



## 2009 ASSEMBLY BILL 387

August 18, 2009 - Introduced by Representatives HEBL, SHERMAN, ROYS, BERCEAU, CLARK, POPE-ROBERTS, RICHARDS, TURNER, MOLEPSKE JR., SMITH, HINTZ, GRIGSBY, HILGENBERG, HIXSON, KESSLER, DEXTER and DANOU, cosponsored by Senators TAYLOR, LEHMAN, MILLER, VINEHOUT, LASSA, RISSER, ROBSON and HOLPERIN. Referred to Committee on Judiciary and Ethics.

1     **AN ACT** *to renumber and amend* 815.18 (3) (b); *to amend* 815.18 (3) (d), 815.18  
2           (3) (g), 815.18 (3) (i) 1. c., 815.20 (1) and (2), 815.21 (2), 815.21 (4) and 815.21  
3           (5); and *to create* 815.18 (2) (bc), 815.18 (3) (b) 2. and 815.20 (3) of the statutes;  
4           **relating to:** the homestead exemption and increases in the value of the  
5           exemption for various property that is exempt from execution.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, a debtor's interest in certain property and the value of certain property are exempt from execution, from the lien of every judgment, and from liability for the debtor's debts, allowing the debtor to keep that property rather than have the property taken to pay the amounts owed to creditors. This bill raises the value of some of the property that is exempt as shown by the following table:

<b>Property</b>	<b>Current exempt value</b>	<b>Exempt value under the bill</b>
Business equipment, inventory, farm products, and professional books	\$7,500	\$15,000
Consumer goods, including household furnishing, appliances, clothes, jewelry, sporting goods, and firearms	\$5,000	\$12,000
Motor vehicles	\$1,200	\$4,000
Payments for a personal injury	\$25,000	\$50,000

**ASSEMBLY BILL 387**

The bill also allows a person who does not take an exemption for business equipment, inventory, farm products, or professional books to take an exemption of any interest the debtor has in a closely held business, up to a maximum amount of \$15,000.

In addition, the bill requires the Department of Administration every three years, beginning in January 2011, to adjust the exemption for the debtor's homestead, currently set at \$40,000, to reflect the change in the consumer price index for all urban consumers for the previous three-year period. Current law extends the homestead exemption to land owned by a husband and wife jointly or in common and allows either to claim the exemption or to divide the exemption between them. The bill allows the husband and wife to each claim a homestead exemption of not more than the adjusted \$40,000 amount.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 815.18 (2) (bc) of the statutes is created to read:

2           815.18 (2) (bc) “Closely held business” means a corporation whose stocks are  
3 held by not more than 25 individuals, a partnership of not more than 25 partners who  
4 are individuals, or a limited liability company of not more than 25 members who are  
5 individuals.

6           **SECTION 2.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and  
7 amended to read:

8           815.18 (3) (b) 1. Equipment, inventory, farm products, and professional books  
9 used in the business of the debtor or the business of a dependent of the debtor, not  
10 to exceed \$7,500 \$15,000 in aggregate value.

11           **SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

12           815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any  
13 interest of the debtor, not to exceed \$15,000 in aggregate value, in a closely held  
14 business that employs the debtor or in whose business the debtor is actively involved.

**ASSEMBLY BILL 387**

1           **SECTION 4.** 815.18 (3) (d) of the statutes is amended to read:

2           815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing  
3           apparel, keepsakes, jewelry and other articles of personal adornment, appliances,  
4           books, musical instruments, firearms, sporting goods, animals, or other tangible  
5           personal property held primarily for the personal, family or household use of the  
6           debtor or a dependent of the debtor, not to exceed ~~\$5,000~~ \$12,000 in aggregate value.

7           **SECTION 5.** 815.18 (3) (g) of the statutes is amended to read:

8           815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed ~~\$1,200~~ \$4,000 in  
9           aggregate value. Any unused amount of the aggregate value from par. (d) may be  
10          added to this exemption to increase the aggregate exempt value of motor vehicles  
11          under this paragraph.

12          **SECTION 6.** 815.18 (3) (i) 1. c. of the statutes is amended to read:

13          815.18 (3) (i) 1. c. A payment, not to exceed ~~\$25,000~~ \$50,000, resulting from  
14          personal bodily injury, including pain and suffering or compensation for actual  
15          pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

16          **SECTION 7.** 815.20 (1) and (2) of the statutes are amended to read:

17          815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a  
18          resident owner and occupied by him or her shall be exempt from execution, from the  
19          lien of every judgment, and from liability for the debts of the owner to the amount  
20          of \$40,000, as adjusted under sub. (3), except mortgages, laborers', mechanics', and  
21          purchase money liens and taxes and except as otherwise provided. The exemption  
22          shall not be impaired by temporary removal with the intention to reoccupy the  
23          premises as a homestead nor by the sale of the homestead, but shall extend to the  
24          proceeds derived from the sale to an amount not exceeding \$40,000, as adjusted  
25          under sub. (3), while held, with the intention to procure another homestead with the

**ASSEMBLY BILL 387**

1 proceeds, for 2 years. The exemption extends to land owned by husband and wife  
2 jointly or in common or as marital property, and ~~when they reside in the same~~  
3 ~~household may be claimed by either or may be divided in any proportion between~~  
4 ~~them, but the exemption may not exceed \$40,000 for the household. If the husband~~  
5 ~~and wife fail to agree on the division of exemption, the exemption shall be divided~~  
6 ~~between them by the court in which the first judgment was taken~~ each spouse may  
7 claim a homestead exemption of not more than \$40,000, as adjusted under sub. (3).  
8 The exemption extends to the interest therein of tenants in common, having a  
9 homestead thereon with the consent of the cotenants, and to any estate less than a  
10 fee.

11 (2) Any owner of an exempt homestead against whom a judgment has been  
12 rendered and entered in the judgment and lien docket, and any heir, devisee, or  
13 grantee of the owner, or any mortgagee of the homestead, may proceed under s.  
14 806.04 for declaratory relief if the homestead is less than \$40,000, as adjusted under  
15 sub. (3), in value and the owner of the judgment shall fail, for 10 days after demand,  
16 to execute a recordable release of the homestead from the judgment owner's  
17 judgment lien.

18 **SECTION 8.** 815.20 (3) of the statutes is created to read:

19 815.20 (3) The department of administration shall adjust the amount of the  
20 homestead exemption under this section and s. 815.21 every 3 years, beginning in  
21 January 2011, or on the effective date of this subsection .... [LRB inserts date],  
22 whichever is later, to reflect the change in the consumer price index for all urban  
23 consumers, U.S. city average, as determined by the U.S. department of labor for the  
24 previous 3-year period. By March 1 of 2011, and of every 3rd year thereafter, the  
25 department of administration shall notify the director of state courts of the adjusted

**ASSEMBLY BILL 387**

1 amount of the homestead exemption, which shall apply to all executions issued on  
2 or after that date.

3 **SECTION 9.** 815.21 (2) of the statutes is amended to read:

4 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the  
5 estimate of the value thereof, the officer shall cause such lands to be surveyed,  
6 beginning at a point to be designated by the owner and set off in compact form. After  
7 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be  
8 of greater value than \$40,000, as adjusted under s. 815.20 (3), the officer may still  
9 advertise and sell the premises so set off, and out of the proceeds of such sale pay to  
10 the exempt homestead claimant the sum of \$40,000, as adjusted under s. 815.20 (3),  
11 and apply the balance of the proceeds of such sale on the execution; but no sale shall  
12 be made in the case last mentioned unless a greater sum than \$40,000, as adjusted  
13 under s. 815.20 (3), is paid for said premises. The expenses of such survey and sale  
14 shall be collected on the execution if the owner claimed as the owner's homestead a  
15 greater quantity of land or land of greater value than the owner was entitled to;  
16 otherwise such expenses shall be borne by the plaintiff.

17 **SECTION 10.** 815.21 (4) of the statutes is amended to read:

18 815.21 (4) A homestead so selected and set apart by such officer shall be the  
19 exempt homestead of such person. The costs of such notice and survey shall be  
20 collected upon the execution. A failure of the officer to set apart such homestead shall  
21 affect such levy, only as to such homestead; and the failure of such person to select  
22 that person's homestead shall not impair that person's right thereto, but only that  
23 person's right to select the same when such selection is lawfully made by such officer.  
24 After such homestead is thus set off by such officer, if, in the officer's opinion or in  
25 the opinion of the plaintiff, the premises are of greater value than \$40,000, as

**ASSEMBLY BILL 387****SECTION 10**

1 adjusted under s. 815.20 (3), the officer may sell the same as where the owner makes  
2 the selection.

3 **SECTION 11.** 815.21 (5) of the statutes is amended to read:

4 815.21 (5) If the land claimed as an exempt homestead exceeds in value  
5 \$40,000, as adjusted under s. 815.20 (3), the officer shall not be bound to set off any  
6 portion thereof but may sell the same, unless the debtor shall make the debtor's  
7 selection of such a portion thereof as shall not exceed \$40,000, as adjusted under s.  
8 815.20 (3), in value.

9 **SECTION 12. Initial applicability.**

10 (1) This act first applies to executions issued on the effective date of this  
11 subsection.

12 (END)