

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1403

(Delegate Norman, *et al.*)

Judiciary

Judicial Proceedings

Homestead Exemption - Bankruptcy - Interest in Manufactured Home

This bill authorizes a debtor, in a bankruptcy proceeding under Title 11 of the U.S. Code, to claim under the homestead exemption, his/her aggregate interest in a manufactured home that has been converted to real property in accordance with State law that the debtor occupies as a residence.

The bill applies prospectively and may not be applied or interpreted to affect any case filed before the bill's October 1, 2014 effective date.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: The bill does not directly affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: Pursuant to Chapters 546 and 547 of 2012, a “manufactured home” is converted to real property when (1) the manufactured home is attached to a permanent foundation; (2) the ownership interests in the manufactured home and the parcel of real property to which the manufactured home is affixed are identical; and (3) an affidavit of affixation complying with specified requirements has been recorded with the clerk of the court of the county in which the parcel of real property to which the manufactured home is affixed is located.

A “manufactured home” is a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet. A manufactured home is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the installed plumbing, heating, air-conditioning, and electrical systems. “Manufactured home” includes a structure that meets all of these requirements except for the size requirements and for which the manufacturer voluntarily files a specified federal certification and complies with specified federal standards.

A “money judgment” is a judgment that a specified amount of money is immediately payable to the judgment creditor. If recorded and indexed in the land records, a money judgment constitutes a lien on the debtor’s interest in real or personal property located in the county where the judgment was rendered from the date of entry. A judgment recorded and indexed in another county constitutes a lien from the date of recording. Upon the issuance of a writ of execution, a sheriff or constable may seize and sell the debtor’s legal or equitable interest in real or personal property. The sheriff or constable must execute the writ, conduct the sale, and distribute the proceeds pursuant to the Maryland Rules.

A writ of execution on a money judgment does not become a lien on the personal property of the debtor until an actual levy is made. The lien then extends only to the property included in the levy. In general, the following items are exempt from execution on a money judgment:

- up to \$5,000 of apparel, books, tools, instruments, or appliances necessary for the practice of a trade or profession, except those items kept for sale, lease, or barter;
- money payable in the event of the sickness, accident, injury, or death of any person, including compensation for loss of future earnings – the exemption includes money payable for judgments, arbitrations, compromises, insurance benefits, compensation, and relief; it does not include disability income benefits if the judgment is for necessities contracted for after the occurrence of the disability;
- professionally prescribed health aids for the debtor or any dependent;
- up to \$1,000 of household furnishings, goods, apparel, appliance, books, pets, and other items kept primarily for personal, household, or family use;
- up to \$6,000 of cash or property of any kind, if the debtor elects to exempt such cash or property within 30 days from the date of attachment or the levy by the sheriff;
- money payable or paid according to an agreement or court order for alimony, to the same extent that wages are exempt, and child support;
- the debtor’s beneficial interest in any property that was held by a husband and

wife as tenants by the entirety and subsequently conveyed to a trustee and specified proceeds of that property; and

- with respect to claims by a separate creditor of a husband or wife, property that was held by a husband and wife as tenants by the entirety and subsequently conveyed to a trustee and specified proceeds of that property.

In any federal bankruptcy proceeding under Title 11 of the U.S. Code (the federal Bankruptcy Code), an individual debtor may further exempt up to \$5,000 of personal property and the debtor's aggregate interest in (1) owner-occupied residential real property, including a condominium unit or (2) a cooperative housing corporation that owns property that the debtor occupies as a residence up to the amount allowed under federal bankruptcy law. This homestead exemption (1) may be claimed if the individual debtor and specified family members have not successfully claimed the exemption on the property within eight years prior to the filing of the bankruptcy proceeding in which the exemption is claimed and (2) may not be claimed by both a husband and wife in the same bankruptcy proceeding. The amount of the homestead exemption allowed under the federal bankruptcy law is adjusted every three years. As of April 1, 2013, the allowance is \$22,975.

The State has opted out of the federal bankruptcy exemptions that are similar to those exemptions specified above; thus, in a bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code. Under § 522(d), a debtor may exempt up to \$22,975 “in real property or personal property that the debtor or a dependent uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.”

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2014
ncs/kdm

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