

FINAL BILL REPORT

SHB 1805

C 429 L 07

Synopsis as Enacted

Brief Description: Increasing the homestead exemption amount.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Morrell, Lantz, Linville, Wallace, Rodne, Conway, Kessler, Hudgins, Hunt, Chase, Hasegawa, VanDeWege, Campbell, Ericks, Green, Simpson and Schual-Berke).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

Homestead Exemption. The homestead exemption protects a debtor's equity in the real or personal property that the debtor uses or plans to use as a residence. The exemption is limited to the lesser of: (1) \$40,000 if the homestead consists of real property, or \$15,000 if the homestead consists of personal property; or (2) the total net value of the homestead property. Net value is defined as the market value of the property less all liens and encumbrances that are senior to the judgment being executed upon.

The current homestead exemption amount of \$40,000 for real property has been in effect since 1999, when the amount was increased from \$30,000. The availability of a homestead in personal property was established in 1993 at an amount of \$15,000 and has not been changed since.

The homestead exemption is not available against an execution or forced sale to satisfy certain kinds of judgments, including: judgments on mortgages or deeds of trust on the property; construction liens, laborer's liens, and other liens arising out of and against the particular property; child support or spousal maintenance obligations; debts owed to the state for the recovery of medical assistance costs; or condominium or homeowners' association liens.

Sales and Use Tax Collections. The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. The use tax applies to the privilege of using items of tangible personal property when retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is about 2 percent statewide. State law requires registered sellers to hold the proceeds of sales and use taxes in trust until paid to the Department of Revenue (Department). The taxes are due on a monthly basis.

A seller that collects sales or use taxes and converts the funds to his or her own personal use is guilty of a gross misdemeanor. A seller that has collected any such tax and fails to pay it to the Department, even if the failure is the result of conditions beyond his or her control, is liable for the amount of tax due.

Remedies for the Collection of Unpaid Taxes. The Department is authorized to issue a warrant for taxes and fees if not paid within 15 days of the due date. The Department is then required to file a copy of the warrant in the superior court of any county in which the taxpayer is believed to have real or personal property. When the warrant is entered into the judgment docket, it becomes a tax lien. The filed warrant becomes a specific lien upon all personal property used in the conduct of the business and a general lien against all other real and personal property owned by the taxpayer, such as the taxpayer's home and nonexempt personal vehicles. However, under the homestead exemption law, a judgment does not become a lien on the debtor's homestead property in excess of the homestead exemption limit unless the judgment is recorded with the county auditor to perfect the lien, which costs \$29 per recording.

Summary:

The value of the real property homestead exemption limit is increased to \$125,000. Manufactured homes are specifically added as a type of homestead property in the provision that sets the exemption limit.

The homestead exemption does not apply to debts for sales and use taxes that are collected and held in trust by the property owner but not remitted to the Department.

A Department tax warrant for unpaid taxes becomes a lien on the value of the homestead property in excess of the homestead exemption limit from the time the tax warrant is filed in superior court.

Votes on Final Passage:

House	86	11	
Senate	48	1	(Senate amended)
House	85	13	(House concurred)

Effective: July 22, 2007