

## Maine’s Exemption Laws Are Changing

In March of this year, Representative Denise Tepler (D. Topsham) introduced “An Act To Increase the Value of Property Exempt from Attachment and Execution,” LD 737, which sought to dramatically change Maine’s exemption scheme. A number of individuals spoke in favor of the bill. Members of the bankers and creditors communities, including Bill Kany on behalf of Maine Bankers, the Standing Chapter 13 Trustee in the District of Maine, and a Chapter 7 Trustee, spoke against the bill at public hearing. A stakeholders’ group was formed to discuss and attempt to revise the bill to reach a commonsense update to Maine’s exemptions. The author had the honor of participating in the stakeholders group meetings.

After more than a month of discussions and meetings, a revised bill was reached. Although drastic alterations to existing law were avoided, the revised bill—which was enacted into law and should be effective October 28, 2021—contains significant and important changes for Maine Bankers Association members.

### Background

As brief background, Title 14 M.R.S. section 4422 contains most of what are commonly known as exemptions under Maine law. Debtors and consumers primarily use exemptions when they file for bankruptcy protection, but section 4422 also applies outside of the bankruptcy context. The exemption statutes protect certain property from attachment or execution when the creditor seeks to collect debts.

When the current United States Bankruptcy Code was enacted, states were given the option to use exemptions contained in the Bankruptcy Code, or “opting out” and creating or using the state’s own exemption scheme. Maine is an opt out state, so it uses its own exemption scheme, which has, with some changes, largely been consistent for the last several decades.

### General Changes

In general, amounts of the exemptions are increased, as many of the exemption amounts have not changed in decades. The following chart shows the changes in amounts.

Property	Prior Amount	General Changes
Residence (individual)	\$47,500*	\$80,000*
Residence (over 60 or disabled)	\$95,000*	\$160,000
Motor vehicle	\$7,500	\$10,000
Clothing; furniture; appliances; and similar items	\$200	\$500
Jewelry	\$750**	\$1,000**
Tools of the trade	\$5,000	\$9,500

Life insurance dividends, interest and loan value	\$4,000	\$5,000
Retirement funds	\$1,000,000	\$1,054,550
Legal awards (personal bodily injury)	\$12,500	\$20,000
Other property (sometimes referred to as wildcard)	\$400	\$500
Unused residence exemption for other exemptions	\$6,000	\$10,500
Cash; bank account (new)	\$0	\$3,000

\* The residence exemption has certain features that enhance the amount and other conditions, as discussed below.

\*\* The jewelry exemption had a provision that courts have interpreted to allow a wedding and engagement ring in an unlimited amount. The new law attempts to close that loophole by limited the aggregate amount of a wedding and engagement ring to \$4,000.

In addition, these amounts are to be indexed to the Consumer Price Index for All Urban Consumers every three years. In a nod to simplicity, the new law rounds those indexed amounts to the next \$50.

A few of the changes in the new law warrant some additional discussion.

**Residence Exemption**

The residence exemption changed in several respects. The residence exemption in Maine has for decades provided for enhanced exemption amounts for Maine residents over 60 or disabled, and those with minor dependents living with them. Those amounts have all gone up, but not uniformly.

For Mainers under 60, who are not disabled, with no children, the exemption amount increases from \$47,500 to \$80,000. For those with minor dependents residing with them, that amount increases to \$160,000. For those over 60 or disabled, the exemption amount increased from \$95,000 to \$160,000. Where a debtor has a fractional interest, the amount of the exemption that can be claimed is the lesser of \$160,000 or the product of the fractional share of the debtor’s interest times \$240,000.

Additionally, in an effort to protect older Mainers and allow them to keep their homes when their spouse passes, the new statute allows for the surviving spouse to keep the maximum exemption, if the deceased joint owner is 67 or older and the surviving spouse is 60 or older. So, if a couple’s maximum exemption is \$240,000, and a spouse who is 67 or older passes, provided that the surviving spouse is 60 or older, the surviving spouse can claim \$240,000 exemption in her or his residence.

**Cash; Bank Account Exemption**

The statute has a new exemption for cash and bank accounts, which consumer attorneys and groups

believe will assist debtors in bankruptcy achieve their fresh start. This exemption allows a debtor to claim as exempt the amount of \$3,000 in cash or a bank account. The new statute also seeks to avoid confusion and litigation for instances where a debtor has an interest in more than one bank account. This provision allows for a plaintiff, defendant, or any account owner to file an ex parte motion for dissolution or modification in the court in which a judgment or prejudgment order was entered for a hearing to establish how and to which account any exemption should be applied. Rather than financial institutions guessing whether their customer's interest is protected from attachment or execution, this section will provide a hopefully simple procedure to determine those issues.

Overall, the changes to Maine's exemption scheme are a long-needed update. They should allow more consumer debtors to seek bankruptcy protection effectively while balancing the rights of creditors in Maine.

*Prepared by Preti Flaherty attorney Anthony J. Manhart on behalf of Maine Bankers Association.  
To learn more about Jason, you can visit his page [here](#).*

