

SENATE BILL REPORT

SHB 1805

As Reported By Senate Committee On:
Judiciary, March 30, 2007

Title: An act relating to increasing the homestead exemption amount.

Brief Description: Increasing the homestead exemption amount.

Sponsors: 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).

Brief History: Passed House: 3/10/07, 86-11.

Committee Activity: Judiciary: 3/27/07, 3/30/07 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Hargrove, Murray, Roach and Weinstein.

Staff: Juliana Roe (786-7405)

Background: Under current law, the homestead exemption amount cannot exceed the lesser of: (1) the total net value of the lands, mobile home, improvements, and other personal property; or (2) the sum of \$40,000 in the case of lands, mobile home, and improvements.

Homestead exemptions protect a certain amount of equity for a homeowner from execution by a judgment creditor. They are not effective against secured forms of credit, such as mortgages or deeds of trust. These exemptions were originally intended to protect families from losing their homes in hard times, but the increase in the cost of real estate has left the homestead exemption far behind and makes up only a nominal value compared to the cost of a home. In the Bankruptcy Reform Act of 2005, Congress recognized the validity of state homesteads of up to \$125,000 in bankruptcy.

Summary of Substitute Bill: The homestead exemption amount cannot exceed the lesser of: (1) the total net value of the lands, mobile home, improvements, and other personal property; or (2) the sum of \$100,000 in the case of lands, mobile home, and improvements.

EFFECT OF CHANGES MADE BY RECOMMENDED STRIKING AMENDMENT(S) AS PASSED COMMITTEE (Judiciary): The homestead exemption amount is increased to \$125,000. Manufactured homes are included under the homestead exemption.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The homestead laws are designed to protect homeowners and their families and an increase in the homestead exemption amount will further that goal.

Under federal bankruptcy laws, the homestead amount has been capped at \$125,000. This amount is more closely akin to the homestead amount in our neighboring states. It becomes appropriate in Washington to raise the homestead amount to \$125,000 because of the way that home values have skyrocketed, especially in western Washington.

Studies have shown that a significant amount of those in debt include those who have lost their jobs, been through a divorce, or have been victim to predatory lending. These are consumers who are not sophisticated. The homestead amount does not effect mortgages.

CON: Many issues in this bill have not been thought through. The dollar amount is too high. Western Washington bankruptcy trustees in 2006 paid over three million dollars in priority state and federal taxes made by the sale of non-exempt assets. Increasing the homestead and nothing else means you'll cut into that revenue. The amount of money paid to state taxes will be decreased. If you follow this scheme, you will end up with very few cases that have any revenue.

Time should be taken to integrate this decision with the overall statutory situation. If this state chooses to eliminate the federal exemptions, of the 26 states that have higher exemptions than Washington, 16 have eliminated the federal homestead exemption and altered it with an index to restrict complete usage, then Washington needs to be sure to look at the overall picture as well. Responsibility needs to be taken. Not everyone should be given a free pass.

Trustees are paid a fee contingent upon the money collected from the creditors.

Persons Testifying: PRO: Representative Morrell, prime sponsor; William Beecher, attorney; Martin Snodgrass, Washington State Bar Association.

CON: Brian Budsberg, National Association of Bankruptcy Trustees.