AN ACT

ENTITLED, An Act to protect certain homestead exemption interests during sale of homestead or separation of owners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 43-31-1 be amended to read as follows:

43-31-1. The homestead, including a homestead listed for sale, of every family, resident in this state, so long as it continues to possess the character of a homestead is exempt from judicial sale, from judgment lien, and from all mesne or final process from any court, to the extent and as provided by statute. However, a creditor or lien holder of a mobile home classified as a homestead under § 43-31-2 prior to January 1, 1973, may not be cut off and is not subject to a homestead exemption. In addition, a homestead with a value of less than one hundred seventy thousand dollars of a person seventy years of age or older, and the unremarried surviving spouse of such person, is exempt from sale for taxes for so long as it continues to possess the character of a homestead.

Section 2. That § 43-31-2 be amended to read as follows:

43-31-2. The homestead embraces the house used as a home by the owner of it, being either, real property or a mobile home, and if the owner has two or more houses or mobile homes thus used at different times and places, the owner shall select which he or she will retain as a homestead.

The homestead may not embrace more than one dwelling house or any other buildings except such as are properly appurtenant to the homestead. A shop, store, or other building situated on real property and really used or occupied by the owner in the prosecution of the owner's own ordinary business may be deemed appurtenant to the owner's homestead.

A mobile home may include any vehicle without motive power which can provide adequate, comfortable, all season quarters for the purpose of making it a residence and which vehicle is larger than two hundred forty square feet, measuring at the base of the vehicle. The mobile home must be

registered in South Dakota at least six months prior to the claim of exemption.

Section 3. That chapter 43-31 be amended by adding thereto a NEW SECTION to read as follows:

If an owner is required to leave a homestead pursuant to a protection order obtained by the owner's spouse or to otherwise preserve peace in the home, the owner's absence from the homestead may not be considered a waiver or abandonment of the owner's interest in the homestead, unless there is evidence to the contrary.

Section 4. That § 43-45-3 be amended to read as follows:

43-45-3. A homestead:

(1) As defined and limited in chapter 43-31, is absolutely exempt; or

(2) In the event such homestead is sold under the provisions of chapter 21-19, or is sold by the owner voluntarily, the proceeds of such sale, not exceeding the sum of sixty thousand dollars, is absolutely exempt for a period of one year after the receipt of such proceeds by the owner. If the homestead is divided by court order pursuant to § 25-4-44 and a lien is imposed on the homestead for the benefit of the nonoccupant spouse pursuant to § 25-4-42, absence from the homestead and loss of title to the homestead pursuant to the court order, does not constitute forfeiture of the homestead exemption and homestead protection shall attach to the judicial lien for a period of one year. Such exemption shall be limited to one hundred seventy thousand dollars for a homestead of a person seventy years of age or older or the unremarried surviving spouse of such person so long as it continues to possess the character of a homestead.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1128

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Chief Clerk

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_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1128
File No. ____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State