

Bankruptcy, Insolvency & Creditors Rights Section

 State Bar of Wisconsin

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To: Members of the Wisconsin State Assembly
From: State Bar of Wisconsin and the Bankruptcy, Insolvency & Creditors Rights Law Section
Date: September 22, 2009
Re: Support of Assembly Bill 387

The State Bar of Wisconsin and the Bankruptcy, Insolvency & Creditors Rights Law Section within the State Bar support a variety of revisions to Wisconsin's exemptions statutes. We especially appreciate Representative Hebl and Senator Taylor's proposal that would make a number of increases in various property exemptions as well as eliminating the marriage penalty associated with the homestead exemption.

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, only the Debtor's equity in property is considered when applying the exemption.

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

The property exemptions changed under this legislation and Assembly Amendment 3 include:

- Increase the homestead exemption from \$40,000 to \$75,000;
- Increase the business/farm property exemption from \$7,500 to \$15,000 and add a provision to exempt debtor's interest in a closely held business entity;
- Increase the consumer goods exemption from an aggregate of \$5,000 to an aggregate of \$12,000;
- Increase the motor vehicle exemption from \$1,200 to \$4,000;
- Increase the personal injury award exemption from \$25,000 to \$50,000 and clarify that it is per claim; and
- Increase the depository account exemption from \$1,000 to \$5,000.

All of the Wisconsin exemptions, but for the homestead exemption, can be doubled for a married couple. The homestead exemption cannot be doubled for a married couple, which creates a "marriage penalty". This penalty has led to couples divorcing to be able to keep their home from a judgment creditor. AB 387 would eliminate the "marriage penalty" by allowing married couples to stack their homestead exemption.

For additional information contact Cale Battles, Government Relations Coordinator, at (608) 250-6077 or cbattles@wisbar.org.

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5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158
(800)728-7788 ♦ (608)257-3838 ♦ Fax (608)257-5502
Internet: www.wisbar.org ♦ Email: service@wisbar.org