

HOUSE BILL NO. 550

INTRODUCED BY KEMMIS, VAN VALKENBURG, DOZIER, YAROLEY

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 concurred in.

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

Third reading, amendments concurred in. Ayes, 81; Noes, 14. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 550

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE HOMESTEAD
5 EXEMPTION LAWS; INCREASING THE EXEMPTION TO \$40,000;
6 INCLUDING MOBILE HOMES WITHIN THE EXEMPTION; ALLOWING ALL
7 PERSONS TO CLAIM THE EXEMPTION; ALLOWING THE EXEMPTION TO BE
8 CLAIMED AFTER A JUDGMENT IS RECORDED; AMENDING SECTIONS
9 25-13-614, 25-13-617, 70-32-101, 70-32-103 THROUGH
10 70-32-106, AND 70-32-202, MCA; AND REPEALING SECTION
11 70-32-102, MCA."

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

14 Section 1. Section 70-32-101, MCA, is amended to read:
15 "70-32-101. Of what homestead consists. The homestead
16 consists of the dwelling house or mobile home and all
17 appurtenances in which the claimant resides and the lands
18 if any, on which the same is situated, selected as in this
19 chapter provided."

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

21 "70-32-103. From whose property it may be selected. If

22 the claimant be married, the homestead may be selected from

23 the property of either spouse. When the claimant is not

24 married but is head of a family within the meaning of

25 70-32-102, the homestead may be selected from any of his or

1 her property.*

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

3 "70-32-104. Limitations on quantity and value which

4 may be selected. (1) Homesteads may be selected and claimed

5 consisting of:

14 fbfcl a quantity of land within a municipality, not
15 exceeding in amount one-fourth of an 1 acre, being within a
16 town-plot-city-or-village and the dwelling house or mobile
17 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

7 declaration of homestead and file the same for record."

8 Section 5. Section 70-32-106, MCA, is amended to read:

9 "70-32-106. Contents of declaration. The declaration

10 of homestead must contain:

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13 ~~declaration--this--fact--shall--be--stated--~~

14 ~~(2)~~ a statement that the person making it is residing

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

16 ~~(3)~~ a description of the premises;

17 ~~(4)--an--estimate--of--their--actual--cash--value--~~

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

21 satisfaction of judgments obtained:

22 ~~(1)--before--the--declaration--of--homestead--was--fitted--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

3 unmarried claimant; or

4 ~~(4)(3)~~ on debts secured by mortgages on the premises,

5 executed and recorded before the declaration of homestead

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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

10 rendered at any time within 45 days next preceding the levy

11 of execution or attachment, when it appears by the debtor's

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

24 under his care or maintenance and who is;

25 ~~(c)~~ 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 (iv) 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
14 of not more than \$300 is exempt from attachment or execution
15 where the debtor is the head of a family or over 60 years of
16 age; but where debts are incurred by any such debtor or his
17 wife or family for the common necessities of life, then such
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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
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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
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HB 550

Approved by Committee
on Taxation

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18 if any, on which the same is situated, selected as in this
19 chapter provided."

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

21 "70-32-103. From whose property it may be selected. If

22 the claimant be married, the homestead may be selected from

23 the property of either spouse. When the claimant is not

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3 "70-32-104. Limitations on quantity and value which
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16 acre, being-within-a-town-plotv-cityv--or--village and the
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23 record--and--which--constitute--liens--upon--the--premises~~is~~

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8 "25-13-614. Earnings of judgment debtor. (1) The

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16 necessaries 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 70-32-202, to include:

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23 (b) every person who resides with the judgment debtor

24 under his care or maintenance and who is:

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 2 (iii) a minor grandchild, brother, or sister or minor
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 4 his spouse;
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 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
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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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 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-