

HOUSE BILL NO. 550

INTRODUCED BY KEMMIS, VAN VALKENBURG, DOZIER, YARDLEY

IN THE HOUSE

January 28, 1981	Introduced and referred to Committee on Taxation.
February 13, 1981	Committee recommend bill do pass as amended. Report adopted.
February 14, 1981	Bill printed and placed on members' desks.
February 17, 1981	Second reading, do pass.
February 18, 1981	Correctly engrossed.
February 19, 1981	Third reading, passed. Ayes, 96; Noes, 3. Transmitted to Senate.

IN THE SENATE

February 20, 1981	Introduced and referred to Committee on Business and Industry.
March 17, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in as amended. Ayes, 47; Noes, 1.

IN THE HOUSE

March 23, 1981	Returned from Senate with amendments.
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April 7, 1981

Second reading, amendments
concurrent in.

On motion rules suspended
and bill placed on third
reading this day.

Third reading, amendments
concurrent in. Ayes, 81;
Nays, 14. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 550

INTRODUCED BY

Kenneth DeValley

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE HOMESTEAD EXEMPTION LAWS; INCREASING THE EXEMPTION TO \$40,000; INCLUDING MOBILE HOMES WITHIN THE EXEMPTION; ALLOWING ALL PERSONS TO CLAIM THE EXEMPTION; ALLOWING THE EXEMPTION TO BE CLAIMED AFTER A JUDGMENT IS RECORDED; AMENDING SECTIONS 25-13-614, 25-13-617, 70-32-101, 70-32-103 THROUGH 70-32-106, AND 70-32-202, MCA; AND REPEALING SECTION 70-32-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-32-101, MCA, is amended to read:

"70-32-101. Of what homestead consists. The homestead consists of the dwelling house or mobile home, and all appurtenances, in which the claimant resides and the land, if any, on which the same is situated, selected as in this chapter provided."

Section 2. Section 70-32-103, MCA, is amended to read:

"70-32-103. From whose property it may be selected. If the claimant be married, the homestead may be selected from the property of either spouse. When the claimant is not married ~~but is head of a family within the meaning of 70-32-102,~~ the homestead may be selected from any of his or

her property."

Section 3. Section 70-32-104, MCA, is amended to read:

"70-32-104. Limitations on quantity and value which may be selected. (1) Homesteads may be selected and claimed consisting of:

(a) ~~consisting of any~~ a quantity of land not exceeding 320 acres used for agricultural purposes and the dwelling house or mobile home thereon and its appurtenances and not included in any ~~town-plot-city-or-village~~ municipality; or

~~(b) a quantity of land not in a municipality, not exceeding 5 acres and not used for agricultural or commercial purposes, and the dwelling house or mobile home thereon and its appurtenances; or~~

~~(b)(c) a quantity of land within a municipality, not exceeding in amount one-fourth of an 1 acre, being within a town-plot-city-or-village and the dwelling house or mobile home thereon and its appurtenances.~~

(2) Such homestead, in either case, shall not exceed in value the sum of ~~\$20,000~~ \$40,000. However, in any proceedings instituted to determine the value of such homestead, the assessed value of ~~such the~~ land with included appurtenances, if any, and of ~~such the~~ dwelling house as appears on the last completed assessment roll preceding the institution of such proceedings shall be prima facie evidence of the value of the property claimed as a

1 homestead."

2 Section 4. Section 70-32-105, MCA, is amended to read:

3 "70-32-105. Mode of selection -- declaration required.

4 ~~in order to select the person selecting a homestead, the~~
 5 ~~head of a family~~ must execute and acknowledge, in the same
 6 manner as a grant of real property is acknowledged, a
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9 "70-32-106. Contents of declaration. The declaration
 10 of homestead must contain*

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 15 on the premises and claims them as a homestead; and

16 (3) a description of the premises;

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18 Section 6. Section 70-32-202, MCA, is amended to read:

19 "70-32-202. Execution allowed under certain judgments.

20 The homestead is subject to execution or forced sale in
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22 ~~(1) before the declaration of homestead was filed for~~
 23 ~~record and which constitute liens upon the premises;~~

24 (2)(1) on debts secured by mechanics' or vendors'
 25 liens upon the premises;

1 (3)(2) on debts secured by mortgages on the premises,
 2 executed and acknowledged by the husband and wife or by an
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4 (4)(2) on debts secured by mortgages on the premises,
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7 Section 7. Section 25-13-614, MCA, is amended to read:

8 "25-13-614. Earnings of judgment debtor. (1) The
 9 earnings of the judgment debtor for his personal services
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 12 affidavit or otherwise that such earnings are necessary for
 13 the use of his family supported in whole or in part by his
 14 labor, are exempt; but where debts are incurred by any such
 15 person or his wife or family for gasoline and for the common
 16 necessities of life, then the one-half of such earnings are
 17 nevertheless subject to execution, garnishment, and
 18 attachment to satisfy debts so incurred.

19 (2) The words "his family", as used in this section,
 20 are to be construed ~~with the words "head of family", as used~~
 21 ~~in 70-32-102, to include:~~

22 (a) the judgment debtor's spouse;

23 (b) every person who resides with the judgment debtor
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25 (i) a minor child of the judgment debtor or of his

1 spouse or former spouse;
 2 (iii) a minor grandchild, brother, or sister or minor
 3 child of a brother or sister of the judgment debtor or of
 4 his spouse;
 5 (iiii) a father, mother, grandfather, or grandmother of
 6 the judgment debtor or of his spouse or former spouse;
 7 (iv) an unmarried sister, brother, or any other
 8 relative of the judgment debtor mentioned in this section
 9 who has attained the age of majority and is unable to care
 10 for or support himself."

11 Section 8. Section 25-13-617, MCA, is amended to read:

12 "25-13-617. Truck or automobile. (1) In addition to
 13 all other exemptions, one truck or automobile of the value
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11 Section 9. Repealer. Section 70-32-102, MCA, is
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HB 550

Approved by Committee
on Taxation

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(a) ~~consisting of any~~ a quantity of land not exceeding 320 acres used for agricultural purposes and the dwelling house or mobile home thereon and its appurtenances and not included in any ~~town-plot-city-or-village~~ municipality; or
(b) a quantity of land not in a municipality, not exceeding 5-acres 1 ACRE and not used for agricultural or commercial purposes, and the dwelling house or mobile home thereon and its appurtenances; or

~~(b)(c)~~ (c) a quantity of land within a municipality, not exceeding ~~in amount one-fourth of an~~ ± ONE-FOURTH OF AN acre, being ~~within a town-plot-city-or-village~~ and the dwelling house or mobile home thereon and its appurtenances.

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 13 all other exemptions, one truck or automobile of the value
 14 of not more than ~~\$300~~ \$1,000 is exempt from attachment or
 15 execution where the debtor is the head of a family or over
 16 60 years of age; but where debts are incurred by any such
 17 debtor or his wife or family for the common necessities of
 18 life, then such truck or automobile is nevertheless subject
 19 to attachment and execution to satisfy debts so incurred.

20 (2) The words "his family", as used in this section,
 21 are to be construed with ~~the words "head-of-family"~~ as used
 22 ~~in 70-32-102~~ to include:

- 23 (a) the debtor's spouse;
- 24 (b) every person who resides with the debtor under his
- 25 care or maintenance and who is:

1 (i) a minor child of the debtor or of his spouse or
 2 former spouse;
 3 (ii) a minor grandchild, brother, or sister or minor
 4 child of a brother or sister of the debtor or of his spouse;
 5 (iii) a father, mother, grandfather, or grandmother of
 6 the debtor or of his spouse or former spouse;
 7 (iv) an unmarried sister, brother, or any other
 8 relative of the debtor mentioned in this section who has
 9 attained the age of majority and is unable to care for or
 10 support himself."

11 Section 9. Repealer. Section 70-32-102, MCA, is
 12 repealed.

-End-