

---

---

# A BILL FOR AN ACT

RELATING TO HOMESTEAD EXEMPTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the coronavirus  
2 disease 2019 (COVID-19) pandemic and governmental responses to  
3 contain the spread of COVID-19 have precipitated an economic  
4 contraction on a global, national, and local scale. In Hawai'i,  
5 this economic contraction ballooned the State's unemployed  
6 population from its 2019 level of 2.8 per cent to its peak level  
7 of 23.8 per cent in May 2020. Additionally, nearly half of the  
8 households in the State have seen a decline in income due to the  
9 COVID-19 pandemic.

10           The legislature further finds that this economic  
11 contraction has exacerbated the economic strain felt by Hawai'i  
12 families due to the high cost of living. The percentage of  
13 persons who are not current on their mortgage loans more than  
14 doubled from 2019 to 2020. This will likely lead to a surge of  
15 foreclosures in the State.

16           To keep families in their homes, the legislature believes  
17 it is necessary to raise the afforded homestead exemption in



1 bankruptcy proceedings. The amount of the homestead exemption  
2 in the State has not been adjusted since 1978; however, \$1 in  
3 1978 has the same buying power of more than \$4 in 2020.

4 The purpose of this Act is to increase the homestead  
5 exemption for all persons to \$350,000 and specify that the real  
6 property be the principal residence.

7 SECTION 2. Section 651-92, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§651-92 Real property exempt. (a) Real property shall  
10 be exempt from attachment or execution [~~as follows:~~

11 ~~(1) An interest in one parcel of real property in the~~  
12 ~~State of Hawaii, of a fair market value not exceeding~~  
13 ~~\$30,000, owned by the defendant who is either the head~~  
14 ~~of a family or an individual sixty five years of age~~  
15 ~~or older.~~

16 ~~(2) An] for an interest in one parcel of real property in~~  
17 ~~the State of Hawaii, of a fair market value not~~  
18 ~~exceeding [~~\$20,000,~~] \$350,000, owned by the defendant~~  
19 ~~who is a person[-] and is the person's principal~~  
20 ~~residence.~~



1           **(b)** The fair market value of the interest exempted in  
2 ~~[paragraph (1) or (2)]~~ this section shall be determined by  
3 appraisal and shall be an interest which is over and above all  
4 liens and encumbrances on the real property recorded prior to  
5 the lien under which attachment or execution is to be made.  
6 ~~[Not]~~ No more than one exemption shall be claimed on any one  
7 parcel of real property even though more than one person  
8 residing on such real property may otherwise be entitled to an  
9 exemption.

10           **(c)** Any claim of exemption under this section made before  
11 ~~[May 27, 1976,]~~ the effective date of this Act shall be deemed  
12 to be amended on ~~[May 27, 1976,]~~ the effective date of this Act  
13 by increasing the exemption to the amount permitted by this  
14 section on ~~[May 27, 1976,]~~ the effective date of this Act to the  
15 extent that such increase does not impair or defeat the right of  
16 any creditor who has executed upon the real property prior to  
17 ~~[May 27, 1976.]~~ the effective date of this Act.

18           ~~[(b)]~~ **(d)** No exemption authorized under this section shall  
19 apply to process arising from:

20           (1) A lien as provided by section 507-42;



- 1 (2) A lien or security interest created by a mortgage,  
2 security agreement, or other security instrument;
- 3 (3) A tax lien in the name of the federal or state  
4 government;
- 5 (4) An improvement district lien of any county of the  
6 State; or
- 7 (5) A lien or encumbrance recorded against the real  
8 property prior to the acquisition of interest in and  
9 commencement of residence on such real property."

10 SECTION 3. Section 651-96, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§651-96 After sale, money equal to real property**  
13 **exemption protected.** The money paid to the defendant as the  
14 defendant's exemption shall be entitled, for the period of six  
15 months thereafter, to the same protection against attachment and  
16 execution which section 651-92 gives to the real property. If  
17 the defendant, within [~~such~~] the six-month period, applies  
18 [~~such~~] the proceeds to the purchase of real property, the date  
19 of [~~such~~] the acquisition and commencement of residence for the  
20 purpose of [~~section 651-92(b)(5),~~] section 651-92(d)(5) shall be  
21 considered to be the date of the acquisition of interest in and



1 commencement of residence on the real property whose sale  
2 resulted in [~~such~~] the proceeds."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Bankruptcy; Homestead Exemption

**Description:**

Increases the homestead exemption for all persons to \$350,000 and requires that the real property be the principal residence. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

