

2010 -- H 7622

LC01201

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO PROPERTY - PROPERTY EXEMPT FROM ATTACHMENT, HOMESTEAD EXEMPTION AND PROPERTY TAX EXEMPTIONS

Introduced By: Representatives Jackson, JP O'Neill, A Rice, and Melo

Date Introduced: February 25, 2010

Referred To: House 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 five hundred thousand dollars ~~(\$300,000)~~ (\$500,000) in the land and buildings may be acquired
6 pursuant to this section by an owner ~~or owners~~ of a home or ~~one or all~~ an individual who
7 rightfully ~~possess~~ possesses the ~~premise by lease~~ premises by lease, as life tenant, as a beneficiary
8 of a revocable or irrevocable trust or otherwise, and who ~~occupy~~ occupies or ~~intend~~ intends to
9 occupy the home as a his or her principal residence. The estate of homestead provided pursuant to
10 this section shall be automatic by operation of law, and without any requirement or necessity for
11 the filing of a declaration, a statement in a deed, or any other documentation. The estate shall be
12 exempt from the laws of attachment, levy on execution and sale for payment of debts or legacies
13 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, joint
10 tenant, tenant by the entirety or tenant in common; provided, that only one ~~owner~~ individual may
11 acquire an estate of homestead in the home for the benefit of his or her family; and provided
12 further, that an estate of homestead may be acquired on only one principal residence for the
13 benefit of a family. For the purposes of this section, "family" includes either a parent and child or
14 children, a husband and wife and their children, if any, or a sole owner. The provisions of this
15 section shall not apply to any debt owing to a ~~financial institution, or private mortgages, regulated~~
16 institution, a debt secured by a mortgage or other voluntary lien on a home, or a mechanics' lien
17 on the property comprising the estate as provided for under chapter 28 of title 34.
18 Notwithstanding any other provisions of law, it shall not be necessary to record a declaration of
19 homestead in order to take advantage of the homestead estate exemption.

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

22 ~~44-3-38. Transfer of property to trust.~~ Transfer of property. -- Any exemption,
23 freeze of tax rates and/or valuation granted to any individual ~~or individuals pursuant to this~~
24 ~~chapter is not affected~~ if the provisions of the general laws and/or pursuant to any public law or
25 municipal ordinance shall not be affected if the otherwise eligible ~~individuals~~ individual: (1)
26 Transfers an ownership interest in the property while retaining a life estate in the property; or (2)
27 ~~transfer~~ Transfers the property to a revocable or irrevocable living trust, if and so long as the
28 otherwise eligible individual resides in such property and the otherwise eligible individual or the
29 trustee is legally obligated to pay property tax on such property by contract, by agreement, by the
30 terms of the trust instrument, or otherwise by law. The provisions of this section shall be
31 applicable to any such transfer, regardless of when the transfer is made.

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

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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EXEMPTION AND PROPERTY TAX EXEMPTIONS

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

8 This act would take effect upon passage.

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