

550.371 EXEMPTIONS IN JOINT BANKRUPTCY.

Subdivision 1. **Applicable law.** Except as provided in this section, the exemptions set forth in subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), shall be available to residents of this state.

Subd. 2. **Joint petition.** When a husband and wife are joined in a petition for bankruptcy, they may jointly elect to utilize either the applicable exemption provisions pursuant to Minnesota law or pursuant to subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), but not both.

Subd. 3. **Individual petition.** When a petition for bankruptcy is filed individually, and not jointly, for a husband or a wife, (a) one spouse shall not claim any exemption pursuant to Minnesota law for a period of three years from the date of filing if the other spouse has claimed any exemption under subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d); and (b) one spouse shall not claim any exemption pursuant to subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), for a period of three years from the date of filing if the other spouse has claimed any exemption pursuant to Minnesota law.

Subd. 4. **Marital status determined.** For the purposes of this section, persons shall be considered to be husband and wife if they are married to each other at the time of the filing of the first individual or joint petition for bankruptcy by either of them unless a decree of separation or temporary order of separation of the parties is issued prior to the time the petition is filed.

History: 1982 c 461 s 1

NOTE: This section was found unconstitutional in *In re Soby*, 37 B.R. 522 (Bankr. D. Minn. 1984).