

1965

2011-2012 Regular Sessions

I N   S E N A T E

January 14, 2011

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Introduced by Sens. PARKER, DILAN, SAMPSON, SMITH -- 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:

1     Section 1. Subdivisions (a), (d) and (e) of section 5206 of the civil  
2     practice law and rules, as amended by chapter 568 of the laws of 2010,  
3     are amended to read as follows:  
4     (a) Exemption of homestead. Property of one of the following types,  
5     not exceeding [one] TWO hundred fifty thousand dollars for the counties  
6     of Kings, Queens, New York, Bronx, Richmond, Nassau, Suffolk, Rockland,  
7     Westchester and Putnam; one hundred twenty-five thousand dollars for the  
8     counties of Dutchess, Albany, Columbia, Orange, Saratoga and Ulster; and  
9     seventy-five thousand dollars for the remaining counties of the state in  
10    value above liens and encumbrances, owned and occupied as a principal  
11    residence, is exempt from application to the satisfaction of a money  
12    judgment, unless the judgment was recovered wholly for the purchase  
13    price thereof:  
14    1. a lot of land with a dwelling thereon,  
15    2. shares of stock in a cooperative apartment corporation,  
16    3. units of a condominium apartment, or  
17    4. a mobile home.  
18    But no exempt homestead shall be exempt from taxation or from sale for  
19    non-payment of taxes or assessments.  
20    (d) Exemption of homestead exceeding [one] TWO hundred fifty thousand  
21    dollars in value for the counties of Kings, Queens, New York, Bronx,  
22    Richmond, Nassau, Suffolk, Rockland, Westchester and Putnam; one hundred  
23    twenty-five thousand dollars for the counties of Dutchess, Albany,

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

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1 Columbia, Orange, Saratoga and Ulster; and seventy-five thousand dollars  
2 for the remaining counties of the state. The exemption of a homestead is  
3 not void because the value of the property exceeds one hundred fifty  
4 thousand dollars for the counties of Kings, Queens, New York, Bronx,  
5 Richmond, Nassau, Suffolk, Rockland, Westchester and Putnam; one hundred  
6 twenty-five thousand dollars for the counties of Dutchess, Albany,  
7 Columbia, Orange, Saratoga and Ulster; and seventy-five thousand dollars  
8 for the remaining counties of the state but the lien of a judgment  
9 attaches to the surplus.

10 (e) Sale of homestead exceeding [one] TWO hundred fifty thousand  
11 dollars for the counties of Kings, Queens, New York, Bronx, Richmond,  
12 Nassau, Suffolk, Rockland, Westchester and Putnam; one hundred twenty-  
13 five thousand dollars for the counties of Dutchess, Albany, Columbia,  
14 Orange, Saratoga and Ulster; and seventy-five thousand dollars for the  
15 remaining counties of the state in value. A judgment creditor may  
16 commence a special proceeding in the county in which the homestead is  
17 located against the judgment debtor for the sale, by a sheriff or  
18 receiver, of a homestead exceeding [one] TWO hundred fifty thousand  
19 dollars for the counties of Kings, Queens, New York, Bronx, Richmond,  
20 Nassau, Suffolk, Rockland, Westchester and Putnam; one hundred twenty-  
21 five thousand dollars for the counties of Dutchess, Albany, Columbia,  
22 Orange, Saratoga and Ulster; and seventy-five thousand dollars for the  
23 remaining counties of the state in value. The court may direct that the  
24 notice of petition be served upon any other person. The court, if it  
25 directs such a sale, shall so marshal the proceeds of the sale that the  
26 right and interest of each person in the proceeds shall correspond as  
27 nearly as may be to his right and interest in the property sold. Money,  
28 not exceeding [one] TWO hundred fifty thousand dollars for the counties  
29 of Kings, Queens, New York, Bronx, Richmond, Nassau, Suffolk, Rockland,  
30 Westchester and Putnam; one hundred twenty-five thousand dollars for the  
31 counties of Dutchess, Albany, Columbia, Orange, Saratoga and Ulster; and  
32 seventy-five thousand dollars for the remaining counties of the state,  
33 paid to a judgment debtor, as representing his interest in the proceeds,  
34 is exempt for one year after the payment, unless, before the expiration  
35 of the year, he acquires an exempt homestead, in which case, the  
36 exemption ceases with respect to so much of the money as was not  
37 expended for the purchase of that property; and the exemption of the  
38 property so acquired extends to every debt against which the property  
39 sold was exempt. Where the exemption of property sold as prescribed in  
40 this subdivision has been continued after the judgment debtor's death,  
41 or where he dies after the sale and before payment to him of his portion  
42 of the proceeds of the sale, the court may direct that portion of the  
43 proceeds which represents his interest be invested for the benefit of  
44 the person or persons entitled to the benefit of the exemption, or be  
45 otherwise disposed of as justice requires.

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