S T A T E O F N E W Y O R K

2161

2009-2010 Regular Sessions

I N S E N A T E

February 12, 2009

Introduced by Sens. PARKER, DILAN, HASSELL-THOMPSON, KRUEGER, ONORATO, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to increasing the value of homesteads which are to be exempt from civil judgments

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions (a), (d) and (e) of section 5206 of the civil practice law and rules, as amended by chapter 623 of the laws of 2005, are amended to read as follows:

(a) Exemption of homestead. Property of one of the following types, not exceeding TWO HUNDRED fifty thousand dollars in value above liens and encumbrances, owned and occupied as a principal residence, is exempt from application to the satisfaction of a money judgment, unless the judgment was recovered wholly for the purchase price thereof:

1. a lot of land with a dwelling thereon,

2. shares of stock in a cooperative apartment corporation,

3. units of a condominium apartment, or

4. a mobile home.

But no exempt homestead shall be exempt from taxation or from sale for non-payment of taxes or assessments.

(d) Exemption of homestead exceeding TWO HUNDRED fifty thousand dollars in value. The exemption of a homestead is not void because the value of the property exceeds TWO HUNDRED fifty thousand dollars but the lien of a judgment attaches to the surplus.

(e) Sale of homestead exceeding TWO HUNDRED fifty thousand dollars in value. A judgment creditor may commence a special proceeding in the county in which the homestead is located against the judgment debtor for the sale, by a sheriff or receiver, of a homestead exceeding TWO HUNDRED fifty thousand dollars in value. The court may direct that the notice of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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petition be served upon any other person. The court, if it directs such a sale, shall so marshal the proceeds of the sale that the right and interest of each person in the proceeds shall correspond as nearly as may be to his right and interest in the property sold. Money, not exceeding TWO HUNDRED fifty thousand dollars, paid to a judgment debtor, as representing his interest in the proceeds, is exempt for one year after the payment, unless, before the expiration of the year, he acquires an exempt homestead, in which case, the exemption ceases with respect to so much of the money as was not expended for the purchase of that property; and the exemption of the property so acquired extends to every debt against which the property sold was exempt. Where the exemption of property sold as prescribed in this subdivision has been continued after the judgment debtor's death, or where he dies after the sale and before payment to him of his portion of the proceeds of the sale, the court may direct that portion of the proceeds which represents his interest be invested for the benefit of the person or persons entitled to the benefit of the exemption, or be otherwise disposed of as justice requires.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after August 30, 2005.