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**SUBSTITUTE SENATE BILL 5187**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline and Constantine)

READ FIRST TIME 02/23/01.

1 AN ACT Relating to updating creditor/debtor personal property  
2 exemptions; and amending RCW 6.15.010, 6.15.050, and 6.27.160.

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

4 **Sec. 1.** RCW 6.15.010 and 1991 c 112 s 1 are each amended to read  
5 as follows:

6 Except as provided in RCW 6.15.050, the following personal property  
7 shall be exempt from execution, attachment, and garnishment:

8 (1) All wearing apparel of every individual and family, but not to  
9 exceed one thousand dollars in value in furs, jewelry, and personal  
10 ornaments for any individual.

11 (2) All private libraries of every individual, but not to exceed  
12 fifteen hundred dollars in value, and all family pictures and  
13 keepsakes.

14 (3) To each individual or, as to community property of spouses  
15 maintaining a single household as against a creditor of the community,  
16 to the community:

17 (a) The individual's or community's household goods, appliances,  
18 furniture, and home and yard equipment, not to exceed two thousand  
19 seven hundred dollars in value for the individual or five thousand four

1 hundred dollars for the community, said amount to include provisions  
2 and fuel for the comfortable maintenance of the individual or  
3 community;

4 (b) Other personal property, except personal earnings as provided  
5 under RCW 6.15.050(1), not to exceed ~~((one))~~ two thousand dollars in  
6 value, of which not more than ~~((one))~~ two hundred dollars in value may  
7 consist of cash, and of which not more than ~~((one))~~ two hundred dollars  
8 in value may consist of bank accounts, savings and loan accounts,  
9 stocks, bonds, or other securities; ~~((and))~~

10 (c) ~~((Two))~~ For an individual, a motor ~~((vehicles))~~ vehicle used  
11 for personal transportation, not to exceed two thousand five hundred  
12 dollars ~~((in aggregate value))~~ or for a community two motor vehicles  
13 used for personal transportation, not to exceed five thousand dollars  
14 in aggregate value;

15 (d) Any past due, current, or future child support paid or owed to  
16 the debtor, which can be traced;

17 (e) All professionally prescribed health aids for the debtor or a  
18 dependant of the debtor; and

19 (f) To any individual, the right to or proceeds of a payment not to  
20 exceed sixteen thousand one hundred fifty dollars on account of  
21 personal bodily injury, not including pain and suffering or  
22 compensation for actual pecuniary loss, of the debtor or an individual  
23 of whom the debtor is a dependent; or the right to or proceeds of a  
24 payment in compensation of loss of future earnings of the debtor or an  
25 individual of whom the debtor is or was a dependent, to the extent  
26 reasonably necessary for the support of the debtor and any dependent of  
27 the debtor. The exemption under this subsection (3)(f) does not apply  
28 to the right of the state of Washington, or any agent or assignee of  
29 the state, as a lienholder or subrogee under RCW 43.20B.060.

30 (4) To each qualified individual, one of the following exemptions:

31 (a) To a farmer, farm trucks, farm stock, farm tools, farm  
32 equipment, supplies and seed, not to exceed five thousand dollars in  
33 value;

34 (b) To a physician, surgeon, attorney, clergyman, or other  
35 professional person, the individual's library, office furniture, office  
36 equipment and supplies, not to exceed five thousand dollars in value;

37 (c) To any other individual, the tools and instruments and  
38 materials used to carry on his or her trade for the support of himself  
39 or herself or family, not to exceed five thousand dollars in value.

1 For purposes of this section, "value" means the reasonable market  
2 value of the debtor's interest in an article or item at the time it is  
3 selected for exemption, exclusive of all liens and encumbrances  
4 thereon.

5 **Sec. 2.** RCW 6.15.050 and 1987 c 442 s 305 are each amended to read  
6 as follows:

7 (1) Wages, salary, or other compensation regularly paid for  
8 personal services rendered by the debtor claiming the exemption shall  
9 not be claimed as exempt under RCW 6.15.010, but the same may be  
10 claimed as exempt in any bankruptcy or insolvency proceeding to the  
11 same extent as allowed under the statutes relating to garnishments.

12 (2) No property may be exempt under RCW 6.15.010 from execution,  
13 attachment, or garnishment issued upon a judgment for all or any part  
14 of the purchase price of the property.

15 (3) No property may be exempt under RCW 6.15.010 from legal process  
16 issued upon a judgment for restitution ordered by a court to be paid  
17 for the benefit of a victim of a criminal act.

18 (4) No property may be exempt under RCW 6.15.010 from legal process  
19 issued upon a judgment for any tax levied upon such property.

20 ~~((+4))~~ (5) Nothing in this chapter shall be so construed as to  
21 prevent a debtor from creating a security interest in personal property  
22 which might be claimed as exempt, or the enforcement of such security  
23 interest against the property.

24 ~~((+5))~~ (6) Nothing in this chapter shall be construed to exempt  
25 personal property of a nonresident of this state or of an individual  
26 who has left or is about to leave this state with the intention to  
27 defraud his or her creditors.

28 ~~((+6))~~ (7) Personal property exemptions are waived by failure to  
29 claim them prior to sale of exemptible property under execution or, in  
30 a garnishment proceeding, within the time specified in RCW 6.27.160.

31 ~~((+7))~~ (8) Personal property exemptions may not be claimed by one  
32 spouse in a bankruptcy case that is not a joint case or a joint  
33 administration of the estate with the bankruptcy estate of the other  
34 spouse where (a) bankruptcy is filed by both spouses within a six-month  
35 period, and (b) one spouse exempts property from property of the estate  
36 under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d).

37 (9) No property may be exempt under RCW 6.15.010 from execution,  
38 levy, attachment, or garnishment issued by or on behalf of a child

1 support agency operating under Title IV-D of the federal social  
2 security act or by or on behalf of any agent or assignee of the child  
3 support agency.

4 **Sec. 3.** RCW 6.27.160 and 1988 c 231 s 28 are each amended to read  
5 as follows:

6 (1) A defendant may claim exemptions from garnishment in the manner  
7 specified by the statute that creates the exemption or by delivering to  
8 or mailing by first class mail to the clerk of the court out of which  
9 the writ was issued a declaration in substantially the following form  
10 or in the form set forth in RCW 6.27.140 and mailing a copy of the form  
11 by first class mail to the plaintiff or plaintiff's attorney at the  
12 address shown on the writ of garnishment, all not later than twenty-  
13 eight days after the date stated on the writ except that the time shall  
14 be extended to allow a declaration mailed or delivered to the clerk  
15 within twenty-one days after service of the writ on the garnishee if  
16 service on the garnishee is delayed more than seven days after the date  
17 of the writ.

18 [NAME OF COURT]

19 . . . . . No. . . . .

20 Plaintiff

21 . . . . .

22 Defendant

23 CLAIM OF EXEMPTION

24 . . . . .

25 Garnishee

26 I/We claim the following described property or money as exempt from  
27 execution:

28 . . . . .

29 . . . . .

30 . . . . .

31 I/We believe the property is exempt because:

32 . . . . .

33 . . . . .

34 . . . . .

|    |                  |                       |
|----|------------------|-----------------------|
| 1  | . . . . .        | . . . . .             |
| 2  | Print name       | Print name of spouse, |
| 3  |                  | if married            |
| 4  |                  |                       |
| 5  | . . . . .        | . . . . .             |
| 6  | Signature        | Signature             |
| 7  |                  |                       |
| 8  | . . . . .        | . . . . .             |
| 9  | Address          | Address               |
| 10 |                  |                       |
| 11 | . . . . .        | . . . . .             |
| 12 | . . . . .        | . . . . .             |
| 13 | Telephone number | Telephone number      |
| 14 |                  |                       |
| 15 | . . . . .        | . . . . .             |

16       (2) A plaintiff who wishes to object to an exemption claim must,  
17 not later than seven days after receipt of the claim, cause to be  
18 delivered or mailed to the defendant by first class mail, to the  
19 address shown on the exemption claim, a declaration by self, attorney,  
20 or agent, alleging the facts on which the objection is based, together  
21 with notice of date, time, and place of a hearing on the objection,  
22 which hearing the plaintiff must cause to be noted for a hearing date  
23 not later than fourteen days after the receipt of the claim. After a  
24 hearing on an objection to an exemption claim, the court shall award  
25 costs to the prevailing party and may also award an attorney's fee to  
26 the prevailing party if the court concludes that the exemption claim or  
27 the objection to the claim was not made in good faith. The defendant  
28 bears the burden of proving any claimed exemption, including the  
29 obligation to provide sufficient documentation to identify the source  
30 and amount of any claimed exempt funds.

31       (3) If the plaintiff elects not to object to the claim of  
32 exemption, the plaintiff shall, not later than ten days after receipt  
33 of the claim, obtain from the court and deliver to the garnishee an  
34 order directing the garnishee to release such part of the debt,  
35 property, or effects as is covered by the exemption claim. If the  
36 plaintiff fails to obtain and deliver the order as required or  
37 otherwise to effect release of the exempt funds or property, the  
38 defendant shall be entitled to recover fifty dollars from the

1 plaintiff, in addition to actual damages suffered by the defendant from  
2 the failure to release the exempt property.

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