

SENATE BILL REPORT

SB 5866

As Reported By Senate Committee On:
Judiciary, February 28, 2007

Title: An act relating to increasing the homestead exemption amount.

Brief Description: Increasing the homestead exemption amount.

Sponsors: Senators Kline, Fairley, Kilmer, Rasmussen and Keiser.

Brief History:

Committee Activity: Judiciary: 2/16/07, 2/28/07 [DP, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Hargrove, Murray and Weinstein.

Minority Report: That it be referred without recommendation.

Signed by Senators Carrell and Roach.

Staff: Juliana Roe (786-7405)

Background: Under current law, the homestead exemption amount cannot exceed the lesser of: (1) the total net value of the lands, mobile home, improvements and other personal property; or (2) the sum of \$40,000 in the case of lands, mobile home, and improvements.

Homestead exemptions protect a certain amount of equity for a homeowner from execution by a judgment creditor. They are not effective against secured forms of credit, such as mortgages or deeds of trust. These exemptions were originally intended to protect families from losing their homes in hard times, but the increase in the cost of real estate has left the homestead exemption far behind and makes up only a nominal value compared to the cost of a home. In the Bankruptcy Reform Act of 2005, Congress recognized the validity of state homesteads of up to \$125,000 in bankruptcy.

Summary of Bill: The homestead exemption amount cannot exceed the lesser of: (1) the total net value of the lands, mobile home, improvements and other personal property; or (2) the sum of \$125,000 in the case of lands, mobile home, and improvements.

Appropriation: None.

Fiscal Note: Not requested.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The state's median price of a home has skyrocketed. In King County, the median price of a home is \$432,000. The current homestead exemption is less than 10 percent of that price for King County and is at an average of 13 percent statewide. The homestead has never been this low in the history of Washington State.

Historically, the homestead was created to protect a substantial portion of the home. It originally covered 100 percent of the cost of the home. When people are laid off, get divorced, or become ill the homestead is used to help ameliorate the financial burden that follows.

As a policy, secured forms of credit, such as mortgages, mechanics liens, deeds of trust, child support judgments, and maintenance claims are not exempted. Home ownership needs to be protected. This bill would only bring the homestead up to 43 percent of the cost of the home. This is not extravagant.

Credit would not tighten as a result of raising the homestead exemption. Texas, Iowa, and Florida have unlimited homesteads. These states do not have problems with credit.

Washington lags behind all of its neighboring states, with the exception of Oregon, when dealing with the homestead exemption. When someone is trying to decide where to invest hard earned dollars, it is important that there is incentive for them to purchase a home in Washington and not in a neighboring state. We want to encourage people to invest and save. This is the right thing to do for this state.

California uses a multi-tiered approach. But, the question that must be answered is whether Washington citizens want to base the homestead on age. What good does the homestead do when there is an elderly person who is very well off who does not need to use the exemption, compared to a 30 year old mother of two who has financial difficulties? Is that really fair? Why should we base it on age?

CON: Increasing the homestead to \$50,000 is sufficient. We cannot support an increase to \$125,000. We should model our homestead exemption after California's multi-tiered approach. There are problems with the current statutory scheme. People these days do not have money laying around to pay the sheriffs, or a year to wait around to see if they will ultimately obtain ownership of the property for which they put the money down. Current law does not take into account voluntary borrowings. These do not count against the homestead.

Another problem is that any changes will be retroactive on all judgments that are currently alive. That means judgments as old as 20 years could be effected.

This is primarily a bankruptcy issue. There may be adverse effects. Bankruptcy filings may increase and creditors would bear the brunt and the cost would be passed onto the consumers. It may create an increase in interest rates on unsecured loans.

States, such as Texas and Florida, have become havens since the 2005 bankruptcy law changed. Washington has had the ability to change the homestead amount since 1998 and we

don't see this as an invitation. Nearby states, such as Oregon and Utah, have homesteads even lower than Washington's. We should do what is right for Washington and only increase the homestead to \$50,000.

The number \$125,000 was randomly chosen. There was no analysis to support the basis for the increase. If it is changed to \$125,000, then unmarried couples can get up to \$125,000 a piece. This bill was put together in a piece meal, thoughtless manner. If we want to protect the elderly, then we should look at California. There ultimately needs to be a thorough analysis of the exemption laws in their entirety.

Persons Testifying: PRO: Martin Snodgrass, Washington State Bar Association; Fred Corbit, Washington State Bar Association.

CON: Patrick Layman, Bishop, White & Marshall; Ray Henning, Washington Collectors Association; Kathy Ellis, attorney; Michael Hitt, attorney.