

# Senate Ways and Means Committee

*Sonja Caldwell 271-2117*

**HB 617**, relative to the homestead right.

**Hearing Date:** April 16, 2025

**Members of the Committee Present:** Senators Lang, Murphy, Sullivan, Rosenwald and Fenton

**Members of the Committee Absent :** None

**Bill Analysis:** This bill increases the homestead right to \$1,000,000 and adds additional exemptions for its usage.

---

**Sponsors:**  
Rep. Litchfield

---

**Who supports the bill:** Rep. Melissa Litchfield, Leonard Deming (Bankruptcy Debtors), Peter Tamposi (Bankruptcy Debtors), Malcolm Blackwood (Bankruptcy Debtors), Eric Pauer

**Who opposes the bill:** Ryan Hale and Rob Dietel (NH Bankers Association), Sarahlynn Williams

**Who is neutral on the bill:** no one

**Summary of testimony presented in support:**  
**Representative Melissa Litchfield**

- Rep. Litchfield explained that the homestead right is already current law; HB 617 simply updates the statute to reflect the modern housing market in NH.
- Currently, the homestead exemption protects up to \$120,000 for a single person and \$240,000 for a married couple.
- HB 617 would increase the exemption to \$1 million for all individuals, regardless of marital status.
- The goal is to protect homeowners from losing their homes due to civil suits, medical bills, or other debts — not to erase debt, but to protect the roof over their heads.
- Rep. Litchfield noted that she added several “bumpers” to the bill:
  - The home may be held in a trust.

- The property must have been the individual's primary residence for at least the previous 12 months.
- If the home is sold while under litigation, the homeowner has 6 months to reinvest in a new residence.
- Exemptions remain for property taxes, income taxes, and mortgages, meaning a person can still lose their home for failing to pay those obligations.
- Lenders uncomfortable with the exemption may still require borrowers to waive homestead rights when taking out a loan.
- Offered housing market examples from Jan. 2025:
  - Portsmouth median sale: \$895,000; the list was \$1.3 million
  - Atkinson median list: \$1.3 million
  - Windham median: \$895,000
  - Alton median sale: \$785,000, list: \$1.498 million.
- Rep. Litchfield sponsored the bill after being approached by two constituents with different political affiliations, believing the bill would be bipartisan. However, House Democrats preferred a \$500,000 cap instead.
- Rep. Litchfield argued that even at \$500,000, many homes wouldn't be fully protected given today's market.
- Some states have an unlimited homestead right and others have a \$1 million limit.
- She clarified that the exemption applies to individuals, not corporations, though it may apply to a beneficiary of a qualifying trust. The exemption does not apply to claims existing before the homestead was acquired.
- She believes the exemption should not penalize single individuals, as home costs are the same regardless of marital status.

**Senator Lang** asked about the median home sale price in NH.

**Rep. Litchfield** said the most recent number she remembered was around \$489,000, though she wasn't certain if it was the median or average. She emphasized wide variations in values across New Hampshire.

### **Leonard Deming, Attorney Representing Bankruptcy Debtors**

- Mr. Deming urged passage of a much higher homestead exemption, consistent with this bill.
- He said it was routine for debtors in bankruptcy to assert the non-owning spouse living in a home had a homestead exemption of an additional \$120,000 and that was the practice in NH for decades until the *Brady v. Sumski* (2023) ruling, which held that only one spouse could claim a homestead exemption, reversing long-standing practice.

- Mr. Deming warned that low exemptions make it easier for bankruptcy trustees to take homes, especially under Chapter 7.
- Argued the bill is essential due to increased home values and high median income in NH.
- Mr. Deming said people are being pushed into Chapter 13 repayment plans, which often fail, forcing conversion to Chapter 7 and resulting in loss of homes.
- Supported the six-month reinvestment protection and suggested further clarifying that the sale proceeds be kept in a separate account to remain exempt.
- Referenced federal protections which prevent debtors from buying a home shortly before bankruptcy to claim an exemption.
- He questioned the requirement for written notice to the sheriff, calling it superfluous because the statute already gives the exemption, and the sheriff would have to respect that regardless of whether notice is given. Public notice is already given by the reporting in the registry of deeds.
- He explained that if someone files bankruptcy today and has over \$120,000 in equity, they are subject to losing their home to a Chapter 7 trustee.

**Senator Rosenwald** asked how common it is in NH for two people who are married to not mingle their finances so that only one spouse files bankruptcy.

**Mr. Deming** said it is not unusual for spouses to do one or the other; some keep finances separate while others own everything jointly.

### **Peter Tamposi, Attorney – Bankruptcy Debtors**

- Mr. Tamposi expressed support for the bill and stated he was an attorney in Nashua who represents small businesses and entrepreneurs.
- He said that the bill protects small business owners, who often take risks and need a robust bankruptcy system behind them.
- If a bankruptcy is filed, it often leads to the business owner losing their home and any opportunity to start a new business.
- Fundamental to the Bankruptcy code is the homestead exemption.
- NH is behind the times with its low homestead exemption amount inconsistent with the value of properties.
- He warned of merchant cash advance (MCA) loans with 30–50% interest rates, which have caused dozens of bankruptcies recently.
- He noted that the bill will not affect mortgages. He said every mortgage contains a waiver of homestead rights, so the bill will not adversely impact mortgage lenders.

**Senator Lang** asked whether medical debt would be entirely excluded from home attachment.

**Mr. Tamposi** confirmed that medical debt is still owed, but the home would be

protected from attachment regardless of value. He added that high-value medical debt is uncommon compared to business debts.

**Sen. Rosenwald** asked what kind of trust constitutes a “qualified trust” under the language in this bill.

**Mr. Tamposi** said a revokable trust is a simple trust used to avoid probate, and he believes that is what is meant by a qualified trust. It is not meant to be a trust set up to avoid creditors. It is not meant to be an irrevocable trust where you give your assets away permanently.

**Sen. Rosenwald** asked if he thought the committee should clarify within the bill that it is a revokable trust.

**Mr. Tamposi** said in his view you want to avoid litigation regarding language in the bill. He said having a definition of qualified trust or calling it a revokable trust would provide clarity.

### **Malcolm Blackwood, Bankruptcy Attorney**

- He has helped people file for bankruptcy for 25 years.
- He expressed support for the bill.
- He has spoken with many people in recent years who owned more home than they were able to protect because of the \$120,000 homestead exemption.
- He shared the case of an elderly widow with a home worth \$400,000 who could not be protected due to the low homestead cap.
- He said this is a great bill and if it passes, he will be able to help people protect their homes.
- The homestead exemption amount should be enough for a widow to protect the roof over her head.

**Sen. Sullivan** expressed concern with the \$1 million exemption in the bill and asked him if \$500,000 would be more appropriate.

**Mr. Blackwood** said he would be supportive of \$500,000. He said doubling the amount of the homestead exemption would enable him to help a lot of people that he is currently unable to help. He added that no one wants to file bankruptcy. It is a humbling place. We should protect people and enable them to do this with a modicum of dignity.

**Sen. Rosenwald** this bill only applies to married couples, but unmarried couples purchase homes together. She asked if a couple would have to be married for bankruptcy to apply to both people.

**Mr. Blackwood** said nonmarried couples cannot file a joint bankruptcy.

**Sen. Rosenwald** asked if the committee should consider striking the words “married couple” from the bill and instead say “two people jointly owning a home”.

**Mr. Blackwood** said he didn't see anything in the bill that would prejudice single people versus married people.

**Summary of testimony presented in opposition:**

**Ryan Hale, VP of Government Relations, NH Bankers Association, and Rob Dietel, Outside General Counsel**

- Mr. Hale said that while they appreciate the intent of the bill to protect homeowners, the Bankers Association opposes the bill.
- Mr. Hale stated that raising the exemption to \$1 million is a 630% increase from current levels and a major departure from NH's historical, incremental approach.
- In 2015, the exemption was raised from \$100,000 to \$120,000, when the median home sale price in NH was about \$240,000.
- Currently the median home price is about \$514,000.
- The bill disrupts the balance between debtor protection and creditor rights. The proposed amount far exceeds what is needed to protect most primary residences.
- Mr. Hale stated a more appropriate approach would be to raise the exemption to \$250,000 for individuals and \$500,000 for married couples.

**Senator Rosenwald** asked for clarification that the exemption applies to the homeowner's equity in the home, not the full home value, unless it is medical debt.

**Mr. Dietel** said she was generally correct in the sense that the protection is against the sale. He explained that the amount set in the bill is the amount that will be protected so creditors cannot try to force a sale of the home for that amount. Ownership interest is limited by their equity in the home.

**Sen. Rosenwald** gave a scenario of someone owning a \$1 million home and mortgaging 80% of it. She asked if it was correct that when it was sold, the bank would get \$800,000 and the owner would get \$200,000.

**Mr. Dietel** said that was correct, the owner is limited to get back whatever their equity interest is.

**Sen. Rosenwald** said unless a \$1 million dollar house was bought with cash, the owner would not have \$1 million worth of value in the home for the creditor to attach.

**Mr. Dietel** said that was correct and added that the mortgage is going to take priority over what the creditor is going to try to attach against.

**Sen. Rosenwald** asked if the creditor would be able to attach the lender's interest.

**Mr. Dietel** said no, a secured mortgage will always take priority.

**Mr. Dietel** went on to state that historically the homestead exemption has been well below the median home sale price.

**Sen. Rosenwald** asked if someone took a home equity loan against the \$200,000 in her previously stated scenario if it would be subject to attachment by creditors.

**Mr. Dietel** said a home equity loan and a first mortgage are all going to be in the same position which is they will not fall under the homestead right because there will be a waiver within the mortgage documents themselves, and the statute also speaks to an exemption. He added that the bankers' concerns arise with unsecured debt, not secured loans.

**Senator Lang** summarized that the other piece of this bill protects equity from attachment post-sale, giving homeowners six months to reinvest in another more affordable home.

**Mr. Dietel** said that was correct and that part of the bill is a significant new change intended to do what Sen. Lang described, and they do not have concerns with that portion of the bill.

sc

Date Hearing Report completed: April 21, 2025