

By the Committee on General Provisions; and Commissioner Gaetz

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1 A proposal to amend
2 Section 4 of Article X of the State Constitution to
3 create exceptions to the homestead exemption from
4 creditor claims.

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6 Be It Proposed by the Constitution Revision Commission of
7 Florida:

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9 Section 4 of Article X of the State Constitution is amended
10 to read:

11 ARTICLE X

12 MISCELLANEOUS

13 SECTION 4. Homestead; exemptions.-

14 (a) There shall be exempt from forced sale under process of
15 any court, and no judgment, decree or execution shall be a lien
16 thereon, except for the payment of taxes and assessments
17 thereon, obligations contracted for the purchase, improvement or
18 repair thereof, or obligations contracted for house, field or
19 other labor performed on the realty, the following property
20 owned by a natural person:

21 (1) a homestead, if located outside a municipality, to the
22 extent of one hundred sixty acres of contiguous land and
23 improvements thereon, which shall not be reduced without the
24 owner's consent by reason of subsequent inclusion in a
25 municipality; or if located within a municipality, to the extent
26 of one-half acre of contiguous land, upon which the exemption
27 shall be limited to the residence of the owner or the owner's
28 family;

29 (2) personal property to the value of one thousand dollars.

30 (b) These exemptions shall inure to the surviving spouse or
31 heirs of the owner.

32 (c) The homestead shall not be subject to devise if the

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33 owner is survived by spouse or minor child, except the homestead
34 may be devised to the owner's spouse if there be no minor child.
35 The owner of homestead real estate, joined by the spouse if
36 married, may alienate the homestead by mortgage, sale or gift
37 and, if married, may by deed transfer the title to an estate by
38 the entirety with the spouse. If the owner or spouse is
39 incompetent, the method of alienation or encumbrance shall be as
40 provided by law.

41 (d) Notwithstanding subsection (a), a homestead is not
42 exempt from the claim of a creditor if the creditor:

43 (1) Establishes in an action against the owner of the
44 homestead that the creditor's funds were fraudulently used by
45 the owner to acquire or improve the homestead; or

46 (2) Obtains a judgment against the owner of the homestead
47 for damages caused by an intentional tort or an intentional
48 criminal or fraudulent act by the owner of the homestead, so
49 long as the homestead was not the primary residence for the
50 owner's spouse or minor child when the tort or act occurred or
51 at the time of the judgment in the action.