

Fiscal Estimate Narratives

DOR 8/25/2009

LRB Number	09-3159/1	Introduction Number	SB-259	Estimate Type	Original
Description The homestead exemption and increases in the value of the exemption for various property that is exempt from execution					

Assumptions Used in Arriving at Fiscal Estimate

When a judgment is entered against a debtor, some of the debtor's property is "exempt from execution" (meaning that the debtor is permitted to keep up to a certain value of his or her property instead of having the property taken to pay amounts owed to creditors). The bill makes the following changes to these exemptions:

The exemption for equipment, inventory, farm products, and professional books used in the business of the debtor is increased from \$7,500 to \$15,000. In addition, if the debtor does not claim this exemption, the debtor can claim an exemption for up to \$15,000 in property owned by a "closely held business" in which the debtor is actively involved. A "closely held business" is defined as a corporation whose stock is held by no more than 25 individuals, a partnership with no more than 25 partners who are individuals, or a limited liability company of not more than 25 members who are individuals.

The exemption for consumer goods such as household goods and furnishings, wearing apparel, keepsakes, jewelry, appliances, books, musical instruments, firearms, sporting goods, animals, or other goods held primarily for personal, family, or household use of the debtor is increased from \$5,000 to \$12,000.

The exemption for motor vehicles is increased from \$1,200 to \$4,000. As under current law, this value may be increased to the extent that the debtor does not fully use the exemption for consumer goods noted in the above paragraph.

The exemption for payments to the debtor resulting from an award resulting from personal bodily injury, including payments for pain and suffering or compensation for actual pecuniary loss, is increased from \$25,000 to \$50,000.

The exemption for homestead property of a debtor is initially kept at \$40,000. Beginning in January 2011, and every 3 years thereafter, the Department of Administration must adjust the exemption amount to reflect the percentage change in the consumer price index for all urban consumers, U. S. city average, as determined by the U. S. Department of Labor, for the previous 3-year period.

The exemption for homestead property owned jointly or in common by a husband and wife can be claimed by either person or divided between them. The bill allows both the husband and wife to individually claim the exemption.

Certain types of debt are not covered by the exemptions from execution noted above. For example, the homestead exemption does not apply to mortgages; laborers', mechanics', and purchase money liens; and taxes. Based on other cross-references in Chapter 815, exemptions from execution do not apply in actions to recover unpaid real property taxes, personal property taxes, state taxes, or state agency charges. As a result, the bill is not expected to have an effect on the collection of state or local government taxes.

Long-Range Fiscal Implications