

2012 -- S 2492

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE GENERALLY -- LEVY
AND SALE ON EXECUTION--PROPERTY SUBJECT TO TAXATION

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-26-4.1 of the General Laws in Chapter 9-26 entitled "Levy and
2 Sale on Execution" is hereby amended to read as follows:

3 **9-26-4.1. Homestead estate exemption.** -- (a) In addition to the property exempt from
4 attachment as set forth in section 9-26-4, an estate of homestead to the extent of ~~three hundred~~
5 ~~thousand dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) in the land and buildings
6 may be acquired pursuant to this section by an owner ~~or owners~~ of a home or ~~one or all~~ an
7 individual who rightfully ~~possess~~ possesses the ~~premise by lease~~ premises by lease, as life tenant,
8 as a beneficiary of a revocable or irrevocable trust or otherwise, and who ~~occupy or intend~~
9 occupies or intends to occupy the home as ~~a~~ his or her principal residence. The estate of
10 homestead provided pursuant to this section shall be automatic by operation of law, and without
11 any requirement or necessity for the filing of a declaration, a statement in a deed, or any other
12 documentation. The estate shall be exempt from the laws of attachment, levy on execution and
13 sale for payment of debts or legacies except in the following cases:

14 (1) Sale for taxes, sewer liens, water liens, lighting district assessments and fire district
15 assessments;

16 (2) For a debt contracted prior to the acquisition of the estate of homestead;

17 (3) For a debt contracted for the purchase of the home;

18 (4) Upon an order issued by the family court to enforce its judgment that a spouse pay a

1 certain amount weekly or otherwise for the support of a spouse or minor children;

2 (5) Where a building or buildings are situated on land not owned by the owner of a
3 homestead estate are attached, levied upon or sold for the ground rent of the lot upon which the
4 building or buildings are situated;

5 (6) for a debt due to, or a lien in favor of, the department of human services and/or the
6 state of Rhode Island for reimbursement of medical assistance, as provided for in section 40-8-15;

7 (7) For a debt heretofore or hereafter owing to a federally insured deposit taking
8 institution or a person regulated or licensed under title 19.

9 (b) For the purposes of this section, "owner of a home" includes a sole owner, lessee (but
10 only a lessee that was the owner of a home prior to transfer to the lessor) joint tenant, tenant by
11 the entirety or tenant in common; provided, that only one ~~owner~~ individual may acquire an estate
12 of homestead in the home for the benefit of his or her family; and provided further, that an estate
13 of homestead may be acquired on only one principal residence for the benefit of a family. For the
14 purposes of this section, "family" includes either a parent and child or children, a husband and
15 wife and their children, if any, or a sole owner. The provisions of this section shall not apply to
16 any debt owing to a ~~financial institution, or private mortgages,~~ regulated institution, a debt
17 secured by a mortgage or other voluntary lien on a home, or a mechanics' lien on the property
18 comprising the estate as provided for under chapter 28 of title 34. Notwithstanding any other
19 provisions of law, it shall not be necessary to record a declaration of homestead in order to take
20 advantage of the homestead estate exemption.

21 SECTION 2. Section 44-3-38 of the General Laws in Chapter 44-3 entitled "Property
22 Subject to Taxation" is hereby amended to read as follows:

23 **44-3-38. Transfer of property to trust.** -- Any exemption, freeze of tax rates and/or
24 valuation granted to any individual or individuals pursuant to this chapter is not affected if the
25 eligible individuals transfer the property to a revocable living trust pursuant to the provisions of
26 the general laws and/or pursuant to any public law or municipal ordinance shall not be affected if
27 the otherwise eligible individual: (1) Transfers an ownership interest in the property while
28 retaining a life estate in the property; or (2) Transfers an ownership interest while leasing the
29 property back, but only where the lessee was the owner of the property prior to the transfer to the
30 lessor; or (3) Transfers the property to a revocable or irrevocable living trust, if and so long as the
31 otherwise eligible individual resides in such property and the otherwise eligible individual or the
32 trustee is legally obligated to pay property tax on such property by contract, by agreement, by the
33 terms of the trust instrument, or otherwise by law. The provisions of this section shall be
34 applicable to any such transfer, regardless of when the transfer is made.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would increase the amount of the homestead exemption protected from
2 attachment from three hundred thousand dollars (\$300,000) to five hundred thousand dollars
3 (\$500,000), and it would clarify that the homestead exemption extends to persons occupying the
4 subject premises as life tenant, lessee or as a beneficiary of a trust that owns the subject property.
5 In addition, this act would provide that a tax exemption created by a public law or municipal
6 ordinance would not be affected by the transfer of an ownership interest in property when the
7 transferor retains a life estate in the property or continues to reside in the property by lease or as a
8 trust beneficiary.

9 This act would take effect upon passage.

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