

ASSEMBLY, No. 5707

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED NOVEMBER 20, 2023

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Establishes homestead and bank account exemptions for persons in debt; increases existing exemption amounts for household goods.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/20/2023)

A5707 MORIARTY, REYNOLDS-JACKSON

2

1 AN ACT concerning exemptions from debt execution or attachment,
2 supplementing Title 2A of the New Jersey Statutes and amending
3 N.J.S.2A:17-19.

4

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

7

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

9 “Condominium” means the same as defined pursuant to section 3
10 of the “Condominium Act,” P.L.1969, c.257 (C.46:8B-3).

11 “Dwelling house” means any residential property assessed as real
12 property; but, the term shall not include a unit in a condominium or
13 a horizontal property regime.

14 “Homestead” means any of the following if it is owned and used
15 by the owner, the owners’ family members, or anyone who has an
16 interest in the property as that person’s residence:

17 (1) a dwelling house and the land on which that dwelling house
18 is located;

19 (2) a condominium unit or a unit in a horizontal property
20 regime; or

21 (3) a manufactured home as defined pursuant to section 2 of
22 P.L.1990, c.61 (C.54:4-8.58), including the land on which the
23 manufactured home is situated.

24 Notwithstanding section 2 of P.L.1990, c.61 (C.54:4-8.58),
25 manufactured homes constructed before 1974 shall be included in
26 the definition of homestead even if they were not manufactured in
27 accordance with the National Manufactured Housing Construction
28 and Safety Standards Act of 1974. A person's homestead includes
29 real and personal property.

30 “Horizontal property regime” means the form of real property
31 ownership provided for under the “Horizontal Property Act,”
32 P.L.1963, c.168 (C.46:8A-1 et seq.).

33 “Owner” means, but is not limited to, a natural person who is a
34 sole owner, joint tenant, tenant by the entirety, tenant in common,
35 life estate holder, a holder of a beneficial interest in a trust, a
36 purchaser under a deed of trust, mortgage, or contract, or a holder
37 of a remainder interest.

38 “Principal residence” means a homestead occupied by the owner
39 or a member of the owner’s immediate family as the owner's or
40 family’s primary residence, as distinguished from a vacation home,
41 property owned and rented or offered for rent by the owner, and
42 other secondary real property holdings.

43

44 2. (New section) a. Any owner may exempt an interest in a
45 homestead from attachment, execution, and forced sale in an
46 amount the greater of:

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

Matter underlined thus is new matter.

1 (1) the amount of the median sale price for a single-family home
2 in that county, in the calendar year prior to the calendar year in
3 which the owner claims the exemption, as determined by using the
4 United States Census Bureau's most recent 1-year American
5 Community Survey data table, B25077, Median Value, or an
6 equivalent valuation approved by the Department of Banking and
7 Insurance should table B25077 be unavailable, not to exceed
8 \$600,000. If the owner or a dependent of the owner is either 60
9 years of age or older, or is physically or mentally disabled and
10 because of such disability is unable to engage in substantial gainful
11 employment and whose disability has lasted or can be expected to
12 last at least 12 months or can be expected to result in death, the
13 homestead exemption shall be double the aforementioned county
14 median; or

15 (2) \$300,000.

16 The amount set forth in subsection a. of this section shall be
17 automatically adjusted to reflect changes by the percentage change,
18 if any, from January 1 to December 31 of the preceding year, in the
19 Consumer Price Index for All Urban Consumers, Annual City
20 Average for the Mid-Atlantic Region, or its successor index, as
21 published by the United States Department of Labor, Bureau of
22 Labor Statistics, or its successor agency, beginning January 1, 2024
23 and every three years thereafter. The Department of Banking and
24 Insurance shall triennially publish the three-year adjustment for an
25 effective date of April 1 for the following year. Adjustments made
26 pursuant to this paragraph shall be rounded up to the next \$50.

27 b. The homestead exemption shall attach to the owner's interest
28 in identifiable cash proceeds from the voluntary or involuntary sale
29 of the homestead. The homestead exemption in identifiable cash
30 proceeds shall continue for 18 months after the date of sale for the
31 homestead or until the person establishes a new homestead with the
32 proceeds, whichever period is shorter. An owner shall be limited to
33 protecting the owner's primary residence with the homestead
34 exemption.

35 c. An owner who is entitled to a homestead exemption shall
36 hold that exemption by operation of law and no written claim or
37 recording shall be required.

38 d. In a bankruptcy case, the owner's exemption shall be
39 determined on the date the bankruptcy petition is filed or, with
40 respect to property that becomes property of the estate after that
41 date, the date the property becomes property of the estate. If the
42 value of the owner's interest in homestead property on that date is
43 less than or equal to the amount that can be exempted under the
44 homestead law, then the owner's entire interest in the property,
45 including the owner's right to possession and interests of no
46 monetary value, is exempt. Any appreciation in the value of the
47 owner's exempt interest in the property during the bankruptcy case
48 is also exempt, even if it exceeds the statutory limit.

1 e. Each owner may claim a homestead exemption in an amount
2 not to exceed the values provided in subsection a. of this section.

3

4 3. (New section) a. A homestead exemption may be
5 abandoned by any of the following:

6 (1) a declaration of abandonment or waiver;

7 (2) a transfer of the homestead property by deed of conveyance;

8 or

9 (3) a permanent removal of the owner as a resident of this State.

10 The owner may remove from the homestead for up to two years
11 without an abandonment or a waiver of the exemption.

12 b. A declaration of abandonment or waiver pursuant to
13 paragraph (1) of subsection a. of this section shall be executed by
14 the owner and acknowledged. A declaration of abandonment or
15 waiver is effective only from the time of its recording in the office
16 of the county clerk.

17

18 4. (New section) The homestead exemption provided pursuant
19 to P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall not affect or apply to attachments, executions and sales in
21 connection with court judgments concerning:

22 a. fraud;

23 b. fraudulent transfers or conveyances;

24 c. duress; or

25 d. fraud, deceit, or manipulation in a fiduciary capacity.

26

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

28 2A:17-19. Amount; exceptions

29 a. Goods and chattels, shares of stock or interests in any
30 corporation and personal property of every kind designated by the
31 debtor, not exceeding in value, exclusive of wearing apparel,
32 [\$1,000.00] \$15,000, all essential and ordinary household goods,
33 and all wearing apparel, [the property of a debtor] shall be
34 reserved, both before and after [his] death, for [his] the debtor's
35 use or that of [his] the debtor's family or [his] estate, and shall not
36 be liable to be seized or taken by virtue of any execution or civil
37 process whatever, issued out of any court of this State, without the
38 need for the judgment debtor to make a claim of exemption.

39 Nothing [herein contained] in P.L. , c. (C.) (pending
40 before the Legislature as this bill) shall be deemed or held to protect
41 from sale under execution or other process any goods, chattels or
42 property, [for] the purchase [whereof] of which gave rise to the
43 debt or demand for which the judgment on which such execution or
44 process was [issued, shall have been contracted, or to] obtained.
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 shall not apply to process issued for the collection of taxes or
47 assessments.

1 b. (1) In addition to any other funds exempt under this section,
2 \$10,000 in cash, in a deposit account or other account of the debtor,
3 or \$15,000 if the amount is held in a joint account, shall be
4 reserved, both before and after death, for the debtor's use or that of
5 the debtor's family or estate, and shall not be liable to be seized or
6 taken by virtue of any execution or civil process issued from any
7 court of this State. A garnishment order issued against a bank or
8 other account shall instruct the garnishee that it is to garnish only
9 the amount exceeding \$10,000, or \$15,000 in a joint account. If the
10 judgment debtor has grounds to claim that more than \$10,000 is
11 exempt, or \$15,000 in a joint account, the judgment debtor is
12 entitled to file a petition in a court of competent jurisdiction to that
13 effect.

14 (2) The garnishee shall be served with a notice from the
15 judgment creditor instructing the garnishee to protect the exempt
16 amount, to preserve the judgment debtor's access to the exempt
17 amount, and to notify the judgment debtor of the garnishment or
18 attempted garnishment, including information about the procedure
19 by which the judgment debtor may object to the seizure of any
20 funds that exceed the amount made exempt by this subsection. In
21 addition to the notice to debtor required to be sent by R.4:59-1(h)
22 and R.6:7-1(c) of the New Jersey Rules of Court, the Department of
23 Banking and Insurance shall draft and publish a form that the
24 judgment creditor shall be required to use to give the notice
25 required by this subsection.

26 (3) An institution that is served with an execution or other civil
27 process on funds held in a judgment debtor's account shall charge
28 no fee to the judgment debtor regardless of any terms of agreement,
29 or schedule of fees, or other contract between it and the judgment
30 debtor if:

31 (a) the judgment debtor's funds are entirely exempt pursuant to
32 subsection a. and paragraph (1) of subsection b. of this section; or

33 (b) funds are garnished or executed upon in violation of any
34 section of P.L. , c. (C.) (pending before the Legislature as
35 this bill).

36 c. The amounts set forth in subsection a. and paragraph (1) of
37 subsection b. of this section shall be automatically adjusted to
38 reflect changes by the percentage change, if any, from January 1st
39 to December 31st of the preceding year, in the Consumer Price
40 Index for All Urban Consumers, the Annual City Average, for the
41 Mid-Atlantic Region, or any successor indexes, as published by the
42 Bureau of Labor Statistics within the United States Department of
43 Labor, or its successor agency, beginning January 1st, 2024 and
44 every three years thereafter. The Department of Banking and
45 Insurance shall triennially publish the three-year adjustment on
46 April 1st of the following year. Adjustments made pursuant to this
47 paragraph shall be rounded up to the next \$50.

1 d. Payments made pursuant to sections 24 or 32 of the "Internal
2 Revenue Code of 1986" (26 U.S.C. s.24 or 26 U.S.C. s.32) are
3 exempted from seizure on execution whether the payment has been
4 received or is pending.

5 e. An individual debtor in a bankruptcy case pursuant to Title
6 11 of the United States Code may exempt, in addition to any other
7 exemptions allowed under New Jersey law, any property listed in
8 11 U.S.C. s.522(d), to the extent it is not otherwise exempt under
9 New Jersey law.

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

11

12 6. This act shall take effect on January 1, 2024, except that the
13 Commissioner of Banking and Insurance may take such anticipatory
14 administrative action in advance thereof as shall be necessary for
15 the implementation of this act.

16

17

18

STATEMENT

19

20 This bill establishes a homestead and bank account exemption
21 for persons in debt and increases the existing exemption amount for
22 household goods.

23 Under the bill, an owner can exempt an interest in the homestead
24 from an attachment, execution, and forced sale in an amount that is
25 the greater of:

26 (1) the amount of the median sale price for a single-family home
27 in that county, in the calendar year prior to the calendar year in
28 which the debtor claims the exemption, as determined by using the
29 United States Census Bureau's most recent 1-year American
30 Community Survey data table, B25077, Median Value, or an
31 equivalent valuation approved by the Department of Banking and
32 Insurance, not to exceed \$600,000; or

33 (2) \$300,000.

34 If the owner or a dependent of the owner is either 60 years of age
35 or older, or is physically or mentally disabled and because of such
36 disability is unable to engage in substantial gainful employment and
37 whose disability has lasted or can be expected to last at least 12
38 months, or can be expected to result in death, the homestead
39 exemption will be double the aforementioned county median. The
40 bill provides that the homestead exemption will attach to the
41 owner's interest in identifiable cash proceeds from the voluntary or
42 involuntary sale of the homestead and that the exemption in
43 identifiable cash proceeds would continue for 18 months after the
44 date of sale for the homestead or until the owner establishes a new
45 homestead with the proceeds, whichever period is shorter.

46 The bill also provides that, in a bankruptcy case, the owner's
47 exemptions shall be determined on the date the bankruptcy petition
48 is filed or, with respect to property respect to property that becomes

1 property of the estate after that date, the date the property becomes
2 property of the estate. If the value of the owner's interest in
3 homestead property on such date is less than or equal to the amount
4 that can be exempted under the homestead law, then the owner's
5 entire interest in the property, including the owner's right to
6 possession and interests of no monetary value, is exempt. Any
7 appreciation in the value of the owner's exempt interest in the
8 property during the bankruptcy case is also exempt, even if it
9 exceeds the statutory limit.

10 The bill additionally increases the total value of household goods
11 that are exempt from debt collection, from \$1,000 to \$15,000, and
12 provides for an exemption from garnishment of up to \$10,000 for
13 cash held in a deposit account or other account of the debtor, or up
14 to \$15,000 if the cash amount is held in a joint account.