. The Legislature can change the figure from time to time or simply index it.

Exhibit E



KRAVIT • GASS • HOVEL & LEITNER, S.C.  
ATTORNEYS

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LEONARD G. LEVERSON  
lgl@kravit-gass.com

November 10, 1999

VIA FACSIMILE AND U.S. MAIL

To the members of the Board of Directors of the  
Bankruptcy, Insolvency, and Creditors' Rights  
Section of the State Bar of Wisconsin:

This letter will report on the work of the Board of Directors' Ad Hoc Committee on Exemption Reform.

The Committee, after much delay attributable solely to yours truly, met on October 29 in Judge Shapiro's chambers. Present were Committee members Jay Pitner and myself and, by phone, Terry Byrne and Bob Pasch. Judge Shapiro hosted and also served as liaison to the Standing Committee of the Section on Exemptions, the committee responsible for the updating of Wisconsin exemption law approximately ten years ago. Also present were Todd Esser (a member of the Standing Committee) and Bruce Lanser. Standing Committee members Irv Charne and Mike Runde were also invited but could not attend. Bruce Lanser and Mike Runde submitted letters that were shared with the Ad Hoc Committee. I enclose copies. I also enclose some thoughts Judge Eisenberg shared with Judge Shapiro.

We discussed Bruce Lanser's suggestion that an exemption be created for ownership interest in entities that employ the debtor and provide a means of support. Bruce questioned why tools of the trade should be exempt, to a certain dollar amount, for a sole proprietor, but stock in a company that owned the same tools of the trade would not be exempt if the debtor chose to incorporate his or her small business. Todd Esser (and, in his letter, Mike Runde) pointed out that when the exemptions were last revised, one of the goals of the business and farm property exemption was to equalize the exemptions available to farmers (who previously enjoyed a rather extensive list of specified agricultural exemptions) and those available to non-farmers. Todd thought that revising

Exhibit F

The Board of Directors of the Bankruptcy, Insolvency,  
and Creditors' Rights Section  
November 10, 1999  
Page 2

the exemption law as proposed was in keeping with this equalizing goal of the prior statutory revision. There seemed to be general assent to some revision along these lines.

A similar proposal was the enactment of a "wild-card" exemption as a matter of state law. This could shield a closely-held business interest. The drawback several people pointed out with this is that, since state exemption law applies in the judgment execution context as well as in bankruptcy, it would be impractical: whatever asset a garnishment or execution happened to reach would likely be claimed exempt by the judgment debtor. Even most of us who primarily represent debtors in bankruptcy recognized the frustrating effect this would have on judgment collection. The concept of an exemption for an ownership interest in a business that employs the debtor (to be further refined -- perhaps not to include G.M. stock for a G.M. employee) seemed to enjoy more support. I pointed out that stock or another ownership interest in a closely held business without substantial value is generally a difficult asset to levy on anyhow, and likely to be levied on (in the judgment execution context) only in a grudge match between creditor and debtor.

Another issue Bruce Lanser raised was whether the personal injury exemption should be clarified to allow multiple exemptions where the debtor happens to have multiple claims, relating to different injuries. Some unreported case law allows this, but the statute is ambiguous. A majority approved recommending a clarification to allow multiple personal injury exemptions.

Terry Byrne raised the issue of why a payment on account of the debtor's personal injury or pain and suffering, other than for lost income, should ever inure to the benefit of creditors. If the debtor has suffered disfigurement or horrible pain, why should creditors profit? I expressed the view that many creditors of debtors having personal injury claims have extended credit to the debtor during his or her time of need, and, if the debtor gets a nice "pop" on the p.i. claim, perhaps the creditors should share in it. Terry and I had a difference of opinion as to whether health care providers, other than insurers, are necessarily subrogated to a debtor's recovery in a personal injury case.

Bruce Lanser raised an issue about the exemption for "top-heavy" plans being limited to the amount "reasonably necessary" for the support of the debtor and the debtor's dependents. Judge Shapiro reminded the group that the pension exemption had been the subject of very delicate negotiations with the insurance and ERISA folks back in 1989. ERISA lawyers were concerned about plans losing their ERISA qualification if subject to execution. The limitation on "top-heavy" plans was a legislative response to the result in the Gentile case, in which, if memory serves, a doctor or dentist was allowed to keep all of a rather generously funded plan. In light of the effort put into

The Board of Directors of the Bankruptcy, Insolvency,  
and Creditors' Rights Section  
November 10, 1999  
Page 3

negotiating a pension exemption back in the 1980's, a majority felt that this issue might be too contentious to merit revisiting at this time.

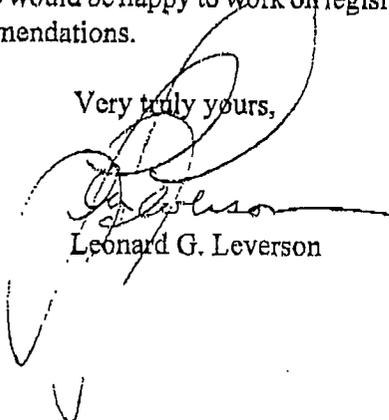
There was a general consensus, except for Bob Pasch, that all exemption amounts should be increased to reflect inflation since the statutes were last amended. Bob Pasch felt that \$40,000 was an adequate homestead exemption. (It is, of course, higher than the federal homestead exemption and many states' homestead exemptions.) Someone noted that the last increase in the Wisconsin homestead exemption (from \$25,000 to \$40,000) had occurred as far back as 1985 (effective 1986), several years before the major updating of the statutes effective in 1990. There was a general consensus that the time was ripe for an increase in all exemption amounts, including an increase in the homestead exemption to perhaps \$60,000.

To summarize, a majority of our Committee recommends:

- (1) An exemption for an ownership interest in a small business that provides a means of support for the debtor.
- (2) Clarifying the personal injury exemption to allow the exemption of multiple personal injury claims.
- (3) Increases in exemption amounts to adjust for inflation.

I believe our Committee would be happy to work on legislative language if the Board of Directors concurs with these recommendations.

Very truly yours,



Leonard G. Leverson

LGL:kes

Enclosures

The Board of Directors of the Bankruptcy, Insolvency,  
and Creditors' Rights Section

November 10, 1999

Page 4

cc (with enclosures): The Honorable James E. Shapiro  
Susan M. Knepel, Esq.  
Irvin B. Charne, Esq.  
Michael C. Runde, Esq.  
Todd C. Esser, Esq.  
Bruce A. Lanser, Esq.

**BRUCE A. LANSER**

ATTORNEY AT LAW

October 20, 1999

Mr. Leonard G. Levenson  
Kravit, Gass, Hovel & Leitner, S.C.  
5<sup>th</sup> Floor  
825 North Jefferson Street  
Milwaukee, WI 53202

RE: Update on Wisconsin Exemptions

Dear Len:

This letter is sent to you in your capacity as chairperson of the subcommittee appointed to discuss updating Wisconsin exemptions. I have comments on several exemptions as they currently exist.

1. **BUSINESS AND FARM PROPERTY.** Section 815.18(3)(b) permits the farmer and business Debtor to exempt up to \$7,500 worth of their equipment and inventory. This is certainly a needed and appropriate exemption for the sole proprietor, however, it penalizes the business person who operates under some other business form. So, for example, if a contractor is operating his business as a sole proprietor, there is an exemption available for him to protect his tools and equipment. However, if that same person forms a corporation of which he is the sole shareholder, and all of the tools and equipment are transferred to the corporation, there is no exemption available for him to protect his livelihood. I believe that this exemption should be expanded in order to cover a Debtor's business interest, regardless of whether those interests are in the form of hard assets or the value of the Debtor's stock/membership/partnership interest.

2. **PERSONAL INJURY PAYMENTS.** Currently, a Debtor is permitted to protect up to the \$25,000 in the payment resulting from a personal injury. What if the Debtor has more than one personal injury claim? Several years ago, I had a client in a bankruptcy proceeding with this precise circumstance. Over the objection of the trustee, Judge Clevert permitted me to claim the exemption in each separate claim. It would be nice if this could be codified.

3. **RETIREMENT BENEFITS.** With this exemption, a Debtor is penalized for being a small business owner regardless of whether they operated a sole proprietorship or as some other business entity. Whereas most Debtors are allowed to exempt

Mr. Leonard G. Levenson  
October 20, 1999  
Page 2

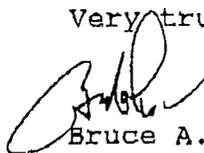
their IRAs or similar plans without regard to dollar amount, the small business owner is essentially limited by the "reasonably necessary" standard. This exemption should be changed in order to provide more equitable treatment across the board.

4. **DOLLAR LIMITS.** All of the various dollar amounts should be increased to something more reasonable considering that they are intended to permit a Debtor to keep the basic necessities of life. For exemption, the vehicle exemption of \$1,200 is almost like having no exemption at all.

As you know, with the exception of my work as a bankruptcy trustee, my entire practice is devoted to the representation of Debtors in bankruptcy proceedings. Because the state exemptions are worthless except in certain specific circumstances, the federal bankruptcy exemptions are almost always used. I believe that the state exemptions ought to be comparable to those currently provided in the Bankruptcy Code. I also believe that they should be indexed so that the dollar amounts automatically increase over time.

Len, I would be delighted to discuss any of these suggestions further with you or with any of your committee members. Thank you.

Very truly yours,



Bruce A. Lanser

BAL:lam

cc: Honorable James E. Shapiro  
Chief United States Bankruptcy Judge  
bruce\corresp\leverson.020

**Davis & Kuelthau, s.c.**

**ATTORNEYS AT LAW**

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E-Mail: mcr@davis-kuelthau.com

October 28, 1999

**VIA FACSIMILE ONLY**  
**297-4088**

The Honorable James E. Shapiro  
Chief United States Bankruptcy Judge  
U.S. Federal Building  
517 E. Wisconsin Avenue  
Milwaukee, WI 53202

**Re: Meeting of Exemption Committee**

Dear Judge Shapiro:

I received Len Levenson's letter today notifying of the committee's meeting tomorrow in your chambers. Unfortunately I have a prior commitment and will be out of the city and unable to attend. Following are a few brief comments regarding the suggestions in Bruce Lanser's letter.

I believe Bruce's point on the business and farm property exemption is a good one and that it deserves serious consideration. As there is no state wildcard exemption, the small business owner would not otherwise be able to exempt his ownership interest in the business entity. I do not remember the original committee considering the idea. The chief concern initially was equalizing the exemption benefit between the farmer and non-farm small business owner. I believe if debtor's attorneys are finding that a sufficient number of debtors are operating businesses in a separate legal entity, Bruce's point should be considered for a suggested amendment.

As to the personal injury proceeds exemption, the revisions to the prior statute created this exemption for the first time. In recommending the creation of the exemption, I do not recall that the committee considered circumstances where an unfortunate debtor would have more than one accident. I read the statute as limiting the exemption to \$25,000 regardless of the number of personal injuries.

The retirement benefits exemption as it exists was the result of political compromise after extensive input from a number of different interests, and the legislative drafters themselves created the current section. The distinction Bruce points to is in the statute, but with proper evidence presented by a small business owner, I would expect a court would find that a modest amount sought

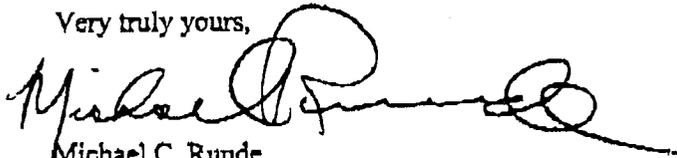
The Honorable James E. Shapiro  
October 28, 1999  
Page 2

to be exempted would be protected. I believe the "owner dominated" concept, following the federal exemption, was an attempt to deal with potential abuse by a small business owner who would have excessive funds in a retirement plan. If in practice, small business owners with modest amounts in their plans are not being allowed the exemption, then I would agree that the statute is not functioning correctly. Perhaps the definition in Section 815.18(2)(t) should be addressed to remedy the problem.

I agree fully with the comments on the dollar limits. The original draft recommended by the committee contained an indexing provision which did not make it through the legislative process.

Thanks again for inviting me to your meeting and I am sorry that I will be unable to attend.

Very truly yours,



Michael C. Runde

MCR/kjr

cc: Leonard G. Levenson (via facsimile) (271-8135)  
Bruce A. Lanser (via facsimile) (272-5799)

# MEMO

**To:** Chief Judge James E. Shapiro  
**From:** Russ *Shapiro*  
**Subject:** Exemptions  
**Date:** October 28, 1999

Respectfully, I suggest that your esteemed Committee think over:

1. (3)(b). Does this include IP? Is IP under development "equipment?"
2. (3)(d). Does value mean replacement value, FMV, or something else? (I just had a case in Green Bay where a debtor lost 25 pieces of old, used underwear in a fire and claimed exempt value of \$625, as his torn, holely (literally) underwear was difficult to replace. The fact that it was more than 10 years old was of no consequence to the debtor.) (7) is of little help.
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8. (10). The final sentence belongs in its own paragraph/subsection. It should be (13) and the current (13) renumbered (14).

When all is said and done, I still believe that Bob Boden was right. Individual exemptions are the wrong approach. Every debtor should be given a specific dollar sum for all exemptions taken at FMV, not replacement value, on the day of the filing of a petition. The debtor can use the exemption for everything from a belly-button brush to mutual funds. Clean and simple. The Legislature can change the figure from time to time or simply index it.

**HALL CHARNE  
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**Attorneys at Law**

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F. Thomas Olson

Cynthia L. Manlove

November 9, 1999

Via Facsimile (414) 271-8135

Mr. Leonard Levenson  
Kravit, Gass, Hovel & Leitner, S.C.  
825 North Jefferson  
Milwaukee, WI 53202-3737

RE: Bankruptcy, Solvency and Creditor's Rights  
Section Exemption Subcommittee

Dear Len:

Thank you for your letter report of November 8, 1999, regarding the work of the Board of Directors' Ad Hoc Committee on Exemption and Reform.

I am writing to indicate my agreement with the three recommendations contained at the end of your report. I think these are appropriate recommendations for the committee to make. I think that it is also appropriate for us not to attempt to change the rule with regard to "top-heavy" pension plans, as well as the proposal regarding exempting compensation for pain and suffering. The statute prescribing exemptions has many public policy implications and I believe that the legislature has to make those determinations and the mandatory state bar should refrain from taking positions on public policy issues where lawyers may have differing opinions.

I appreciate your good work on behalf of the committee.

Sincerely,



Irvin B. Charne



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April 4, 2000

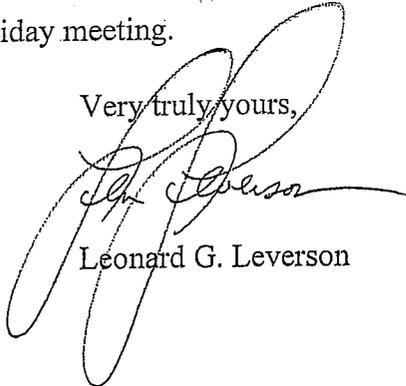
VIA FACSIMILE AND U.S. MAIL

To the members of the Board of Directors of the  
Bankruptcy, Insolvency, and Creditors' Rights  
Section of the State Bar of Wisconsin:

At our last meeting, the Board requested that the Ad Hoc Committee on Exemption Reform prepare specific proposed language for proposed revisions to the exemption statutes. I enclose the results of the Ad Hoc Committee's efforts. I also enclose some thoughts Judge Eisenberg shared with Judge Shapiro and me. Our Committee has not had a meeting since I received Judge Eisenberg's suggestions, but these may be items we may also want to address.

I look forward to our Friday meeting.

Very truly yours,

  
Leonard G. Leverson

LGL:kes

Enclosures

cc (with enclosures): The Honorable James E. Shapiro  
The Honorable Russell A. Eisenberg  
Irvin B. Charne, Esq.  
Michael C. Runde, Esq.  
Todd C. Esser, Esq.  
Bruce A. Lanser, Esq.

Exhibit G

## PROPOSED REVISIONS TO EXEMPTION STATUTES

§ 815.18(3)(b). Add "1." before the current text. Change "\$7,500" to "\$12,500".

Add the following at the end:

"2. If the debtor does not claim any portion of the exemption under sub. (b)1., any interest of the debtor, not to exceed \$12,500 in aggregate value, in a closely held business entity, including a limited liability company, partnership, or corporation, that employs the debtor or in whose business the debtor is actively involved."

**COMMITTEE NOTE:** The dollar amount of this exemption is increased to adjust for inflation since the general exemption statutes were last revised. Subdivision 2. is new. Under current Wisconsin law, only sole proprietors may take advantage of the "business and farm property" exemption. The new provision gives the small business owner whose business happens to be incorporated (for example) an exemption for his ownership stake, to the same dollar limit. The Committee believed that it was unfair for the corner grocer or mechanic who operated as a sole proprietor to be able to exempt certain tools of the trade, while the grocer or mechanic who incorporated faces the loss of his or her livelihood from levy upon the stock in the corporation – even though the business's assets could be the same tools of the trade, exempt from the execution if held by a sole proprietor.

The exemption is meant to be available to cover a wide variety of ownership interests in closely held businesses. The Committee considered, but rejected, limiting the exemption by reference to a minimum percentage ownership stake or maximum number of owners. The Committee considered, for example, the young farmer with a 1% ownership stake in the family farm business, but who is occupied full time in the family's farm business and makes his living from it. The exemption is intended to be available for such a debtor, subject to the exemption's dollar limits. The Committee also considered, and rejected, making the exemption only available to debtors who derived their principal means of support from the business entity. No such limit appears in current § 815.18(3)(b), and the Committee recognized that income from a small business may be non-existent at times or supplemental by other sources.

The limitation to interests in "closely held businesses" is designed to prevent an employee of a large, publicly held company from buying stock in his or her employer on the eve of execution by the sheriff, or the employee's bankruptcy, and claiming the stock as exempt.

§ 815.18(3)(d): Change "\$5,000" to "\$10,000".

**COMMITTEE NOTE: The dollar amount is increased to adjust for inflation.**

§ 815.18(3)(f): Change "\$4,000" to "\$8,625".

**COMMITTEE NOTE: The dollar amount is increased to adjust for inflation and to correspond with the current analogous federal exemption.**

§ 815.18(3)(g): Change "\$1,200" to "\$2,575".

**COMMITTEE NOTE: The dollar amount is changed to adjust for inflation and to correspond with the current analogous federal exemption.**

§ 815.18(3)(i)1. a.: Change "A payment" to "A payment or payments". Change "contract" to "contract or contracts".

**COMMITTEE NOTE: This is a technical correction. In practice multiple small life insurance policies have been declared exempt and the exemptions sustained. The revision clarifies this and makes it explicit.**

§ 815.18(3)(i)1.b.: Change "A payment" to "A payment or payments."

**COMMITTEE NOTE: The rationale is the same as with § 815.18(i)1.b.**

§ 815.18(3)(i)c.: Change "A payment" to "A payment or payments." Change "\$25,000" to "\$40,000 for each personal bodily injury claim".

**COMMITTEE NOTE: The increase in the dollar amount is to adjust for inflation. The provision is also designed to codify unreported interpretations of existing law which have sustained multiple exemption claims for personal injuries arising from different sets of circumstances. The intent is to allow multiple exemption claims for different accidents or other events triggering injuries, but not to allow multiple exemptions simply because numerous parties were involved in, say, a multi-vehicle collision.**

§ 815.20: Change "\$40,000" wherever it appears to "\$60,000."

**COMMITTEE NOTE: The amount of the homestead exemption has not been increased in Wisconsin since 1986. The intent is to adjust for inflation since then. [As to this particular provision, one Committee member dissented, believing the current exemption to be adequate.]**

# MEMO

**To:** Chief Judge Shapiro  
**From:** Russ ~~\_\_\_\_\_~~  
**Subject:** Sec. 815.18(10)  
**Date:** March 29, 2000

It is my understanding that your committee is reviewing the exemption statutes.

It is my suggestion that the final sentence in sec. 815.18(10) be placed in its own subsection as the sentence pertains to the entire section and not only to sub. 10.

It is also my suggestion that the Revisor of Statutes expand the Index to the Statutes to have entries pertaining to exempt assets. Right now there is no entry pertaining under "exempt assets," "exemptions" or "property exempt from execution (which is the title to § 815.18). I think the only reference is under "execution - general." That is woefully inadequate. It is also more narrow than the statute provides. If the Revisor believes that would make the Index too lengthy, perhaps the Revisor could eliminate one of the multiple references in the Index to the abolition of the rule in Shelley's case.

It is also my suggestion that there be some clarification in the statute to indicate if a person is entitled to every exemption in every statute. For example, may a person claim an exemption under § 815.18 and additional exemptions in the same personal property under § 425.106?

Pc: Attorney Len Leverson

2/27/02

## PROPOSED REVISIONS TO EXEMPTION STATUTES

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The exemption is meant to be available to cover a wide variety of ownership interests in closely held businesses. The Committee considered, but rejected, limiting the exemption by reference to a minimum percentage ownership stake or maximum number of owners. The Committee considered, for example, the young farmer with a 1% ownership stake in the family farm business, but who is occupied full time in the family's farm business and makes his living from it. The exemption is intended to be available for such a debtor, subject to the exemption's dollar limits. The Committee also considered, and rejected, making the exemption only available to debtors who derived their principal means of support from the business entity. No such limit appears in current § 815.18(3)(b), and the Committee recognized that income from a small business may be non-existent at times or supplemental by other sources.

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Exhibit H

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**COMMITTEE NOTE: The increase in the dollar amount is to adjust for inflation. The provision is also designed to codify unreported interpretations of existing law which have sustained multiple exemption claims for personal injuries arising from different sets of circumstances. The intent is to allow multiple exemption claims for different accidents or other events triggering injuries, but not to allow multiple exemptions simply because numerous parties were involved in, say, a multi-vehicle collision.**

§ 815.20(1). Strike the words "and when they reside in the same household may be claimed by either or may be divided in any proportion between them, but the exemption may not exceed \$40,000 for the household. If the husband and wife fail to agree on the division of exemption, the exemption shall be divided between them by the court in which the first judgment was taken."

**COMMITTEE NOTE: Currently under Wisconsin law unmarried individuals may each claim a \$40,000 exempt homestead in property they occupy as their**

residence. Two single persons who co-own and occupy a home are entitled, in the aggregate, to homestead exemptions of \$80,000. If they marry, however, they are limited to one \$40,000 exemption. Members of the Committee are familiar with instances in which this "marriage penalty" has led financially distressed couples to divorce.

The purpose of this revision is to abolish this marriage penalty. Most state exemption laws and the federal exemption laws allow each spouse to claim an exemption in the homestead. This revision would bring Wisconsin's approach in line with that of most other jurisdictions and eliminate a perverse incentive. While this will result in an effective doubling of the homestead exemption for married couples, a second reason for an adjustment is to recognize the effects of inflation. The amount of the homestead exemption has not been increased since 1985 (effective 1986). \$40,000 in 1985 dollars is equivalent to \$63,940 in 2000 dollars, using a Consumer Price Index adjustment. One Committee member believed that an increase to \$60,000 for a married couple (leaving the exemption at \$40,000 for a single or individual) would suffice to address inflation. The majority of the Committee, however, believed that it was preferable to eliminate, rather than merely reduce, the "marriage penalty." For 150 years, Wisconsin law has consistently upheld the homestead exemption as promoting the interests of marriage and the family even, indeed, especially, when the family suffers financial reversals. The majority of the Committee believes that the proposed revision will foster that goal.

**Bruce Lanser**

---

**From:** <SVKelley@MBF-LAW.com>  
**To:** <jwestphal@wisbar.org>; <LGL@kravit-gass.com>; <bruce.lanser@psinet.com>;  
<debtbuster@prodigy.net>; <cstawski@urban-taylor-stawski.com>  
**Sent:** Tuesday, March 11, 2003 12:25 PM  
**Attach:** B0204750.DOC  
**Subject:** Exemption bullet points (B0204750.DOC;1)

Any Comments on the enclosed Bullet Points?

For our written submission to BOG, I would propose that these points, then the "Proposed Revisions" document (with the committee comments) then the actual pages of 815.18 through 815.21, Stats., then the actual pages of Section 522(d) of the Bankruptcy Code should be sufficient. Chris Wolk, can you please try to get some support at the SLAC meeting this weekend, maybe from litigation section. I guess family law was not interested in joining us. Len and Bruce, feel free to pass this along to your committee and see if they have any comments/suggestions. Also, take a look at 815.21, do we need to change the \$40,000 dollar amount there? Everyone should be contacting their BOG members to encourage them to vote for this.

Chris Stawski and Jason, any other suggestions for selling this?

Thanks,

Susan

+--+

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Exhibit I

## BICR PROPOSAL FOR WISCONSIN EXEMPTION STATUTE REVISIONS

- Exempt property is property that individuals can keep from execution (seizure) by judgment creditors or the Bankruptcy trustee. Debtors are not allowed to exempt property from mortgages, voluntary security interests or statutory or tax liens, i.e., only the Debtor's equity in property (above the mortgage) is considered when applying the exemption.
- Wisconsin exemptions are found in §§ 815.18 - 815.20. The purpose of these provisions is: "to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges."
- The dollar amounts of non-homestead exemptions were last revised effective May 1990. At that time, it was anticipated that the dollar amounts would be revisited to keep pace with inflation.
- The dollar amount of the homestead exemption was last revised effective April 1986, when it changed from \$25,000 to the present \$40,000.
- The dollar amounts of the federal Bankruptcy Code exemptions (available only when filing bankruptcy) are revised every 3 years for changes in the consumer price index, and are due to be adjusted again April 1, 2004.
- All of the Wisconsin exemptions except the homestead exemption can be "stacked" or doubled for a married couple. In other words, current § 815.18(3)(d) providing for a \$5,000 exemption for consumer goods is doubled to \$10,000 when a married couple is claiming the exemption or filing for bankruptcy.
- Under current Wisconsin law, the homestead exemption cannot be stacked. A married couple is limited to one \$40,000 homestead exemption, while a couple that is living together but not married can each claim the \$40,000 exemption. This has led to couples divorcing to be able to keep their home from a judgment creditor.
- BICR's proposal eliminates the marriage penalty of § 815.(20)(1), and allows married couples to stack the homestead exemption to claim as exempt a total of \$80,000 in equity in a homestead. Last year, Senator Herb Kohl introduced legislation to cap state homestead exemptions at \$125,000, and offered to raise that amount to \$175,000 in connection with the negotiations on the Bankruptcy Reform Act.
- BICR's other proposals:
  - increase business/farm property exemption from \$7,500 to \$12,500 and add a provision to exempt debtor's interest in a closely held business entity.
  - increase consumer goods exemption from aggregate of \$5,000 to aggregate of \$10,000 (federal exemption currently \$9,300 plus \$1,150 jewelry).
  - increase life insurance cash value exemption from \$4,000 to \$8,625
  - increase motor vehicle exemption from \$1,200 to \$2,575 (federal exemption \$2,775)
  - increase personal injury award exemption from \$25,000 to \$40,000 and clarify it is per claim.



## MEMORANDUM

**To:** Assembly Ways and Means Committee  
**From:** State Bar of Wisconsin  
Bankruptcy, Insolvency & Creditors Rights Law Section  
**Date:** June 11, 2003  
**Re:** Assembly Bill 149 and substitute amendment

---

The State Bar of Wisconsin and its Bankruptcy, Insolvency & Creditors Rights Law Section support a variety of revisions to Wisconsin's exemptions statutes. While Assembly Bill 149 as originally introduced does not include these provisions, all but one of the changes recommended by the State Bar have been incorporated identically into a substitute amendment introduced by Rep. Sheryl Albers. We thank Rep. Albers for her willingness to meet and work with us on these revisions.

This memo provides background information on the suggested revisions and then explains how Rep. Albers' substitute amendment treats those.

### General Background

Exempt property is property that individuals can keep from execution (seizure) by judgment creditors or a bankruptcy trustee. Debtors are not allowed to exempt property from mortgages, voluntary security interests or statutory or tax liens.

Wisconsin exemptions are currently found under §§ 815.18-815.20. The purpose of these provisions is: "to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges."

Non-homestead exemptions were last revised in late 1980s, effective 1990, at which time it was anticipated that the amount would be revisited to keep pace with inflation. That has not taken place.

The homestead exemption was last revised in April 1986, when it changed from \$25,000 to the present \$40,000.

Dollar amounts under the federal Bankruptcy Code exemptions are revisited every three years for changes in the consumer price index. Those are due to be adjusted on April 1, 2004.

Exhibit J

All of the Wisconsin exemptions, but for the homestead exemption, can be doubled for a married couple. For example, if there is a \$5,000 exemption for consumer goods, that can be doubled to \$10,000 when a married couple is claiming the exemption in bankruptcy.

The homestead exemption cannot be doubled for a married couple, which creates a "marriage penalty" because other non-married couples who jointly own a home can both claim the \$40,000 exemption.

### **State Bar of Wisconsin Bankruptcy, Insolvency & Creditors Rights Supported Revisions**

#### **1) Business/Farm Property Exemption- included in substitute amendment**

Increase the business/farm property exemption from \$7,500 to \$12,500 and to exempt a debtor's interest in a closely held business. The latter is generally referred to as the "tools of the trade" exemption and currently is only available to sole proprietors. The proposed revision is to provide equity and fairness to small business owners. Under current law only sole proprietors may take advantage of the "business and farm property" exemption. The new provision gives the small business owner whose business happens to be incorporated, for example, an exemption for his/her ownership stake, to the same dollar limit. [§ 815.18(3)(b) and added language under a sub(2)] The State Bar draft used the words "closely held business" instead of "limited liability company, partnership or corporation."

#### **2) Consumer Goods Exemption – included in substitute amendment**

Increase the consumer goods exemption from \$5,000 to \$10,000 [§ 815.18(3)(d)]. Current federal exemption for consumer goods is \$9,300 plus \$1,150 for jewelry. The proposed change reflects an adjustment for inflation and provides for more parity with the federal exemption.

#### **3) Life Insurance Cash Value Exemption – included in substitute amendment**

Increase the life insurance cash value exemption from \$4,000 to \$8,625 [§ 815.18(3)(f)]. The proposed Wisconsin change is to adjust for inflation and provide more parity between Wisconsin and federal law.

#### **4) Motor Vehicle Exemption – included in substitute amendment**

Increase the motor vehicle exemption from \$1,200 to \$2,575 [§ 815.18(3)(g)]. Current federal exemption for motor vehicles is \$2,775. The proposed Wisconsin revision is to adjust for inflation and correspond better with the current federal exemption.

#### **5) Multiple Life Insurance Technical Correction – included in substitute amendment**

Provide several technical corrections to life insurance [§ 815.18(3)(i)1]. In practice, multiple small life insurance policies have been declared exempt and the exemptions sustained. The proposed technical revisions clarify this to make it explicit in the Wisconsin statutes and to adjust for inflation and provide more parity with the federal exemption.

#### **6) Clarification - Personal Injury Award Exemptions – included in substitute amendment**

Increase personal injury award exemption from \$25,000 to \$40,000 to clarify this is for each personal injury bodily claim [§ 815.18(3)(i)c]. The proposed revision is to adjust for inflation and is also designed to codify unreported interpretations of existing law which have sustained

multiple exemption claims for personal injuries arising from different sets of circumstances. The intent is to allow multiple exemption claims for different accidents or other events triggering injuries, but not to allow multiple exemptions simply because numerous parties were involved in, say, a multi-vehicle collision. The State Bar's draft suggested using the words "a payment or payments not to exceed \$40,000 for each personal injury bodily claim."

#### 7) Homestead Exemption – Alternative Approach

The State Bar proposed increasing the homestead exemption under § 815.20(1) in a manner that would eliminate the "marriage penalty" which exists under current law. As stated earlier, the homestead exemption cannot be doubled for a married couple, which creates a "marriage penalty" because other non-married couples who jointly own a home can both claim the \$40,000 exemption. The State Bar's proposal would have allowed for each spouse to claim \$40,000 each for a total of \$80,000.

Most state exemption laws and the federal exemption laws allow each spouse to claim an exemption in the homestead. The State Bar's proposed revision would bring Wisconsin's approach in line with that of most other jurisdictions and eliminate a perverse incentive (ie: penalizing married couples).

While the proposal will result in an effective doubling of the homestead exemption for married couples, a second reason for an adjustment is to recognize the effects of inflation. The amount of the homestead exemption in Wisconsin has not been changed since 1986. If adjusted for inflation, this equals roughly \$68,000 today, using a Consumer Price Index adjustment.

The substitute amendment as introduced increases the dollar amount of the homestead exemption to \$68,800 in accordance with the Consumer Price Index adjustment.



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**FAX COVER SHEET**

**To**

Name: Atty. Bruce Lanser  
Company: Lanser Law Office  
Fax: (414) 272-5799

**From**

Sender: Jason Westphal  
Government Relations Coordinator  
Phone: (608) 250-6077  
Fax: (608) 257-4343  
Email: jwestphal@wisbar.org

**Fax Status**

Page count: 3 page(s) including cover sheet  
Date Sent: December 10, 2003

**Message**

Per your request.



To: All Legislators

From: Rep. Sheryl Albers

Date: September 11, 2003

Re: LRB 2833 - updates to homestead exemption and other property exempt from execution

Deadline: Friday, December 19, 3 p.m.

I have worked with the Bankruptcy, Insolvency, and Creditor Rights (BICR) Law Section of the State Bar of Wisconsin to develop this bill, which provides necessary inflationary and technical corrections to current law regarding execution (bankruptcy). The BICR section represents the interests of creditors and debtors alike. I believe that the final product strikes a fair balance between the sometimes conflicting interests of those two groups. It gives debtors a fair chance to get back on their feet while respecting the interest of creditors in collecting monies owed to them.

The following exemptions are increased under the bill to compensate for inflation since the exemptions were enacted or to correspond with the current analogous federal exemption:

<u>Property</u>	<u>Current Exempt Value</u>	<u>Exempt Value Under LRB-2833</u>
Business equipment, inventory, farm products & professional books	\$7,500	\$12,500
Consumer goods, including household furnishing, appliances, clothes, jewelry, sporting goods & firearms	\$5,000	\$10,000
Life insurance	\$4,000	\$8,625
Motor vehicles	\$1,200	\$2,775
Payments for a personal injury	\$25,000	\$40,000

The bill also makes the following changes:

- Allows a person who does not take an exemption for business equipment, inventory, farm products, and professional books to take an exemption of any interest in a closely held business, up to \$12,500.

- Eliminates the marriage penalty in the homestead exemption. Currently, the \$40,000 exemption on a property owned jointly by a husband and wife is \$40,000 less than what they could legally claim if they were not married and simply cohabitating. In lieu of an inflationary adjustment, I am proposing to allow each spouse to claim a \$40,000 exemption, bringing the combined exemption to \$80,000. This is in line with most state and federal exemption laws and eliminates an incentive for financially troubled couples to divorce simply to shield more of their home from creditors.

- Guarantees that the homestead exemption is kept current by requiring an annual inflationary adjustment to be made by DOA.

Should you wish to cosponsor this bill, please contact Ryan Gruber (6-8531) in my office. The deadline for co-sponsorship is Friday, December 19 at 3 p.m. A copy of the bill (with LRB analysis) is attached for your review.

2003 Senate Bill 504

Date of enactment: April 20, 2004

Date of publication\*: May 4, 2004

## 2003 WISCONSIN ACT 304

AN ACT to renumber and amend 815.18 (3) (f); to amend 815.18 (3) (f) (title); and to create 815.18 (2) (am), 815.18 (3) (f) 1. and 815.18 (3) (f) 3. of the statutes; relating to: life insurance and annuity contract exemptions from creditor claims.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 815.18 (2) (am) of the statutes is created to read:

815.18 (2) (am) "Annuity" means a series of payments payable during the life of the annuitant or during a specific period.

SECTION 2. 815.18 (3) (f) (title) of the statutes is amended to read:

815.18 (3) (f) (title) *Life insurance and annuities.*

SECTION 3. 815.18 (3) (f) of the statutes is renumbered 815.18 (3) (f) 2. and amended to read:

815.18 (3) (f) 2. Any Except as provided in subd. 3. and par. (j). any unmaturred life insurance or annuity contract owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent, other than a credit life insurance contract, and the debtor's aggregate interest, not to exceed \$4,000 \$150,000 in value, in any accrued dividends, interest, or loan value of all unmaturred life insurance or annuity contracts owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent.

SECTION 4. 815.18 (3) (f) 1. of the statutes is created to read:

815.18 (3) (f) 1. In this paragraph, "applicable date" means the earlier of the following:

- a. The date on which the exemption is claimed.
- b. The date, if any, that the cause of action was filed that resulted in the judgment with respect to which the execution order was issued.

SECTION 5. 815.18 (3) (f) 3. of the statutes is created to read:

815.18 (3) (f) 3. a. If the life insurance or annuity contract was issued less than 24 months before the applicable date, the exemption under this paragraph may not exceed \$4,000.

b. If the life insurance or annuity contract was issued at least 24 months but funded less than 24 months before the applicable date, the exemption under this paragraph is limited to the value of the contract the day before the first funding that occurred less than 24 months before the applicable date and the lesser of either the difference between the value of the contract the day before the first funding that occurred less than 24 months before the applicable date and the value of the contract on the applicable date or \$4,000.

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

Exhibit K

**SECTION 6. Initial applicability.**

(1) The renumbering and amendment of section 815.18 (3) (f) of the statutes and the creation of section

815.18 (3) (f) 3. of the statutes first applies to exemptions claimed on the effective date of this subsection.

---

**Bruce Lanser**

---

**From:** Cale Battles [cbattles@wisbar.org]  
**Sent:** Monday, March 16, 2009 2:27 PM  
**To:** Bankruptcy, Insolvency and Creditor's Rights Section Board  
**Subject:** RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill



07-40412.pdf (25 KB)

Attached is the previous draft of the exemption legislation. Just wanted to make sure everyone has a copy. Should I schedule a meeting with Rep. Hebl? Is there a consensus on what changes members want?

I need to stay on this one because this thing could move fast and we need to get in to see Hebl sooner rather than later.

Cale

Cale Battles  
Government Relations Coordinator  
State Bar of Wisconsin  
www.wisbar.org

(608) 250-6077

(800) 444-9404, ext. 6077

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-----Original Message-----

**From:** Cale Battles [mailto:cbattles@wisbar.org]  
**Sent:** Friday, March 13, 2009 10:30 AM  
**To:** Bankruptcy, Insolvency and Creditor's Rights Section Board  
**Subject:** RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

I can get a meeting scheduled. The fact that Rep. Hebl has an interest in this area is great news. He is a lawyer, a member of the majority party, and the chair of judiciary.

Cale

-----Original Message-----

**From:** Leonard G Leverson <lgl@levmetz.com>  
**Sent:** Friday, March 13, 2009 8:07 AM  
**To:** Bankruptcy, Insolvency and Creditor's Rights Section Board  
<bicrboard@elists.wisbar.org>  
**Subject:** RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

" I agree that \$50K a person and \$100K a couple might be a good ask.

We should decide as a board what we want to do, and then Cale, can you get us a meeting with this Hebl guy?

Len Levenson  
Levenson & Metz S.C.  
225 East Mason Street  
Suite 100  
Milwaukee, WI 53202  
(414)271-8500  
Direct: (414)271-8503  
Fax: (414)271-8504  
E-mail: lgl@levmetz.com

-----Original Message-----

From: Jim McNeilly [mailto:jmcneilly@lakelaw.com]  
Sent: Friday, March 13, 2009 8:07 AM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

While I agree with Bruce's thoughts, I agree with Lens analysis that "we just don't do things that way here," which unfortunately the sum and substance of many legal analyses when client have asked, "why can't we do such and such."

Therefore, I vote that we ask for 40,000 per person, unless we can up it to 50,000 per person and 100,000 for a couple?

Jim McNeilly  
Lakelaw Wisconsin

Lakelaw Kenosha  
262.694.7300

Lakelaw 7 Rivers La Crosse  
608.782.4262

-----Original Message-----

From: Bruce Lanser [mailto:blanser@lanserlaw.com]  
Sent: Friday, March 13, 2009 7:55 AM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

If it's too radical, let's decide that as a group.  
We won't get what we don't ask for, though, so, Len, at least we agree that this is the time to do our asking.

-----Original Message-----

From: Leonard G Levenson [mailto:lgl@levmetz.com]  
Sent: Friday, March 13, 2009 7:52 AM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

Wisconsin now has a \$150,000 exemption for cash value life insurance or annuities, provided they've been owned two years, and there would appear to be greater need for a homestead than for cash value life insurance (notwithstanding what your friendly NML agent may tell you). And our neighbor to the west, Minnesota, just upped its homestead exemption as of August, 2007, from \$200,000 to \$300,000 and 160 acres (whether in town or not), or \$750,000 for a farm.

Of course, BAPCPA caps homestead exemptions in bankruptcy at \$125,000, but that's per debtor. So I suppose what Bruce is proposing is less than what could possibly be proposed.

But I just think what Bruce is proposing is too radical for our legal culture, and it would elicit lobbying from the WBA like you've never seen before. A lawyer from Chicago was once proposing doing something a particular way in Judge McGarity's court, and I objected and said, we don't do it that way here. The judge agreed. A lot of the law is "we don't do it that way here." There may be unlimited homestead exemptions in Florida, and Texas -- Kansas, too, and one or two others, I think -- but such a large homestead exemption is alien to our experience.

We should definitely take advantage of the current economic downturn, and what appears to be the current constituency of the Legislature (as well as the Governor's mansion), to get something passed, which, as Bruce points out, we haven't gotten done for all these years. But I don't think asking for the moon will work. The pig rule may apply to law reform efforts, as well.

What do other people think?

Len Levenson  
Levenson & Metz S.C.  
225 East Mason Street  
Suite 100  
Milwaukee, WI 53202  
(414)271-8500  
Direct: (414)271-8503  
Fax: (414)271-8504  
E-mail: lgl@levmetz.com

-----Original Message-----

From: Bruce Lanser [mailto:blanser@lanserlaw.com]  
Sent: Friday, March 13, 2009 5:44 AM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

Yes, I am; why not?

We all agree that the "marriage penalty" is senseless and should be eliminated. And Mr. Hebl believes (and I can't imagine anyone disagreeing) that the current exemption for a single person should be adjusted for inflation.

So, why don't we take care of both items along with the rest of the shortcomings in our current exemptions.

Further, considering how we have failed to get anything done with our exemption proposal in something over 6 years, shouldn't we take this opportunity to do something truly constructive?

Len, we talked about this very idea some years ago at a meeting of our committee. And, just as now, that was just way to aggressive a concept for you. So your position doesn't surprise me.

Whether we talked about this in our committee or the board as a whole, I'd like stay on this since we apparently have gotten someone's attention.

Bruce

-----Original Message-----

From: Leonard G Levenson [mailto:lgl@levmetz.com]  
Sent: Thursday, March 12, 2009 5:58 PM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: RE: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

Our proposal was \$40K, but times two for a married couple, or \$80K.

You're not suggesting \$75K times two for a married couple -- \$150K for a married couple -- are you?

Len Levenson  
Levenson & Metz S.C.  
225 East Mason Street  
Suite 100  
Milwaukee, WI 53202  
(414)271-8500  
Direct: (414)271-8503

Fax: (414)271-8504

E-mail: lgl@levmetz.com

-----Original Message-----

From: blanser@lanserlaw.com [mailto:blanser@lanserlaw.com]

Sent: Thursday, March 12, 2009 5:06 PM

To: Bankruptcy, Insolvency and Creditor's Rights Section Board

Subject: Re: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection Bill

I think it's a GREAT idea. I agree with Len, though. Can we talk to this guy about the proposal that we have out there already? He could take our proposal as it, and just change the \$40K to \$75K. That way, we've kept up with inflation AND gotten rid of the marriage penalty, along with updating all the other exemptions.

Bruce

>  
> From: "Cale Battles" <cbattles@wisbar.org>  
> Date: 2009/03/12 Thu PM 02:06:03 EST  
> To: "Bankruptcy, Insolvency and Creditor's Rights Section Board"  
<bicrboard@elists.wisbar.org>  
> Subject: [bicrboard] FW: Co-sponsor LRB 1824, The Homestead Protection  
Bill

>  
>  
> Board Members,  
>  
> This was just forwarded to me. This is being proposed by Rep. Gary  
> Hebl of Sun Prairie. Let me know if you have any questions or  
comments.

>  
> Cale

>  
> Under current law, a circuit court can order a sheriff to seize a  
> debtor's property and sell as much of that property as is necessary to  
> pay the amount owed to the creditor. This action is known as an  
> execution. Under current law, certain items are exempt from  
> execution, including \$40,000 of the debtor's homestead, defined as a  
> dwelling, and so much of the land surrounding it as is reasonably  
> necessary for use of the dwelling as a home.

>  
> This bill increases the amount of the homestead exemption from \$40,000  
> to \$75,000.

>  
> This bill will help lower-middle class families who are struggling to  
> pay off debt stay in their homes and avoid eviction.

>  
> Furthermore, the amount of the Homestead Exemption has not been  
> changed since 1985. The \$40,000 exemption provided to the homeowner  
> today is worth almost half of what it was worth in 1985. This bill  
> simply brings the original value of the exemption in line with  
inflation since 1985.

>  
> This bill has no fiscal implications on the state budget.

>  
>  
>  
>  
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blanser@lanserlaw.com

## 2007 BILL

1     **AN ACT** *to renumber and amend* 815.18 (3) (b); *to amend* 815.18 (3) (d), 815.18  
 2           (3) (g), 815.18 (3) (i) 1. c., 815.20 (1) and (2), 815.21 (2), 815.21 (4) and 815.21  
 3           (5); and *to create* 815.18 (2) (bc), 815.18 (3) (b) 2. and 815.20 (3) of the statutes;  
 4           **relating to:** the homestead exemption and increases in the value of the  
 5           exemption for various property that is exempt from execution.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a debtor's interest in certain property and the value of certain property are exempt from execution, from the lien of every judgment, and from liability for the debtor's debts, allowing the debtor to keep that property rather than have the property taken to pay the amounts owed to creditors. This bill raises the value of some of the property that is exempt as shown by the following table:

Property	Current exempt value	Exempt value under the bill
Business equipment, inventory, farm products, and professional books	\$7,500	\$14,200
Consumer goods, including household furnishing, appliances, clothes, jewelry, sporting goods, and firearms	\$5,000	\$11,360
Motor vehicles	\$1,200	\$3,150
Payments for a personal injury	\$25,000	\$45,440

Exhibit M

**BILL**

The bill also allows a person who does not take an exemption for business equipment, inventory, farm products, or professional books to take an exemption of any interest the debtor has in a closely held business, up to a maximum amount of \$14,200.

In addition, the bill requires the Department of Administration, beginning in January 2009, annually to adjust the exemption for the debtor's homestead, currently set at \$40,000, to reflect the annual change in the consumer price index for all urban consumers. Current law extends the homestead exemption to land owned by a husband and wife jointly or in common and allows either to claim the exemption or to divide the exemption between them. The bill allows the husband and wife to each claim a homestead exemption of not more than the adjusted \$40,000 amount.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 815.18 (2) (bc) of the statutes is created to read:

2           815.18 (2) (bc) "Closely held business" means a corporation whose stocks are  
3 held by not more than 25 individuals, a partnership of not more than 25 partners who  
4 are individuals, or a limited liability company of not more than 25 members who are  
5 individuals.

6           **SECTION 2.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and  
7 amended to read:

8           815.18 (3) (b) 1. Equipment, inventory, farm products, and professional books  
9 used in the business of the debtor or the business of a dependent of the debtor, not  
10 to exceed ~~\$7,500~~ \$14,200 in aggregate value.

11           **SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

12           815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any  
13 interest of the debtor, not to exceed \$14,200 in aggregate value, in a closely held  
14 business that employs the debtor or in whose business the debtor is actively involved.

15           **SECTION 4.** 815.18 (3) (d) of the statutes is amended to read:

**BILL**

1           815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing  
2           apparel, keepsakes, jewelry and other articles of personal adornment, appliances,  
3           books, musical instruments, firearms, sporting goods, animals, or other tangible  
4           personal property held primarily for the personal, family or household use of the  
5           debtor or a dependent of the debtor, not to exceed ~~\$5,000~~ \$11,360 in aggregate value.

6           **SECTION 5.** 815.18 (3) (g) of the statutes is amended to read:

7           815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed ~~\$1,200~~ \$3,150 in  
8           aggregate value. Any unused amount of the aggregate value from par. (d) may be  
9           added to this exemption to increase the aggregate exempt value of motor vehicles  
10          under this paragraph.

11          **SECTION 6.** 815.18 (3) (i) 1. c. of the statutes is amended to read:

12          815.18 (3) (i) 1. c. A payment, not to exceed ~~\$25,000~~ \$45,440, resulting from  
13          personal bodily injury, including pain and suffering or compensation for actual  
14          pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

15          **SECTION 7.** 815.20 (1) and (2) of the statutes are amended to read:

16          815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a  
17          resident owner and occupied by him or her shall be exempt from execution, from the  
18          lien of every judgment, and from liability for the debts of the owner to the amount  
19          of \$40,000, as adjusted under sub. (3), except mortgages, laborers', mechanics', and  
20          purchase money liens and taxes and except as otherwise provided. The exemption  
21          shall not be impaired by temporary removal with the intention to reoccupy the  
22          premises as a homestead nor by the sale of the homestead, but shall extend to the  
23          proceeds derived from the sale to an amount not exceeding \$40,000, as adjusted  
24          under sub. (3), while held, with the intention to procure another homestead with the  
25          proceeds, for 2 years. The exemption extends to land owned by husband and wife

**BILL**

1 jointly or in common or as marital property, and ~~when they reside in the same~~  
2 ~~household may be claimed by either or may be divided in any proportion between~~  
3 ~~them, but the exemption may not exceed \$40,000 for the household. If the husband~~  
4 ~~and wife fail to agree on the division of exemption, the exemption shall be divided~~  
5 ~~between them by the court in which the first judgment was taken~~ each spouse may  
6 claim a homestead exemption of not more than \$40,000, as adjusted under sub. (3).

7 The exemption extends to the interest therein of tenants in common, having a  
8 homestead thereon with the consent of the cotenants, and to any estate less than a  
9 fee.

10 (2) Any owner of an exempt homestead against whom a judgment has been  
11 rendered and entered in the judgment and lien docket, and any heir, devisee, or  
12 grantee of the owner, or any mortgagee of the homestead, may proceed under s.  
13 806.04 for declaratory relief if the homestead is less than \$40,000, as adjusted under  
14 sub. (3), in value and the owner of the judgment shall fail, for 10 days after demand,  
15 to execute a recordable release of the homestead from the judgment owner's  
16 judgment lien.

17 **SECTION 8.** 815.20 (3) of the statutes is created to read:

18 815.20 (3) The department of administration shall adjust the amount of the  
19 homestead exemption under this section and s. 815.21 annually, beginning in  
20 January 2009, or on the effective date of this subsection .... [revisor inserts date],  
21 whichever is later, to reflect the annual change in the consumer price index for all  
22 urban consumers, U.S. city average, as determined by the U.S. department of labor.  
23 By March 1 of each year, the department of administration shall notify the director  
24 of state courts of the adjusted amount of the homestead exemption, which shall apply  
25 to all executions issued on or after that date.

**BILL**

1           **SECTION 9.** 815.21 (2) of the statutes is amended to read:

2           815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the  
3           estimate of the value thereof, the officer shall cause such lands to be surveyed,  
4           beginning at a point to be designated by the owner and set off in compact form. After  
5           the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be  
6           of greater value than \$40,000, as adjusted under s. 815.20 (3), the officer may still  
7           advertise and sell the premises so set off, and out of the proceeds of such sale pay to  
8           the exempt homestead claimant the sum of \$40,000, as adjusted under s. 815.20 (3),  
9           and apply the balance of the proceeds of such sale on the execution; but no sale shall  
10          be made in the case last mentioned unless a greater sum than \$40,000, as adjusted  
11          under s. 815.20 (3), is paid for said premises. The expenses of such survey and sale  
12          shall be collected on the execution if the owner claimed as the owner's homestead a  
13          greater quantity of land or land of greater value than the owner was entitled to;  
14          otherwise such expenses shall be borne by the plaintiff.

15          **SECTION 10.** 815.21 (4) of the statutes is amended to read:

16          815.21 (4) A homestead so selected and set apart by such officer shall be the  
17          exempt homestead of such person. The costs of such notice and survey shall be  
18          collected upon the execution. A failure of the officer to set apart such homestead shall  
19          affect such levy, only as to such homestead; and the failure of such person to select  
20          that person's homestead shall not impair that person's right thereto, but only that  
21          person's right to select the same when such selection is lawfully made by such officer.  
22          After such homestead is thus set off by such officer, if, in the officer's opinion or in  
23          the opinion of the plaintiff, the premises are of greater value than \$40,000, as  
24          adjusted under s. 815.20 (3), the officer may sell the same as where the owner makes  
25          the selection.



## Bruce Lanser

---

**From:** Leonard G. Levenson [lgl@levmetz.com]  
**Sent:** Wednesday, September 09, 2009 5:34 PM  
**To:** blanser@lanserlaw.com  
**Subject:** FW: [bicrboard] Exemption Bill Update-Part 2

Len Levenson  
Levenson & Metz S.C.  
225 East Mason Street, Suite 100  
Milwaukee, WI 53202  
414-271-8503  
Fax: 414-271-8504

-----Original Message-----

**From:** Cale Battles [mailto:cbattles@wisbar.org]  
**Sent:** Wednesday, September 09, 2009 4:11 PM  
**To:** Bankruptcy, Insolvency and Creditor's Rights Section Board  
**Subject:** RE: [bicrboard] Exemption Bill Update-Part 2

The only change from the compromise that was discussed on Friday is that the homestead exemption stayed at \$75,000. So with the marriage penalty elimination a marriage couple's exemptions could be \$150,000. Rep. Hebl wanted the number to be \$75,000 and as the committee chair and member of the majority he had the votes so he didn't want to back off of that number.

The bill is on track for a late October/early November floor vote. The Senate still needs to hold a public hearing on AB 387 so that could slow the bill down a little bit.

The vote against was Rich Zipperer. The votes for were Hebl, Colon, Kessler, Cullen, Richards, Turner, Gundrum, Kerkman, and Kramer. Zipperer said he voted no because he wanted the homestead at \$60,000.

-----Original Message-----

**From:** Leonard G. Levenson [mailto:lgl@levmetz.com]  
**Sent:** Wednesday, September 09, 2009 4:00 PM  
**To:** Bankruptcy, Insolvency and Creditor's Rights Section Board  
**Subject:** RE: [bicrboard] Exemption Bill Update-Part 2

Cale: What's different from the last compromise? I thought that compromise did NOT have indexing, but increased the homestead exemption to \$60,000, and also eliminated the marriage penalty. Are you saying this will increase the homestead exemption to \$150K for a married couple?

Are we still looking at late October/early November for a floor vote, or sooner?

Who was the sole naysayer? Rich Z.? Which Republicans actually voted for this?

<sup>1</sup> Exhibit N

Len Levenson  
Levenson & Metz S.C.  
225 East Mason Street, Suite 100  
Milwaukee, WI 53202  
414-271-8503  
Fax: 414-271-8504

-----Original Message-----

From: Cale Battles [mailto:cbattles@wisbar.org]  
Sent: Wednesday, September 09, 2009 3:19 PM  
To: Bankruptcy, Insolvency and Creditor's Rights Section Board  
Subject: [bicrboard] Exemption Bill Update-Part 2

Members,

AB 387, the exemption increase legislation was passed out of committee this morning. The compromise that was discussed over the e-mail last week fell apart late last night (Tuesday). A new compromise was struck about five minutes before the committee meeting began today. The new compromise eliminates the indexing of the homestead exemption and increases the depository account exemption from \$1,000 to \$5,000. The amendment also raised the homestead exemption to \$75,000. All the other exemption increases stayed the same: business/farm property would move to \$15,000 with the language on closely held businesses, vehicles would go to \$4,000, consumer goods to \$15,000, personal injury moves to \$50,000 per claim and most importantly the marriage penalty is gone.

The deal that was struck had bipartisan support and passed out of committee on a 8 to 1 vote. The bill is still on track to be passed this fall. I will continue to update members as the bill progresses. Please let me know if you have any questions.

Cale

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# State of Wisconsin



2009 Senate Bill 259

Date of enactment: December 1, 2009  
Date of publication\*: December 15, 2009

## 2009 WISCONSIN ACT 80

AN ACT to renumber and amend 815.18 (3) (b); to amend 815.18 (3) (d), 815.18 (3) (g), 815.18 (3) (i) 1. c., 815.18 (3) (k), 815.20 (1) and (2), 815.21 (2), 815.21 (4) and 815.21 (5); and to create 815.18 (2) (bc) and 815.18 (3) (b) 2. of the statutes; relating to: the homestead exemption and increases in the value of the exemption for various property that is exempt from execution.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 815.18 (2) (bc) of the statutes is created to read:

815.18 (2) (bc) "Closely held business" means a corporation whose stocks are held by not more than 25 individuals, a partnership of not more than 25 partners who are individuals, or a limited liability company of not more than 25 members who are individuals.

**SECTION 2.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and amended to read:

815.18 (3) (b) 1. Equipment, inventory, farm products, and professional books used in the business of the debtor or the business of a dependent of the debtor, not to exceed ~~\$7,500~~ \$15,000 in aggregate value.

**SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any interest of the debtor, not to exceed \$15,000 in aggregate value, in a closely held business that employs the debtor or in whose business the debtor is actively involved.

**SECTION 4.** 815.18 (3) (d) of the statutes is amended to read:

815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals, or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed ~~\$5,000~~ \$12,000 in aggregate value.

**SECTION 5.** 815.18 (3) (g) of the statutes is amended to read:

815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed ~~\$1,200~~ \$4,000 in aggregate value. Any unused amount of the aggregate value from par. (d) may be added to this exemption to increase the aggregate exempt value of motor vehicles under this paragraph.

**SECTION 6.** 815.18 (3) (i) 1. c. of the statutes is amended to read:

815.18 (3) (i) 1. c. A payment, not to exceed ~~\$25,000~~ \$50,000, resulting from personal bodily injury, including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

**SECTION 6m.** 815.18 (3) (k) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 2007-08: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

Exhibit 0

815.18 (3) (k) *Depository accounts.* Depository accounts in the aggregate value of ~~\$1,000~~ \$5,000, but only to the extent that the account is for the debtor's personal use and is not used as a business account.

SECTION 7. 815.20 (1) and (2) of the statutes are amended to read:

815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a resident owner and occupied by him or her shall be exempt from execution, from the lien of every judgment, and from liability for the debts of the owner to the amount of ~~\$40,000~~, \$75,000, except mortgages, laborers', mechanics', and purchase money liens and taxes and except as otherwise provided. The exemption shall not be impaired by temporary removal with the intention to reoccupy the premises as a homestead nor by the sale of the homestead, but shall extend to the proceeds derived from the sale to an amount not exceeding ~~\$40,000~~, \$75,000, while held, with the intention to procure another homestead with the proceeds, for 2 years. The exemption extends to land owned by husband and wife jointly or in common or as marital property, and ~~when they reside in the same household may be claimed by either or may be divided in any proportion between them, but the exemption may not exceed \$40,000 for the household. If the husband and wife fail to agree on the division of exemption, the exemption shall be divided between them by the court in which the first judgment was taken each spouse may claim a homestead exemption of not more than \$75,000.~~ The exemption extends to the interest therein of tenants in common, having a homestead thereon with the consent of the cotenants, and to any estate less than a fee.

(2) Any owner of an exempt homestead against whom a judgment has been rendered and entered in the judgment and lien docket, and any heir, devisee, or grantee of the owner, or any mortgagee of the homestead, may proceed under s. 806.04 for declaratory relief if the homestead is less than ~~\$40,000~~ \$75,000 in value and the owner of the judgment shall fail, for 10 days after demand, to execute a recordable release of the homestead from the judgment owner's judgment lien.

SECTION 9. 815.21 (2) of the statutes is amended to read:

815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the estimate of the value thereof, the

officer shall cause such lands to be surveyed, beginning at a point to be designated by the owner and set off in compact form. After the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be of greater value than ~~\$40,000~~, \$75,000, the officer may still advertise and sell the premises so set off, and out of the proceeds of such sale pay to the exempt homestead claimant the sum of ~~\$40,000~~ \$75,000 and apply the balance of the proceeds of such sale on the execution; but no sale shall be made in the case last mentioned unless a greater sum than ~~\$40,000~~ \$75,000 is paid for said premises. The expenses of such survey and sale shall be collected on the execution if the owner claimed as the owner's homestead a greater quantity of land or land of greater value than the owner was entitled to; otherwise such expenses shall be borne by the plaintiff.

SECTION 10. 815.21 (4) of the statutes is amended to read:

815.21 (4) A homestead so selected and set apart by such officer shall be the exempt homestead of such person. The costs of such notice and survey shall be collected upon the execution. A failure of the officer to set apart such homestead shall affect such levy, only as to such homestead; and the failure of such person to select that person's homestead shall not impair that person's right thereto, but only that person's right to select the same when such selection is lawfully made by such officer. After such homestead is thus set off by such officer, if, in the officer's opinion or in the opinion of the plaintiff, the premises are of greater value than ~~\$40,000~~ \$75,000 the officer may sell the same as where the owner makes the selection.

SECTION 11. 815.21 (5) of the statutes is amended to read:

815.21 (5) If the land claimed as an exempt homestead exceeds in value ~~\$40,000~~, \$75,000, the officer shall not be bound to set off any portion thereof but may sell the same, unless the debtor shall make the debtor's selection of such a portion thereof as shall not exceed ~~\$40,000~~ \$75,000 in value.

SECTION 12. **Initial applicability.**

(1) This act first applies to executions issued on the effective date of this subsection.

**FEDERAL AND STATE EXEMPTIONS  
AS OF JANUARY 12, 2010**

<b>Exemption</b>	<b>Federal<sup>1</sup> Individual/Joint</b>	<b>Wisconsin Exemptions (prior to 12/16/2009) Individual/Joint</b>	<b>New Wisconsin Exemptions Individual/Joint</b>
Homestead	\$20,200/\$40,400 11 U.S.C. § 522(d)(1)	\$40,000 (could not be doubled) Wis. Stat. § 815.13(3)(d)	\$75,000/\$150,000
Motor vehicles	\$3,225/\$6,450 11 U.S.C. § 522(d)(2)	\$1,200/\$2,400 Wis. Stat. § 815.13(3)(g)	\$4,000/\$8,000 Plus unused portion of household goods exemption
Household goods	\$525/\$1,050 per item, up to a total of \$10,775/\$21,550 11 U.S.C. § 522(d)(3)	\$5,000/\$10,000 Wis. Stat. § 815.13(3)(d)	\$12,000/\$24,000
Tools of the trade	\$2,025/\$4,050 11 U.S.C. § 522(d)(6)	\$7,500/\$15,000 Wis. Stat. § 815.18(3)(b)	\$15,000/\$30,000 (Includes interest in closely-held business)
Depository accounts	N/A	\$1,000/\$2,000 Wis. Stat. § 815.13(3)(k)	\$5,000/\$10,000
Personal injury awards	\$20,200 11 U.S.C. § 522(d)(11)(D)	\$25,000/\$50,000 Wis. Stat. § 815.13(3)(i)(1)(c)	\$50,000/\$100,000
“Wild card”	\$1,075/\$2,150 in any property; plus \$10,125/\$20,250 of any unused homestead exemption 11 U.S.C. § 522(d)(5)	N/A	N/A
Jewelry	\$1,350/\$2,700 11 U.S.C. § 522(d)(4)	Included in household goods	Included in household goods
Wages	N/A	Up to 75% of earned but unpaid wages (may be higher for low-income debtors), to the extent reasonably necessary for support Wis. Stat. § 815.18(3)(h)	Same
Professionally prescribed health aids	100% exempt 11 U.S.C. § 522(d)(9)	Included in household goods	Included in household goods
Loss of future earnings awards	100% exempt, to the extent reasonably necessary for support 11 U.S.C. § 522(d)(11)(E)	100% exempt, to the extent reasonably necessary for support Wis. Stat. §	Same

<sup>1</sup> Dollar amounts for federal exemptions are as adjusted effective 4/1/2007. Pursuant to 11 U.S.C. § 104(a), an adjustment is scheduled to take place on 4/1/2010.

**FEDERAL AND STATE EXEMPTIONS  
AS OF JANUARY 12, 2010**

		815.13(3)(i)(1)(d)	
Wrongful death award	100% exempt, to the extent reasonably necessary for support 11 U.S.C. § 522(d)(11)(B)	100% exempt, to the extent reasonably necessary for support Wis. Stat. § 815.13(3)(i)(1)(b)	Same
Victim's reparation award	100% exempt 11 U.S.C. § 522(d)(11)(A)	100% exempt Wis. Stat. § 949.07	Same
Cemetery lots & provisions for burial	N/A	100% exempt Wis. Stat. § 815.18(3)(a)	Same
Federal disability insurance benefits	100% exempt 11 U.S.C. § 522(d)(10)(C)	100% exempt Wis. Stat. § 815.18(3)(ds)	Same
Unmatured cash-value life insurance contract or annuity	\$10,775/\$21,550 11 U.S.C. § 522(d)(8)	\$150,000/\$300,000 Wis. Stat. § 815.18(3)(f)(2) (Unless owned for less than 2 years, in which case \$4,000/\$8,000 - Wis. Stat. 815.18(3)(f)(3))	Same
Life insurance proceeds	100% exempt, to the extent reasonably necessary for support 11 U.S.C. § 522(d)(11)(C)	100% exempt, to the extent reasonably necessary for support Wis. Stat. § 815.18(3)(i)(1)(a)	Same
Fire/casualty insurance proceeds	N/A	100% exempt Wis. Stat. § 815.18(3)(e)	Same
Retirement benefits	100% exempt 11 U.S.C. § 522(b)(3)(C) 11 U.S.C. § 522(d)(10)(E)(to the extent reasonably necessary for support) 11 U.S.C. § 522(d)(12)	100% exempt Wis. Stat. § 815.18(3)(j) (Except for "owner-dominated" plans, which are limited to the extent reasonably necessary for support)	Same
Veterans' benefits	100% exempt 11 U.S.C. § 522(d)(10)(B)	100% exempt Wis. Stat. § 815.13(3)(n)	Same
Alimony/child support	100% exempt, to the extent reasonably necessary for support 11 U.S.C. § 522(d)(10)(D)	100% exempt Wis. Stat. § 815.18(3)(c)	
College savings accounts	N/A	100% exempt Wis. Stat. § 815.13(3)(p)	Same
Social security/unemployment benefits	100% exempt 11 U.S.C. § 522(d)(10)(A)	100% exempt Wis. Stat. § 108.13	Same

**FEDERAL AND STATE EXEMPTIONS  
AS OF JANUARY 12, 2010**

Public employees trust fund benefits	N/A	100% exempt Wis. Stat. § 40.08(1)	Same
Public employees retirement benefits	N/A	100% exempt Wis. Stat. § 41.22(1)(a)	Same
Teachers' retirement benefits	N/A	100% exempt Wis. Stat. § 42.52	Same
Fraternal benefit society benefits	N/A	100% exempt Wis. Stat. § 614.96	Same
City police and fire pension benefits	N/A	100% exempt Wis. Stat. § 815.18(3)(ef)	Same
Public assistance benefits	N/A	100% exempt Wis. Stat. § 49.96	Same
Aid paid to county fairs & agricultural societies	N/A	100 % exempt Wis. Stat. § 915.18(3)(df)	Same
Salary used to purchase exempt bonds	N/A	Up to 10% of salary Wis. Stat. § 20.921(1)(e)	Same
Partnership property	N/A	Wis. Stat. § 178.21(3)(c)	Same