

LEGISLATIVE BILL 372

Approved by the Governor May 27, 1997

Introduced by Kristensen, 37; Landis, 46

AN ACT relating to exemptions; to amend sections 25-1552, 25-1556, 25-1557, 40-101, and 40-103, Reissue Revised Statutes of Nebraska; to change execution and homestead exemption provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-1552, Reissue Revised Statutes of Nebraska, is amended to read:

25-1552. All debtors who do not have lands, town lots, or houses subject to exemptions as a homestead under sections 40-101 to 40-116. Each natural person residing in this state shall have exempt from forced sale on execution the sum of twenty-five thousand five hundred dollars in personal property, except wages. The provisions of this section shall not, in any manner, do not apply to the exemption of wages, that subject being fully provided for by section 25-1558. In proceedings involving a writ of execution, the exemption from execution under this section shall be claimed in the manner provided by section 25-1516. The debtor desiring to claim an exemption from execution under this section shall, at the time the request for hearing is filed, file a list of the whole of the property owned by the debtor and an indication of the items of property which he or she claims to be exempt from execution pursuant to this section and section 25-1556, along with a value for each item listed. The debtor or his or her authorized agent may select from the list an amount of property not exceeding the value exempt from execution under this section according to the debtor's valuation or the court's valuation if the debtor's valuation is challenged by a creditor.

Sec. 2. Section 25-1556, Reissue Revised Statutes of Nebraska, is amended to read:

25-1556. No property hereinafter mentioned shall be liable to attachment, execution, or sale on any final process issued from any court in this state, against any person being a resident of this state: (1) The immediate personal possessions of the debtor and his or her family; and (2) all necessary wearing apparel of the debtor and his or her family; all kitchen utensils and household furniture, to be selected by the debtor, not exceeding in value fifteen hundred dollars; all equipment or tools used by the debtor or his family for their own support not exceeding fifteen hundred dollars in value; the provisions for the debtor and his family necessary for six months' support, either provided or growing, or both; and fuel necessary for six months. All of the articles hereinbefore intended to be exempt shall be chosen by the debtor, his agent, clerk or legal representative, as the case may be (3) the debtor's interest, not to exceed an aggregate fair market value of one thousand five hundred dollars, in household furnishings, household goods, household computers, household appliances, books, or musical instruments which are held primarily for personal, family, or household use of such debtor or the dependents of such debtor; (4) the debtor's interest, not to exceed an aggregate fair market value of two thousand four hundred dollars, in implements, tools, or professional books or supplies held for use in the principal trade or business of such debtor or his or her family, which may include one motor vehicle used by the debtor in connection with his or her principal trade or business or to commute to and from his or her principal place of trade or business; and (5) the debtor's interest in any professionally prescribed health aids for such debtor or the dependents of such debtor. The specific exemptions in this section shall be selected by the debtor or his or her agent, clerk, or legal representative in the manner provided in section 25-1552.

Sec. 3. Section 25-1557, Reissue Revised Statutes of Nebraska, is amended to read:

25-1557. Nothing in this chapter shall be so construed as to exempt any property in this state from execution or attachment for clerks', laborers' or mechanics' wages; or for money due and owing by an attorney at law for money or other valuable consideration received by such attorney for any person or persons unpaid wages; for money due and owing by an attorney at law for money or other valuable consideration received by such attorney for any person or persons; or for enforcement of an award of or judgment for child support, alimony, or maintenance or a judgment for property division awarded to a

former spouse.

Sec. 4. Section 40-101, Reissue Revised Statutes of Nebraska, is amended to read:

40-101. A homestead not exceeding ten twelve thousand five hundred dollars in value shall consist of the dwelling house in which the claimant resides, its appurtenances, and the land on which the same is situated, not exceeding one hundred and sixty acres of land, to be selected by the owner, and not in any incorporated city or village, or, at the option of the claimant, a quantity of contiguous land not exceeding two lots within any incorporated city or village, and shall be exempt from judgment liens and from execution or forced sale, except as provided in sections 40-101 to 40-116.

Sec. 5. Section 40-103, Reissue Revised Statutes of Nebraska, is amended to read:

40-103. The homestead is subject to execution or forced sale in satisfaction of judgments obtained (1) on debts secured by mechanics', laborers', or vendors' liens upon the premises, and (2) on debts secured by mortgages or trust deeds upon the premises executed and acknowledged by both husband and wife, or an unmarried claimant.

Sec. 6. Sections 5, 6, 7, and 9 of this act become operative on their effective date. The other sections of this act become operative three calendar months after adjournment of this legislative session.

Sec. 7. Original section 40-103, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 8. Original sections 25-1552, 25-1556, 25-1557, and 40-101, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.