

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5068

53rd Legislature
1993 Regular Session

Passed by the Senate March 13, 1993
YEAS 44 NAYS 1

President of the Senate

Passed by the House April 15, 1993
YEAS 95 NAYS 3

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5068** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5068

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, McCaslin, Nelson, Erwin, Vognild and Roach)

Read first time 02/05/93.

1 AN ACT Relating to homestead exemptions; amending RCW 6.13.010,
2 6.13.030, 6.13.040, and 6.15.060; and reenacting and amending RCW
3 6.13.080.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 6.13.010 and 1987 c 442 s 201 are each amended to read
6 as follows:

7 (1) The homestead consists of real or personal property that the
8 owner uses as a residence. In the case of a dwelling house or mobile
9 home, the homestead consists of the dwelling house or the mobile home
10 in which the owner resides or intends to reside, with appurtenant
11 buildings, and the land on which the same are situated and by which the
12 same are surrounded, or improved or unimproved land owned with the
13 intention of placing a house or mobile home thereon and residing
14 thereon. A mobile home may be exempted under this chapter whether or
15 not it is permanently affixed to the underlying land and whether or not
16 the mobile home is placed upon a lot owned by the mobile home owner.
17 Property included in the homestead must be actually intended or used as
18 the principal home for the owner.

1 (2) As used in this chapter, the term "owner" includes but is not
2 limited to a purchaser under a deed of trust, mortgage, or real estate
3 contract.

4 (3) As used in this chapter, the term "net value" means market
5 value less all liens and encumbrances.

6 **Sec. 2.** RCW 6.13.030 and 1991 c 123 s 2 are each amended to read
7 as follows:

8 A homestead may consist of lands, as described in RCW 6.13.010,
9 regardless of area, but the homestead exemption amount shall not exceed
10 the lesser of (1) the total net value of the lands, mobile home,
11 ~~((and)) improvements, and other personal property,~~ as described in RCW
12 6.13.010, or (2) the sum of thirty thousand dollars in the case of
13 lands, mobile home, and improvements, or the sum of fifteen thousand
14 dollars in the case of other personal property described in RCW
15 6.13.010, except where the homestead is subject to execution,
16 attachment, or seizure by or under any legal process whatever to
17 satisfy a judgment in favor of any state for failure to pay that
18 state's income tax on benefits received while a resident of the state
19 of Washington from a pension or other retirement plan, in which event
20 there shall be no dollar limit on the value of the exemption.

21 **Sec. 3.** RCW 6.13.040 and 1987 c 442 s 204 are each amended to read
22 as follows:

23 (1) Property described in RCW 6.13.010 constitutes a homestead and
24 is automatically protected by the exemption described in RCW 6.13.070
25 from and after the time the real or personal property is occupied as a
26 principal residence by the owner or, if the homestead is unimproved or
27 improved land that is not yet occupied as a homestead, from and after
28 the declaration or declarations required by the following subsections
29 are filed for record or, if the homestead is a mobile home not yet
30 occupied as a homestead and located on land not owned by the owner of
31 the mobile home, from and after delivery of a declaration as prescribed
32 in RCW 6.15.060(3)(c) or, if the homestead is any other personal
33 property, from and after the delivery of a declaration as prescribed in
34 RCW 6.15.060(3)(d).

35 (2) An owner who selects a homestead from unimproved or improved
36 land that is not yet occupied as a homestead must execute a declaration
37 of homestead and file the same for record in the office of the

1 recording officer in the county in which the land is located. However,
2 if the owner also owns another parcel of property on which the owner
3 presently resides or in which the owner claims a homestead, the owner
4 must also execute a declaration of abandonment of homestead on that
5 other property and file the same for record with the recording officer
6 in the county in which the land is located.

7 (3) The declaration of homestead must contain:

8 (a) A statement that the person making it is residing on the
9 premises or intends to reside thereon and claims them as a homestead;

10 (b) A legal description of the premises; and

11 (c) An estimate of their actual cash value.

12 (4) The declaration of abandonment must contain:

13 (a) A statement that premises occupied as a residence or claimed as
14 a homestead no longer constitute the owner's homestead;

15 (b) A legal description of the premises; and

16 (c) A statement of the date of abandonment.

17 (5) The declaration of homestead and declaration of abandonment of
18 homestead must be acknowledged in the same manner as a grant of real
19 property is acknowledged.

20 **Sec. 4.** RCW 6.13.080 and 1988 c 231 s 3 and 1988 c 192 s 1 are
21 each reenacted and amended to read as follows:

22 The homestead exemption is not available against an execution or
23 forced sale in satisfaction of judgments obtained:

24 (1) On debts secured by mechanic's, laborer's, construction,
25 maritime, automobile repair, materialmen's or vendor's liens ((upon the
26 premises)) arising out of and against the particular property claimed
27 as a homestead;

28 (2) On debts secured (a) by security agreements describing as
29 collateral the ((~~mobile home~~)) property that is claimed as a homestead
30 or (b) by mortgages or deeds of trust on the premises that have been
31 executed and acknowledged by the husband and wife or by any unmarried
32 claimant;

33 (3) On one spouse's or the community's debts existing at the time
34 of that spouse's bankruptcy filing where (a) bankruptcy is filed by
35 both spouses within a six-month period, other than in a joint case or
36 a case in which their assets are jointly administered, and (b) the
37 other spouse exempts property from property of the estate under the
38 bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

1 (4) On debts arising from a lawful court order or decree or
2 administrative order establishing a child support obligation or
3 obligation to pay spousal maintenance; or

4 (5) On debts secured by a condominium's or homeowner association's
5 lien. In order for an association to be exempt under this provision,
6 the association must have provided a homeowner with notice that
7 nonpayment of the association's assessment may result in foreclosure of
8 the association lien and that the homestead protection under this
9 chapter shall not apply. An association has complied with this notice
10 requirement by mailing the notice, by first class mail, to the address
11 of the owner's lot or unit. The notice required in this subsection
12 shall be given within thirty days from the date the association learns
13 of a new owner, but in all cases the notice must be given prior to the
14 initiation of a foreclosure. The phrase "learns of a new owner" in
15 this subsection means actual knowledge of the identity of a homeowner
16 acquiring title after June 9, 1988, and does not require that an
17 association affirmatively ascertain the identity of a homeowner.
18 Failure to give the notice specified in this subsection affects an
19 association's lien only for debts accrued up to the time an association
20 complies with the notice provisions under this subsection.

21 **Sec. 5.** RCW 6.15.060 and 1988 c 231 s 7 are each amended to read
22 as follows:

23 (1) Except as provided in subsection (2) of this section, property
24 claimed exempt under RCW 6.15.010 shall be selected by the individual
25 entitled to the exemption, or by the husband or wife entitled to a
26 community exemption, in the manner described in subsection (3) of this
27 section.

28 (2) If, at the time of seizure under execution or attachment of
29 property exemptible under RCW 6.15.010(3) (a), (b), or (c), the
30 individual or the husband or wife entitled to claim the exemption is
31 not present, then the sheriff or deputy shall make a selection equal in
32 value to the applicable exemptions and, if no appraisal is required
33 and no objection is made by the creditor as permitted under subsection
34 (4) of this section, the officer shall return the same as exempt by
35 inventory. Any selection made as provided shall be prima facie
36 evidence (a) that the property so selected is exempt from execution and
37 attachment, and (b) that the property so selected is not in excess of
38 the values specified for the exemptions.

1 (3)(a) A debtor who claims personal property as exempt against
2 execution or attachment shall, at any time before sale, deliver to the
3 officer making the levy a list by separate items of the property
4 claimed as exempt, together with an itemized list of all the personal
5 property owned or claimed by the debtor, including money, bonds, bills,
6 notes, claims and demands, with the residence of the person indebted
7 upon the said bonds, bills, notes, claims and demands, and shall verify
8 such list by affidavit. The officer shall immediately advise the
9 creditor, attorney, or agent of the exemption claim and, if no
10 appraisal is required and no objection is made by the creditor as
11 permitted under subsection (4) of this section, the officer shall
12 return with the process the list of property claimed as exempt.

13 (b) A debtor who claims personal property exempt against
14 garnishment shall proceed as provided in RCW 6.27.160.

15 (c) A debtor who claims as a homestead, under chapter 6.13 RCW, a
16 mobile home that is not yet occupied as a homestead and that is located
17 on land not owned by the debtor shall claim the homestead as against a
18 specific levy by delivering to the sheriff who levied on the mobile
19 home, before sale under the levy, a declaration of homestead that
20 contains (i) a declaration that the debtor owns the mobile home,
21 intends to reside therein, and claims it as a homestead, and (ii) a
22 description of the mobile home, a statement where it is located or was
23 located before the levy, and an estimate of its actual cash value.

24 (d) A debtor who claims as a homestead, under RCW 6.13.040, any
25 other personal property, shall at any time before sale, deliver to the
26 officer making the levy a notice of claim of homestead in a statement
27 that sets forth the following: (i) The debtor owns the personal
28 property; (ii) the debtor resides thereon as a homestead; (iii) the
29 debtor's estimate of the fair market value of the property; and (iv)
30 the debtor's description of the property in sufficient detail for the
31 officer making the levy to identify the same.

32 (4)(a) Except as provided in (b) of this subsection, a creditor, or
33 the agent or attorney of a creditor, who wishes to object to a claim of
34 exemption shall proceed as provided in RCW 6.27.160 and shall give
35 notice of the objection to the officer not later than seven days after
36 the officer's giving notice of the exemption claim.

37 (b) A creditor, or the agent or attorney of the creditor, who
38 wishes to object to a claim of exemption made to a levying officer, on
39 the ground that the property claimed exceeds exemptible value, may

1 demand appraisement. If the creditor, or the agent or attorney of the
2 creditor, demands an appraisement, two disinterested persons shall be
3 chosen to appraise the property, one by the debtor and the other by the
4 creditor, agent or attorney, and these two, if they cannot agree, shall
5 select a third; but if either party fails to choose an appraiser, or
6 the two fail to select a third, or if one or more of the appraisers
7 fail to act, the court shall appoint one or more as the circumstances
8 require. The appraisers shall forthwith proceed to make a list by
9 separate items, of the personal property selected by the debtor as
10 exempt, which they shall decide as exempt, stating the value of each
11 article, and annexing to the list their affidavit to the following
12 effect: "We solemnly swear that to the best of our judgment the above
13 is a fair cash valuation of the property therein described," which
14 affidavit shall be signed by two appraisers at least, and be certified
15 by the officer administering the oaths. The list shall be delivered to
16 the officer holding the execution or attachment and be annexed to and
17 made part of the return, and the property therein specified shall be
18 exempt from levy and sale, but the other personal estate of the debtor
19 shall remain subject to execution, attachment, or garnishment. Each
20 appraiser shall be entitled to fifteen dollars or such larger fee as
21 shall be fixed by the court, to be paid by the creditor if all the
22 property claimed by the debtor shall be exempt; otherwise to be paid by
23 the debtor.

24 (c) If, within seven days following the giving of notice to a
25 creditor of an exemption claim, the officer has received no notice from
26 the creditor of an objection to the claim or a demand for appraisement,
27 the officer shall release the claimed property to the debtor.

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