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**SENATE BILL 5408**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Stanford, Das, Dhingra, Hasegawa, Kuderer, Lovelett, Nguyen, Randall, Robinson, Rolfes, Saldaña, and Wellman

Read first time 02/02/21. Referred to Committee on Law & Justice.

1 AN ACT Relating to the homestead exemption; amending RCW  
2 6.13.010, 6.13.030, 6.13.070, and 6.13.090; and creating a new  
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the homestead  
6 exemption is intended to protect the homeowner's equity in a home  
7 against unsecured creditors. The legislature finds that changes to  
8 the homestead exemption are necessary to modernize the law and to  
9 address the case of *Wilson v. Rigby*, 909 F.3d 306 (2018), to adopt  
10 the reasoning in *In re Good*, 588 B.R. 573 (Bankr. W.D. Wash. 2018),  
11 and to overturn *In re Bankr. Petition of Wieber*, 182 Wn.2d 919  
12 (2015).

13 **Sec. 2.** RCW 6.13.010 and 1999 c 403 s 1 are each amended to read  
14 as follows:

15 (1) The homestead consists of real or personal property that the  
16 owner or a dependent of the owner uses as a residence. In the case of  
17 a dwelling house or mobile home, the homestead consists of the  
18 dwelling house or the mobile home in which the owner resides or  
19 intends to reside, with appurtenant buildings, and the land on which  
20 the same are situated and by which the same are surrounded, or

1 improved or unimproved land, regardless of area, owned with the  
2 intention of placing a house or mobile home thereon and residing  
3 thereon. A mobile home may be exempted under this chapter whether or  
4 not it is permanently affixed to the underlying land and whether or  
5 not the mobile home is placed upon a lot owned by the mobile home  
6 owner or a dependent of the owner. Property included in the homestead  
7 must be actually intended or used as the principal home for the  
8 owner.

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

12 (3) As used in this chapter, the term "net value" means market  
13 value less all liens and encumbrances senior to the judgment being  
14 executed upon and not including the judgment being executed upon.

15 (4) As used in this chapter, the term "forced sale" includes any  
16 sale of homestead property in a bankruptcy proceeding under Title 11  
17 of the United States Code. The reinvestment provisions of RCW  
18 6.13.070 do not apply to the proceeds.

19 **Sec. 3.** RCW 6.13.030 and 2007 c 429 s 1 are each amended to read  
20 as follows:

21 ~~((A homestead may consist of lands, as described in RCW 6.13.010,~~  
22 ~~regardless of area, but the homestead exemption amount shall not~~  
23 ~~exceed the lesser of (1) the total net value of the lands,~~  
24 ~~manufactured homes, mobile home, improvements, and other personal~~  
25 ~~property, as described in RCW 6.13.010, or (2) the sum of one hundred~~  
26 ~~twenty-five thousand dollars in the case of lands, manufactured~~  
27 ~~homes, mobile home, and improvements, or the sum of fifteen thousand~~  
28 ~~dollars in the case of other personal property described in RCW~~  
29 ~~6.13.010, except where)) The homestead exemption amount is the  
30 greater of:~~

31 (1) \$125,000;

32 (2) The county median sale price of a single-family home in the  
33 preceding calendar year; or

34 (3) Where the homestead is subject to execution, attachment, or  
35 seizure by or under any legal process whatever to satisfy a judgment  
36 in favor of any state for failure to pay that state's income tax on  
37 benefits received while a resident of the state of Washington from a  
38 pension or other retirement plan, ~~((in which event there shall be))~~  
39 no dollar limit ~~((on the value of the exemption))~~.

1       **Sec. 4.** RCW 6.13.070 and 1987 c 442 s 207 are each amended to  
2 read as follows:

3       (1) Except as provided in RCW 6.13.080, the homestead is exempt  
4 from attachment and from execution or forced sale for the debts of  
5 the owner up to the amount specified in RCW 6.13.030.

6       (2) In a bankruptcy case, the debtor's exemption shall be  
7 determined on the date of the bankruptcy petition. If the value of  
8 the debtor's interest in homestead property on the petition date is  
9 less than or equal to the amount that can be exempted under RCW  
10 6.13.030, then the debtor's entire interest in the property,  
11 including the debtor's right to possession and interests of no  
12 monetary value, is exempt. Any appreciation in the value of the  
13 debtor's exempt interest in the property during the bankruptcy case  
14 is also exempt.

15       (3) The proceeds of the voluntary sale of the homestead in good  
16 faith for the purpose of acquiring a new homestead, and proceeds from  
17 insurance covering destruction of homestead property held for use in  
18 restoring or replacing the homestead property, up to the amount  
19 specified in RCW 6.13.030, shall likewise be exempt for one year from  
20 receipt, and also such new homestead acquired with such proceeds.

21       ~~((2))~~ (4) Every homestead created under this chapter is  
22 presumed to be valid to the extent of all the property claimed  
23 exempt, until the validity thereof is contested in a court of general  
24 jurisdiction in the county or district in which the homestead is  
25 situated.

26       **Sec. 5.** RCW 6.13.090 and 2007 c 429 s 3 are each amended to read  
27 as follows:

28       (1) A judgment against the owner of a homestead shall become a  
29 lien on the value of the homestead property in excess of the  
30 homestead exemption from the time the judgment creditor records the  
31 judgment with the recording officer of the county where the property  
32 is located. However, if a judgment of a district court of this state  
33 has been transferred to a superior court, the judgment becomes a lien  
34 from the time of recording with such recording officer a duly  
35 certified abstract of the record of such judgment as it appears in  
36 the office of the clerk in which the transfer was originally filed. A  
37 department of revenue tax warrant filed pursuant to RCW 82.32.210  
38 shall become a lien on the value of the homestead property in excess  
39 of the homestead exemption from the time of filing in superior court.

1       (2) In the context of a bankruptcy case, the homestead exemption  
2 defined in this chapter is intended to apply to Washington residents  
3 to the extent that they move or purchase a replacement homestead in a  
4 different state. This section specifically allows the former  
5 Washington domiciliary to choose Washington exemptions when they  
6 relocate to another state. It does not prohibit an extraterritorial  
7 application and applies to property located in other states in the  
8 context of a claim of exemptions under the United States bankruptcy  
9 code.

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