

HOMESTEAD EXEMPTION MODIFICATION

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill increases the amounts for homestead exemptions.

Highlighted Provisions:

This bill:

▶ increases the amount of the homestead exemption from \$20,000 to \$100,000 for the primary residence for one person; and

▶ increases the amount of the homestead exemption from \$40,000 to \$150,000 for a jointly owned primary residence.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-503, as last amended by Laws of Utah 2010, Chapter 131

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-5-503** is amended to read:

78B-5-503. Homestead exemption -- Definitions -- Excepted obligations -- Water rights and interests -- Conveyance -- Sale and disposition -- Property right for federal tax



28 purposes.

29 (1) For purposes of this section:

30 (a) "Household" means a group of persons related by blood or marriage living together
31 in the same dwelling as an economic unit, sharing furnishings, facilities, accommodations, and
32 expenses.

33 (b) "Mobile home" is as defined in Section 57-16-3.

34 (c) "Primary personal residence" means a dwelling or mobile home, and the land
35 surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or
36 mobile home, in which the individual and the individual's household reside.

37 (d) "Property" means:

38 (I) a primary personal residence;

39 (ii) real property; or

40 (iii) an equitable interest in real property awarded to a person in a divorce decree by a
41 court.

42 (2) (a) An individual is entitled to a homestead exemption consisting of property in this
43 state in an amount not exceeding:

44 (I) \$5,000 in value if the property consists in whole or in part of property which is not
45 the primary personal residence of the individual; or

46 (ii) [~~\$20,000~~] \$100,000 in value if the property claimed is the primary personal
47 residence of the individual.

48 (b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a
49 homestead exemption; however

50 (i) for property exempt under Subsection (2)(a)(i), the maximum exemption may not
51 exceed \$10,000 per household; or

52 (ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not
53 exceed [~~\$40,000~~] \$150,000 per household.

54 (c) A person may claim a homestead exemption in either or both of the following:

55 (i) one or more parcels of real property together with appurtenances and improvements;

56 or

57 (ii) a mobile home in which the claimant resides.

58 (d) A person may not claim a homestead exemption for property that the person

59 acquired as a result of criminal activity.

60 (3) A homestead is exempt from judicial lien and from levy, execution, or forced sale
61 except for:

62 (a) statutory liens for property taxes and assessments on the property;

63 (b) security interests in the property and judicial liens for debts created for the purchase
64 price of the property;

65 (c) judicial liens obtained on debts created by failure to provide support or maintenance
66 for dependent children; and

67 (d) consensual liens obtained on debts created by mutual contract.

68 (4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in the
69 form of corporate stock or otherwise, owned by the homestead claimant are exempt from
70 execution to the extent that those rights and interests are necessarily employed in supplying
71 water to the homestead for domestic and irrigating purposes.

72 (b) Those water rights and interests are not exempt from calls or assessments and sale
73 by the corporations issuing the stock.

74 (5) (a) When a homestead is conveyed by the owner of the property, the conveyance
75 may not subject the property to any lien to which it would not be subject in the hands of the
76 owner.

77 (b) The proceeds of any sale, to the amount of the exemption existing at the time of
78 sale, is exempt from levy, execution, or other process for one year after the receipt of the
79 proceeds by the person entitled to the exemption.

80 (6) The sale and disposition of one homestead does not prevent the selection or
81 purchase of another.

82 (7) For purposes of any claim or action for taxes brought by the United States Internal
83 Revenue Service, a homestead exemption claimed on real property in this state is considered to
84 be a property right.

Legislative Review Note
as of 1-12-11 1:27 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 116

SHORT TITLE: Homestead Exemption Modification

SPONSOR: Urquhart, S.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

This bill will provide increased homeowner equity protection for up to 12,000 individuals from creditors in bankruptcy cases.