

2015 -- H 5637

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY - LEVY  
AND SALE ON EXECUTION

Introduced By: Representative Robert B. Jacquard

Date Introduced: February 25, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-26-4.1 of the General Laws in Chapter 9-26 entitled "Levy and  
2 Sale on Execution" is hereby amended to read as follows:

3 **9-26-4.1. Homestead estate exemption.** -- (a) In addition to the property exempt from  
4 attachment as set forth in § 9-26-4, an estate of homestead to the extent of five hundred thousand  
5 dollars (\$500,000) in the land and buildings, or personal property that the owner uses as a  
6 residence, may be acquired pursuant to this section by an owner of a home or an individual who  
7 rightfully possesses the premises by lease, as a life tenant, as a beneficiary of a revocable or  
8 irrevocable trust or otherwise, and who occupies or intends to occupy the home as his or her  
9 principal residence. The estate of homestead provided pursuant to this section shall be automatic  
10 by operation of law, and without any requirement or necessity for the filing of a declaration, a  
11 statement in a deed, or any other documentation. The estate shall be exempt from the laws of  
12 attachment, levy on execution and sale for payment of debts or legacies except in the following  
13 cases:

14 (1) Sale for taxes, sewer liens, water liens, lighting district assessments and fire district  
15 assessments;

16 (2) For a debt contracted prior to the acquisition of the estate of homestead;

17 (3) For a debt contracted for the purchase of the home;

18 (4) Upon an order issued by the family court to enforce its judgment that a spouse pay a

1 certain amount weekly or otherwise for the support of a spouse or minor children;

2 (5) Where a building or buildings are situated on land not owned by the owner of a  
3 homestead estate are attached, levied upon or sold for the ground rent of the lot upon which the  
4 building or buildings are situated;

5 (6) for a debt due to, or a lien in favor of, the department of human services and/or the  
6 state of Rhode Island for reimbursement of medical assistance, as provided for in § 40-8-15;

7 ~~(7) For a debt heretofore or hereafter owing to a federally insured deposit taking  
8 institution or a person regulated or licensed under title 19.~~

9 (b) For the purposes of this section, "owner of a home" includes a sole owner, lessee (but  
10 only a lessee that was the owner of a home prior to a transfer to the lessor) joint tenant, tenant by  
11 the entirety or tenant in common; provided, that only one individual may acquire an estate of  
12 homestead in the home for the benefit of his or her family; and provided further, that an estate of  
13 homestead may be acquired on only one principal residence for the benefit of a family. For the  
14 purposes of this section, "family" includes either a parent and child or children, a husband and  
15 wife and their children, if any, or a sole owner. The provisions of this section shall not apply to  
16 any debt owing to a regulated institution, a debt secured by a mortgage or other voluntary lien on  
17 a home, or a mechanics' lien on the property comprising the estate as provided for under chapter  
18 28 of title 34. Notwithstanding any other provisions of law, it shall not be necessary to record a  
19 declaration of homestead in order to take advantage of the homestead estate exemption.

20 (c) An estate of homestead shall be subordinate to a mortgage encumbering the home  
21 executed by all the owners of the home. For purposes of this chapter, a mortgage shall include an  
22 instrument granting a security interest in a manufactured home or cooperative housing unit. The  
23 subordination shall not require the signature of a spouse who is not an owner. A mortgage  
24 executed by fewer than all of the owners of a home that is subject to an estate of homestead shall  
25 be superior only to the homestead estate of the owners who are parties to the mortgage and their  
26 non-titled spouses and minor children, if any.

27 No statement that a homestead estate shall be subordinate to the mortgage shall be  
28 required in the mortgage instrument and nothing contained in a mortgage or any document  
29 executed in connection with the mortgage shall affect or be construed to create, modify, or  
30 terminate a homestead estate, other than to subordinate it to the mortgage as aforesaid. A  
31 mortgage lender shall not require or record a release of homestead in connection with the making  
32 and recording of a mortgage.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 1           This act would provide that personal property that the owner uses as a residence would be
- 2 subordinate to a mortgage encumbering the property.
- 3           This act would take effect upon passage.

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