No. 20-

In the Supreme Court of the United States

NATHANIEL RICHARD HULL, IN HIS CAPACITY AS CHAPTER 7 TRUSTEE FOR THE BANKRUPTCY ESTATE OF JEFFREY J. ROCKWELL, PETITIONER

v.

JEFFREY J. ROCKWELL, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Virtually every State has a "homestead exemption" that shields a debtor's home from attachment and execution. Most States also permit the debtor to sell his or her home and buy a new one within a limited time (say, six months). But if the debtor fails to timely reinvest, the exemption expires and creditors can attach or execute upon the proceeds.

The Bankruptcy Code incorporates "State or local law that is applicable on the date of the filing of the petition" to determine what property is exempt from distribution to creditors. 11 U.S.C. 522(b)(3). In conflict with the Ninth Circuit and Fifth Circuit, the First Circuit held that, inside bankruptcy, a homestead exemption can never expire even if it would have expired under applicable state law outside bankruptcy. That decision enables debtors to permanently shield proceeds from bankruptcy creditors even after the debtor sold the home, the reinvestment period elapsed, and the money is being kept as cash. The question presented is:

Whether a debtor may keep a state-law homestead exemption inside bankruptcy, notwithstanding that the proceeds would be subject to attachment and execution outside bankruptcy because the debtor sold the home and the exemption expired under applicable state law.

RELATED PROCEEDINGS

United States Bankruptcy Court for the District of Maine:

In re: Jeffrey J. Rockwell d/b/a Rockwell Productions f/d/b/a Rockwell Productions, Inc., Debtor, No. 15-20583 (Aug. 23, 2018)

District Court for the District of Maine:

Hull v. *Rockwell*, No. 2:18-cv-00385-JAW (Sept. 24, 2019)

United States Court of Appeals for the First Circuit:

Rockwell v. *Hull* (*In re Rockwell*), No. 19-2074 (July 30, 2020)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Constitional Provisions, Statutes & Rules

Other Authorities

In the Supreme Court of the United States

NO. 20-

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OPINIONS BELOW

The opinion of the court of appeals (App. 1a-18a) is published at 968 F.3d 12. The opinion of the district court (App. 19a-44a) is published at 610 B.R. 1. The opinion of the bankruptcy court (App. 45a-63a) is published at 590 B.R. 19.

JURISDICTION

The judgment of the court of appeals was entered on July 30, 2020. On March 19, 2020, the Court issued an order extending the time for filing a petition for a writ of certiorari to 150 days from the judgment. The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

In pertinent part, 11 U.S.C. 522(b) provides that:

> (1) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate the property listed in … paragraph (3) of this subsection.
>
> …
>
> (3) Property listed in this paragraph [includes] –
>
> > (A) … any property that is exempt under … State or local law that is applicable on the date of the filing of the petition …

Other statutory provisions are reproduced in the appendix to the petition. App. 64a.

STATEMENT

This case presents an important and recurring question of statutory interpretation that divides the courts of appeals and has long divided the lower courts, regarding the treatment of "homestead" exemptions in bankruptcy. The Bankruptcy Code incorporates "State or local law that is applicable on the date of the filing of the petition" to determine what property is exempt from distribution to creditors inside bankruptcy. 11 U.S.C. 522(b)(3). Most States have "homestead" exemptions that protect a debtor's home from attachment and execution, and allow the debtor to sell the home and buy a new one within a limited time (say, six months). But if the debtor fails to timely reinvest, the exemption expires and creditors can attach or execute upon the proceeds.

The question is whether that outcome is fundamentally different inside bankruptcy. If a debtor sells their home but fails to buy another one within the state-law reinvestment period, so the proceeds would be subject to

collection efforts outside bankruptcy, are those proceeds similarly subject to distribution to creditors inside bankruptcy? Or does the Bankruptcy Code preempt temporary state-law exemptions and transform them into permanent exemptions, enabling the debtor to keep the proceeds shielded from bankruptcy creditors notwithstanding that they are simply being kept as cash?

The circuits are squarely divided on this issue, with three circuits adopting different rules of law. The First Circuit below held (wrongly) that, so long as an exemption applied at the beginning of the bankruptcy, the property remains exempt throughout the bankruptcy, regardless of subsequent developments. The First Circuit candidly admitted that its decision "is (or seems) at odds" with decisions of the Ninth and Fifth Circuits. App. 15a. Indeed, in conflict with the First Circuit, the Ninth Circuit has (rightly) held that state-law homestead exemptions expire inside bankruptcy at the same time they would expire outside bankruptcy. See *In re Jacobson*, 676 F.3d 1193, 1199 (9th Cir. 2012); *In re Golden*, 789 F.2d 698, 700 (9th Cir. 1986). And the Fifth Circuit has adopted a confusing intermediary position: homestead exemptions usually expire at the same time inside and outside bankruptcy, *In re Frost*, 744 F.3d 384, 388-389 (5th Cir. 2014), *In re Zibman*, 268 F.3d 298, 304-305 (5th Cir. 2001), unless it is a post-petition sale and the debtor is proceeding under Chapter 7, in which case the debtor may permanently keep the cash, see *In re DeBerry*, 884 F.3d 526, 529-530 (5th Cir. 2018). This case, *DeBerry*, and *Jacobson* all arise on that posture, so the circuits are divided 2-1 under the facts here.

Accordingly, although the Constitution provides that bankruptcy laws shall be "uniform" nationwide, U.S. Const. Art. I, § 8, cl. 4, the rule is now disuniform: States

in the Ninth Circuit have powers over bankruptcy that States in the First Circuit lack. A debtor in Portland, Maine, can shield the proceeds even after the state-law exemption has expired, but a debtor in Portland, Oregon, cannot. And a debtor in Portland, Texas, might (or might) not be able to do so, depending on whether it is a Chapter 7 or 13 case and when the sale occurred.

The issue is particularly important in individual bankruptcies. Hundreds of thousands of people file for bankruptcy each year and a home is often their most valuable asset. The issue also arises nationwide: Virtually all States have homestead exemptions, which usually expire either (1) upon the sale of the house; or (2) if the debtor sells the house but fails to timely reinvest the proceeds. This issue in turn frequently arises in the bankruptcy courts, and courts and commentators have both emphasized its importance. The more fundamental question of whether state-law exemptions can cease to apply because of post-petition developments also recurs in many other contexts, and cannot be limited just to homes. See, *e.g.*, *In re Hawk*, 871 F.3d 287, 296 (5th Cir. 2017) (failure to timely reinvest IRA in accord with applicable state law).

The First Circuit's decision is wrong. Section 522(b) allows the debtor to exempt "any property that is exempt under … State or local law that is applicable on the date of the filing of the petition." 11 U.S.C. 522(b)(3)(A). That provision, by its plain terms, incorporates the "*entire* state law applicable on the filing date," which may "include[] a reinvestment requirement for the debtor's share of the homestead sale proceeds." *Jacobson*, 676 F.3d at 1199 (citation omitted). The debtor must "take the fat with the lean; he has signed on to the rights … but also to the limitations … integral in those

exemptions as well." *Zibman*, 268 F.3d at 304. The debtor thus cannot freeze into place an exemption that evaporates under state law. And the federal exemption scheme confirms the point: A debtor may exempt an IRA rollover distribution, but the proceeds "cease to qualify for exemption" if they are not reinvested into another IRA within 60 days. 11 U.S.C. 522(b)(4)(D). The same basic rule applies here: When a debtor fails to timely reinvest proceeds from the sale of a home, the funds "cease to qualify" for the homestead exemption. *Ibid.*

The First Circuit's rule also undermines the purposes of both Section 522(b) and the underlying state-law exemptions. In Section 522(b), Congress made a remarkable nod to federalism, delegating to the States virtually complete control over how to strike the appropriate balance between the interests of debtors and the rights of creditors in this arena. Most States have homestead exemptions that protect home ownership and allow a debtor to move to a new home, but are subject to the common-sense limitation that the exemption expires if the debtor does not reinvest the proceeds and instead simply keeps them as cash. Yet the First Circuit's rule deprives States of the ability to enforce those common-sense limitations, protects as a "homestead" money that is no longer part of any "homestead," and upsets the balance that most States have struck.

Finally, this is a perfect vehicle for resolving the question presented. It is the only question in this case, it was squarely decided below, and it is outcome determinative. Certiorari is warranted.

A. State Homestead Exemptions

Forty-eight States and the District of Columbia have "homestead" exemptions that protect a residence from

attachment and execution. Victor D. López, *State Homestead Exemptions and Bankruptcy Law: Is it Time for Congress to Close the Loophole?*, 7 Rutgers Bus. L. J. 143, 149-165 (2010). While a handful of States exempt the entire property with no cap, *e.g.*, Fla. Const. Art. 10, § 4, the overwhelming majority exempt an interest in the home, up to a maximum dollar value, *e.g.*, Me. Rev. Stat. tit. 14 § 4422. The exempt amounts are relatively large. *E.g.*, Wis. Stat. § 815.20(1) ($75,000). The purpose is to "encourage home ownership," George L. Haskins, *Homestead Exemptions*, 63 Harv. L. Rev. 1289, 1290 (1950) (Haskins), and "secure a place of residence against financial disaster," *In re England*, 975 F.2d 1168, 1174 (5th Cir. 1992).

In a handful of States, the homestead exemption expires the moment a debtor voluntarily sells the home. See, *e.g.*, *Walbridge* v. *Estate of Beaudoin*, 48 A.3d 964 (N.H. 2012). But nearly all states have reinvestment requirements, either by statute or judicial decision.[1] Rein-

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[1] See Colo. Rev. Stat. § 38-41-207 (two-year window); Wis. Stat. § 815.20(1) (same); Mont. Code Ann., § 70-32-213 (18 months); Ariz. Rev. Stat. § 33-1101(C) (same); Idaho Code § 55-1008 (one year); 735 Ill. Comp. Stat. 5/12-906 (same); Mass. Gen. Laws ch. 188, § 11(a)(1) (same); Minn. Stat. § 510.07 (same); N.Y. C.P.L.R. § 5206(1)(e) (same); N.D. Cent. Code § 47-18-16 (same); Or. Rev. Stat. § 18.395(2) (same); S.D. Codified Laws § 43-45-3 (same); Utah Code Ann. § 78-23-3(5)(b) (same); Wash. Rev. Code § 6.13.070(1) (same); Me. Rev. Stat. tit. 14 § 4422(1)(C) (six months); Cal. Civ. Proc. Code § 704.720(b) (same); Haw. Rev. Stat. § 651-96 (same); Neb. Rev. Stat. § 40-113 (same); Tex. Prop. Code Ann. § 41.001(c) (same); Nev. Rev. Stat. § 115.055 (45 days to identify and 180 days to take possession); *Millsap* v. *Faulkes*, 20 N.W. 2d 40, 41 (1945) ("a reasonable time"); see also *Exchange Bank & Tr. Co.* v. *Mathews*, 591 S.W. 2d 354, 355 (Ark. Ct. App. 1979) (same); *Int'l Harvester Credit Corp.* v. *Ross*, 538 P.2d 655, 658 (Kan. 1975) (same); *Harrell* v. *Bank of Wilson*, 445

vestment rules allow a debtor to sell their home, buy another one, and keep the exemption—but only if the debtor uses the proceeds to buy the new home within a defined period of time. Those rules offer the debtor a bridge to a new home, while ensuring that the proceeds are not merely kept as cash for the debtor to spend at will. See Haskins 1296-1297.

States treat cash very differently. While some have "wildcard" exemptions that can cover liquid cash, those exemptions are subject to much lower dollar caps. See *Bankruptcy: The Next Twenty Years*, National Bankruptcy Review Commission Final Report 135 (1997); *e.g.*, Ohio Rev. Code Ann. § 2329.66(A)(3) ($400 cap). Hence, outside of bankruptcy, if a debtor sells a home but fails to timely reinvest the proceeds, the homestead exemption ceases to apply and all (or virtually all) of the proceeds become subject to attachment and execution.

The question presented is whether that result is different within bankruptcy than without.

B. Exemptions Inside Bankruptcy

The filing of a bankruptcy petition creates an "estate." 11 U.S.C. 541. The estate includes, among other things, all of the debtor's "legal or equitable interests … as of the commencement of the case," "[p]roceeds" of the sale of property of the estate, and "[a]ny interest in property that the estate acquires after the commencement of the case." 11 U.S.C. 541(a)(1), (6), (7). Section 541(b) specifies certain property the estate "does not include."

P.2d 266, 269-270 (Okla. 1968) (same); *Orange Brevard Plumbing & Heating Co.* v. *La Croix*, 137 So.2d 201, 206 (Fla. 1962) (same); *Marcum* v. *Edwards*, 205 S.W. 798, 799-800 (Ct. App. Ky. 1918) (same); see also Va. Code Ann. § 34-8; Iowa Code § 561.20.

See, *e.g.*, 11 U.S.C. 541(b)(5) ("funds placed in an education individual retirement account"). None of those exclusions are relevant here.

The Code then "authorizes a debtor to 'exempt' … certain kinds of property from the estate, enabling him to retain those assets post-bankruptcy." *Law* v. *Siegel*, 571 U.S. 415, 417 (2014) (quoting 11 U.S.C. 522(b)). The Code articulates a default scheme with twelve defined exemption categories. 11 U.S.C. 522(d)(1). Among others, there is a homestead exemption (without an express reinvestment rule). 11 U.S.C. 522(d)(1)-(12). There is also an exemption for an IRA rollover distribution, which "shall not cease to qualify for exemption" if the funds are reinvested into another IRA within 60 days. 11 U.S.C. 522(b)(4)(D).

A debtor also may exempt "any property that is exempt under … State or local law that is applicable on the date of the filing of the petition." 11 U.S.C. 522(b)(3)(A). By default, a debtor thus may use either state or federal exemptions. But the Code further allows States to opt out of the default federal scheme, and thus make available to debtors *only* the state-law exemptions (subject to several narrow exceptions). 11 U.S.C. 522(b)(1). States thus enjoy virtually unbridled authority to determine what exemptions are available and to establish their metes and bounds. See *Owen* v. *Owen*, 500 U.S. 305, 308 (1991) (States "could theoretically" eliminate all exemptions). Most States have exercised that authority by choosing to opt out of the default federal scheme. 4 Collier on Bankruptcy ¶ 522.01 n.2 (16th ed. 2020) (identifying 31 States that have opted out).

Subject to narrow exceptions, the general rule is that "property exempted under [Section 522] is not liable during or after the case for any debt of the debtor that

arose … before the commencement of the case." 11 U.S.C. 522(c). A discharge order at the end of the case then discharges the debtor's prepetition debts. See 11 U.S.C. 727 (Chapter 7); 11 U.S.C. 1328 (Chapter 13).

C. Factual Background

Respondent Jeffery J. Rockwell is a resident of the State of Maine. On August 19, 2015, he filed a petition for bankruptcy under Chapter 13. App. 2a. Maine has a typical exemption scheme, with a homestead exception capped at $47,500 and a six-month reinvestment window. Me. Rev. Stat. tit. 14, § 4422(1). At the time, respondent owned and resided in a home in South Portland. He claimed a homestead exemption for the maximum amount. App. 3a.

On March 6, 2017, with the bankruptcy court's permission, respondent sold his house for $160,000, with $51,682.87 in proceeds after paying off the mortgage and closing costs. App. 3a. Respondent did not, however, make any apparent effort to buy a new home. Rather, over the next several months, he spent a substantial portion of the proceeds, leaving $28,693.77 behind. *Id.* at 3a-4a. Maine's "wildcard" exemption for cash is merely $400. App. 23a; see Me. Rev. Stat. tit. 14, § 4422(15).

On August 7, 2017, respondent converted his Chapter 13 bankruptcy to a case under Chapter 7. Chapter 13 "allows a debtor to retain his property if he proposes, and gains court confirmation of, a plan to repay his debts over a three- to five-year period." *Harris* v. *Veigelahn*, 135 S. Ct. 1829, 1835 (2015). Recognizing that most debtors fail to "complete a Chapter 13 plan successfully," "Congress accorded debtors a nonwaivable right to convert a Chapter 13 case to one under Chapter

7 'at any time.'" *Ibid.* (quoting 11 U.S.C. 1307(a)). Chapter 7 provides for the outright liquidation of the debtor's assets and the distribution to creditors. See *ibid.* After conversion, the estate is determined "as of the date of filing of the [initial Chapter 13] petition." *Id.* at 1837 (quoting 11 U.S.C. 348(f)) (alterations in *Harris*).

The bankruptcy court appointed petitioner Nathaniel Richard Hull (Trustee), as the Chapter 7 trustee to oversee the liquidation process. App. 4a, 51a. The six-month reinvestment window expired on September 3, 2017. The Trustee filed an objection to respondent's use of the homestead funds, contending that, once Maine's six-month reinvestment period expired, the remaining proceeds ceased to be exempt and became available for distribution to creditors. *Id.* at 4a, 48a-49a.

D. Procedural History

1. The bankruptcy court held a trial and, on August 23, 2018, issued an order overruling the Trustee's objection. App. 45a-46a. The bankruptcy court held that the exemption continued to apply inside bankruptcy notwithstanding that the reinvestment window had expired. The decisive choice, the court explained, was between what it termed the "complete snap-shot" rule—which considers only whether the property was, in fact, exempt "as of the filing date"—and the "partial snapshot" rule, which instead takes a snapshot of the applicable state law and then allows for consideration of post-petition events that are relevant under state law. *Id.* at 54a-57a. Believing that "either [approach] is viable and both have flaws," the bankruptcy court concluded that the "complete snap-shot" view fit best with circuit precedent and the Code's general goal of providing honest debtors a "fresh start." *Id.* at 57a & n.11, 61a.

2. The Trustee appealed and the district court affirmed. App. 19a-21a. The district court, too, believed there were "persuasive arguments for either position," and noted that "the Fifth and Ninth Circuits have both held sale proceeds not reinvested within the applicable statutory periods … subsequently los[e] their exempt status post-petition." *Id.* at 20a, 35a. But it relied on "fresh start principles" to reach a contrary conclusion. *Id.* at 42a-43a (citation omitted).

3. The Trustee appealed and the court of appeals affirmed. The First Circuit "wrestl[ed] with … whether to apply the partial or complete snapshot rule," but ultimately opted for the latter. App. 10a. It acknowledged "that other circuits that have addressed similar questions have reached a result that is (or seems) at odds with the result we reach here," citing the Ninth Circuit's decision in *Jacobson* and the Fifth Circuit's decision in *Frost*. *Id.* at 15a-16a. But the court "f[ou]nd these cases unpersuasive." *Id.* at 16a.

REASONS FOR GRANTING THE PETITION

The court of appeals below adopted the "complete snapshot" rule under which bankruptcy exemptions are determined "on the day [the debtor] files for bankruptcy without considering any developments after that date (as if someone took a snapshot of the situation, leaving it frozen in time)." App. 4a. Under that approach, property remains exempt as a "homestead" even if the debtor sells the home, fails to timely reinvest the proceeds, and instead simply keeps the money as cash that would not be exempt outside bankruptcy. As the court of appeals recognized, that rule "is (or seems) at odds" with decisions of the Ninth and Fifth Circuits. *Id.* at 15a-16a. Indeed, there is nothing seeming about the conflict: The

Ninth Circuit has adopted the contrary "partial snapshot" rule and applied it to facts materially identical to these, holding that state-law exemptions in bankruptcy expire at the same time they would expire under applicable state law outside bankruptcy. And the Fifth Circuit has adopted an intermediary rule under which state-law exemptions sometimes (but not always) expire, depending on the posture of the case.

The question presented frequently recurs and carries considerable importance in individual bankruptcies. Hundreds of thousands of people file for bankruptcy each year, and a home is often the debtor's most valuable asset. Moreover, in virtually all States, a homestead exemption expires at the time of or some time after a sale. The issue of whether the debtor can sell their home and keep the money as cash, yet continue to treat the cash as an exempt "homestead," thus has a significant impact on the balance of interests between creditors and debtors. See *Clark* v. *Rameker*, 573 U.S. 122, 129 (2014).

The court of appeals' decision is also wrong. The Code exempts property that "is exempt" under the state law that "is applicable on the date of the filing of the petition." 11 U.S.C. 522(b)(1) and (3)(A). Once the property ceases to qualify as exempt under the state-law exemption that applied on the date of the filing of the petition, then that property no longer "is exempt" and the bankruptcy exemption ceases to apply as well. The court of appeals reached a contrary result by pointing to "fresh start" principles. App. 16a. But the Code balances the debtor's interest in obtaining a fresh start against creditors' interests in obtaining a recovery, and in particular the Code delegates to States the authority to strike the appropriate balance for exempted property. There is no

sound basis for preventing States from allowing creditors to recover against cash once it is no longer being used for the purpose of home ownership. Finally, this is an ideal vehicle, as the question is squarely presented and outcome determinative. Certiorari is warranted.

I. The Circuits Are Divided On The Question Presented

The circuits are squarely divided on the question presented, with three circuits articulating different rules of law and reaching conflicting results on materially identical facts. The Ninth Circuit holds that reinvestment requirements operate inside bankruptcy the same way they operate outside bankruptcy: The debtor loses his state-law homestead exemption whenever he or she fails to reinvest within the applicable state-law window. The Fifth Circuit has held that they sometimes (but not always) operate the same way: a debtor loses the exemption in a Chapter 13 case when it expires under state law, and in a Chapter 7 case when it expires after a pre-petition sale, but not when it is a Chapter 7 case and expires after a post-petition sale. At the other end of the spectrum, the First Circuit below adopted the "complete snapshot rule," under which state-law exemptions *never* expire inside bankruptcy. There is accordingly a three-way split on how to decide the question presented, dividing either 2-1 or 1-2 depending on whether it is a post-petition sale in a Chapter 7 case (as here) or instead an individual bankruptcy on any other posture.

1. The Ninth Circuit has squarely held that state reinvestment requirements are enforceable in bankruptcy. See *In re Jacobson*, 676 F.3d 1193, 1199 (2012); *In re Golden*, 789 F.2d 698, 700 (1986). *Golden* applied California's reinvestment requirement to proceeds from a debtor's pre-petition sale of his homestead. *Id.* at 699 & n.1. Failure to enforce the reinvestment requirement,

the court explained, would not only "frustrate the objective of the California homestead exemption," but also "the bankruptcy act itself, which limits exemptions to that provided by state or federal law." *Id.* at 700.

In *Jacobson*, the Ninth Circuit applied that rule to facts materially indistinguishable from those here. As here, a debtor proceeding under Chapter 7 failed to timely reinvest proceeds following a post-petition sale, and the Ninth Circuit determined that the exemption ceased to apply. See 676 F.3d at 1199. The court stressed that "the *entire* state law applicable on the filing date," including the reinvestment requirement, determines the debtor's right to an exemption. *Ibid.* (citation omitted). The debtor's post-petition failure to abide the reinvestment requirement was therefore "determinative." *Ibid.*

Jacobson drew heavily on *Myers* v. *Matley*, 318 U.S. 622 (1943), which similarly considered the relationship between bankruptcy and state homestead requirements. Under the Nevada law at issue, homeowners could file a declaration to perfect their homestead exemptions right up until the moment of sale. *Id.* at 626-628. The debtor made that declaration pre-sale but post-petition, and the question was whether that post-petition compliance with state law made the debtor qualify for the exemption in bankruptcy. *Ibid.*

Myers said yes. As the Ninth Circuit explained, this Court "looked *at the whole Nevada homestead exemption*, which provided that a debtor could file a homestead declaration at any time before a judicial sale. *Jacobson*, 676 F.3d at 1199 (emphasis added) "[I]t did not matter that the homestead was not exempt when the bankruptcy petition was filed." *Ibid.* Consistent with

Myers, the Ninth Circuit declined "to read out the reinvestment requirement from the homestead exemption," where "[n]othing in [the text] limit[ed] [California's] power to" condition the exemption on the debtor's post-petition reinvestment. *Id.* at 1200 (quoting *Owen* v. *Owen*, 500 U.S. 305, 308 (1991)).

2. The Fifth Circuit agrees with the Ninth Circuit (but disagrees with the First Circuit) that a state-law exemption can cease to apply in bankruptcy if the debtor fails to timely reinvest the proceeds, but it applies a different rule if it is a post-petition sale in a Chapter 7 case.

The Fifth Circuit initially held that that when a Chapter 7 debtor fails to timely reinvest the proceeds from a *pre*-petition sale of the homestead, "the exemption on the[] proceeds evanesce[s] by operation of law." *In re Zibman*, 268 F.3d 298, 305 (5th Cir. 2001). Like the Ninth Circuit, the Fifth Circuit read *Myers* to mean that "the *entire* state law applicable on the filing date," including the reinvestment requirement, "is determinative." *Id.* at 304. "When a debtor elects to avail himself of the exemptions the state provides," the court explained, "he agrees to take the fat with the lean; he has signed on to the rights (like the post-petition right to file in *Myers*) but also to the limitations (like the temporal element of the reinvestment feature of California's homestead exemption in *Golden*) integral in those exemptions as well." *Ibid.* It thus would "transgress" *Myers*' teaching to "read the 6-month limitation out of the [reinvestment requirement], and transform an explicitly limited exemption into a permanent one." *Ibid.*

The Fifth Circuit has since applied *Zibman* to a Chapter 13 debtor's post-petition sale of the homestead. See *In re Frost*, 744 F.3d 384, 388 (5th Cir. 2014). The court explained that any "temporal distinction" between

a pre- and post-petition sale was "insufficient to escape" *Zibman* and *Myers*. *Id.* at 388 & n.2.

More recently, however, the Fifth Circuit carved out an exception for cases (like this one and *Jacobson*) in which there a post-petition sale and the debtor is proceeding under Chapter 7. First, in *In re Hawk*, 871 F.3d 287, 296 (5th Cir. 2017), the court held that a debtor who withdrew funds from an IRA post-petition did not have to comply with Texas's IRA reinvestment requirement within bankruptcy. See Tex. Prop. Code Ann. § 42.0021(a), (c) (60-day reinvestment requirement for IRA rollovers). *Hawk* distinguished *Frost* as involving Chapter 13, and distinguished *Zibman* as involving a pre-petition sale. See *Hawk*, 871 F.3d at 296.[2] The Fifth Circuit later extended *Hawk* from IRAs to homes, concluding that a Chapter 7 debtor keeps his homestead permanently exempt from bankruptcy creditors after a post-petition sale, even if he fails to reinvest the proceeds and instead simply keeps them as cash. See *In re DeBerry*, 884 F.3d 526, 529 (5th Cir. 2018).

3. The First Circuit below adopted the "complete snapshot rule," holding that exemptions are set in stone at the start of the bankruptcy, even when subsequent developments mean that the property no longer qualifies as exempt under applicable state law. App. 13a. The court of appeals recognized that its decision put it "at odds" with the Ninth Circuit's decision in *Jacobson* and the Fifth Circuit's decision in *Frost*. App. 15a. But it

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[2] *Frost* had rejected that very "temporal distinction" between pre- and post-petition sales. 744 F.3d at 388. Initially, the *Hawk* panel followed *Frost* and *Zibman*, see *Hawk*, 864 F.3d 364 (2017), but it granted rehearing, reached a contrary conclusion, and withdrew the prior panel opinion, 871 F.3d 287.

found those decisions "unpersuasive." *Id.* at 16a.[3] The court instead concluded that a "homestead exemption taken on the day he filed for bankruptcy must be viewed as unchanging, even in the face of [a] later sale of the property." *Id.* at 11a.

There is accordingly a three-way split over whether homestead exemptions expire inside bankruptcy when a debtor sells the home and fails to timely reinvest the proceeds: The circuits divide 2-1 over whether they can ever expire and 1-2 over whether they expire where, as here, it is a post-petition sale and a Chapter 7 case.

II. The Question Presented is Recurring and Important

The question presented recurs frequently and is particularly important in individual bankruptcies. According to published statistics, in each of the last ten years, more than 750,000 people filed for bankruptcy. American Bankruptcy Inst., *Annual Business and Non-business Filings by Year (1980-2019)*. Studies have found that a substantial portion of debtors are homeowners. See Jonathan D. Fisher, *Who Files for Personal Bankruptcy in the United States*, 53 J. Consumer Aff. 2003, 2014 (2019) (finding based on 2000 census data that 62.9% of Chapter 7 debtors and 79.2% of Chapter 13

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[3] The First Circuit found *Frost* and *Jacobson* unpersuasive in part because the Fifth and Ninth Circuits had not "addresse[d] the Code's valued 'fresh start' principles as articulated in *Harris*" or this Court's "admonishments" in *Law* v. *Siegel*, 571 U.S. 415, that courts should "reach the result required by the text of the Bankruptcy Code." App. 16a. But there is nothing novel about those statements in *Harris* and *Law*. This Court has long recognized "the general 'fresh start' policy that undergirds the Bankruptcy Code," *e.g., Grogan* v. *Garner*, 498 U.S. 279, 283 (1991), and emphasized that clear statutory text in the Code controls, *e.g.*, *Hartford Underwriters Ins. Co.* v. *Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000) (Scalia, J.).

debtors were homeowners, and deriving a similar 69.4% and 83.9%, respectively, from the 2008-2009 American Community Surveys). And studies have shown that home equity is often a person's most valuable asset. See Teresa A. Sullivan, et al., *The Fragile Middle Class: Americans in Debt* 219 nn. 71, 73 (2000) (noting that homeowners "have more value tied up in home equities than in savings accounts and certificates of deposit, stocks and mutual funds, cars, retirement accounts, and other real estate combined.").

Myriad bankruptcy courts have decided the issue, with sharply divergent results. Many have enforced reinvestment requirements in bankruptcy. See, *e.g.*, *In re Dudley*, 617 B.R. 149 (Bankr. E.D. Cal. 2020); *In re Binesh*, 542 B.R. 1, 4-5 (Bankr. C.D. Cal. 2015); *In re Smith*, 526 B.R. 343, 349 (D. Ariz. 2015) (enforcing Arizona's reinvestment requirement in bankruptcy); *In re Konnoff*, 356 B.R. 201, 208 (B.A.P. 9th Cir. 2006) (same); *Gaughan* v. *Smith*, 342 B.R. 801, 808-809 (B.A.P. 9th Cir. 2006) (same); *In re Foreacre*, 358 B.R. 384, 393 (Bankr. D. Ariz. 2006) (same); *In re Marriott*, 427 B.R. 887, 893 (Bankr. D. Idaho 2010) (enforcing Idaho's reinvestment requirement); *In re Cerchione*, 398 B.R. 699, 708 (Bankr. D. Idaho) (same), *aff'd*, 414 B.R. 540 (B.A.P. 9th Cir. 2009); *In re Winchester*, 46 B.R. 492 (B.A.P. 9th Cir. 1984) (enforcing Oregon's reinvestment requirement), *superseded by statute on other grounds*, 11 U.S.C. 348(f)(1)(A); *In re Earnest*, 42 B.R. 395, 399 (Bankr. D. Or. 1984) (same); cf. also *In re Stewart*, 452 B.R. 726, 742 (C.D. Ill. 2011) (enforcing Illinois' reinvestment requirement); *In re Williams*, 515 B.R. 395, 410 (Bankr. D. Mass. 2014) (enforcing Massachusetts' reinvestment requirement). Others have not. See, *e.g.*, *In re Awayda*,

574 B.R. 692, 701 (Bankr. C.D. Ill. 2017) (Illinois' reinvestment requirement unenforceable); *In re Lantz*, 446 B.R. 850, 858 (Bankr. N.D. Ill. 2011) (same); *In re Snowden*, 386 B.R. 730, 734 (Bankr. C.D. Ill. 2008) (same); *In re Thomas*, BKY 17-43661-MER, 2018 WL 3655654, (Bankr. D. Minn. July 31, 2018) (same under Minnesota law); *In re Ward*, 595 B.R. 127, 131-132 (Bankr. E.D.N.Y. 2018) (same under New York law); *In re Bellafiore*, 492 B.R. 109, 115-116 (Bankr. E.D.N.Y. 2013); *In re Bedell*, 173 B.R. 463, 466 (Bankr. W.D.N.Y. 1994) (same); *In re Reed*, 184 B.R. 733, 738 (Bankr. W.D. Tex. 1995) (same under Texas law).

The question presented also has broader importance because homes are the tip of the iceberg. The more fundamental question is whether an exemption that applies at the start of a bankruptcy can expire and thus cease to apply later in the bankruptcy. Under the "complete snapshot" rule, the answer is no; under the "partial snapshot" rule, the answer is yes. And the answer hinges on statutory language in Section 522, which is worded in general terms and is not specific to homes. See 11 U.S.C. 522(b)(1) and (3) (exempting "any property that is exempt" under applicable state or local law).

This same interpretative question accordingly arises for a host of other exemptions. For example, the Fifth Circuit's decision in *Hawk* involved a debtor that sold an exempted Texas IRA but failed to reinvest the proceeds within the required state-law window. See 871 F.3d at 291 (noting the "clear parallels between the Texas statutes governing retirement accounts and those governing homesteads," and relying on homestead decisions to decide the IRA question). Similarly, there is a divide among the lower courts (albeit not the circuit courts) on whether statutes "exempting vehicles or 'tools

of the trade,' should be interpreted to protect the proceeds" from a post-petition sale. *In re Meeks*, Bankr. No. 05-21952, 2006 WL 4458354, at *4 (Bankr. N.D. Ohio 2006) (collecting cases).

Those other questions rarely make their way to the courts of appeals, but when they do, they often breed disagreement. Compare *In re Patterson*, 825 F.2d 1140, 1145 (7th Cir. 1987) ("If [during bankruptcy] the debtor decides to leave his trade and he therefore sells his tools, we doubt whether he can prevent the liens from attaching to the proceeds."), with *In re Burciaga*, 944 F.3d 681, 685 (7th Cir. 2019) ("That a car may be sold while bankruptcy is under way does not make all of the proceeds available to satisfy pre-bankruptcy claims; the debtor retains any exempted amount."). Resolution of the question presented thus would resolve not only the specific circuit conflict here, but also the broader confusion in the lower courts on substantially similar issues.

The question presented is more fundamentally important because it implicates significant federalism concerns. Congress has long recognized that States should play a primary role in striking the appropriate balance between the interests of debtors and creditors when deciding which property to exempt. See, *e.g.*, Bankruptcy Act of 1898, § 6, 30 Stat. 544, 548. And States have long adopted "homestead" exemptions with reinvestment requirements. See *Exemption of Proceeds of Voluntary Sale of Homestead*, 1 A.L.R. 483. Section 522 in turn extends a remarkable degree of deference to state law, empowering States not merely to establish their own exemptions but also to "opt out" of the federal exemption scheme and thus define entirely for themselves the exemptions available to in-state debtors. The First Circuit's rule, however, deprives States of the ability to set

the balance they find appropriate, and in particular prevents States from determining that property should no longer be exempted as a "homestead" when the debtor has sold the home and kept the proceeds as cash rather than buying a new one.

Courts and commentators have both recognized the importance of this specific issue about homesteads (and the broader issue of expiring exemptions) to debtors and creditors alike. See Br. of Christopher G. Bradley et al. as *Amici Curiae* 3, in *Hawk*, *supra*, No. 16-20641 (5th Cir. Aug. 14, 2017) ("The significance of this case cannot be overstated. It will affect every individual Chapter 7 bankruptcy case—more than 12,500 last year in Texas alone."); Danielle Nicole Rushing, *Use It or Lose It: Grappling with Classification of Post-Petition Sale Proceeds Under Chapter Seven Bankruptcy*, 47 St. Mary's L. J. 901, 917 (2016) ("[T]he characterization of the proceeds of a potential post-petition sale is of great importance."); *In re Bencomo*, No. 15-1442, 2016 WL 4203918, at *7 (B.A.P. 9th Cir. Aug. 8, 2016) (*Golden* is a "seminal decision" of bankruptcy law).

III. The Decision Below is Erroneous

The First Circuit's "complete snapshot" rule is incompatible with Section 522's text, structure, and purposes.

1. Section 522(b) provides that a debtor "may exempt from property of the estate … any property that is exempt under … State or local law that is applicable on the date of the filing of the petition." 11 U.S.C. 522(b)(1) and (3)(A). "When a debtor claims a *state-created* exemption, the exemption's scope is determined by state law." *Law*, 571 U.S. at 425; see *Owen*, 500 U.S. at 308 (States' authority to define exemptions are subject only to those "competing or limiting policies the statute contains").

When a debtor sells a home and the reinvestment window expires, that property no longer "is exempt" under state law, and the debtor may no longer "exempt it from property of the estate." The bankruptcy exemption accordingly ceases to apply as well.

The First Circuit's "complete snapshot" approach preempts reinvestment requirements by taking a static picture of whether, in fact, the property was exempt at the moment the petition was filed. But Section 522, by its plain terms, takes a different picture: Debtors may exempt "any property that is exempt under … State or local law that is applicable on the date of the filing of the petition." 11 U.S.C. 522(b)(3)(A). That is, the snapshot is of the "*entire* state law applicable on the filing date," including any limitations and conditions like "reinvestment requirement[s]." *Jacobson*, 676 F.3d at 1199. The operative question is whether that property still "is exempt" under that applicable law. See 1 U.S.C. 1 ("words used in the present tense include the future" "unless the context indicates otherwise"). If the answer is yes, it is exempt. If the answer becomes no because the reinvestment window has expired (or the debtor has otherwise failed to comply with a condition subsequent), then the bankruptcy exemption expires. Nothing in the Code creates blinders that prevent courts from looking at anything other than the facts at the moment of filing.

The list of federal exemptions reinforces the point. The Code generally makes IRAs exempt, and provides that a "rollover distribution" from one IRA to another "shall not cease to qualify for exemption" if "deposited in [a tax-exempt] fund or account not later than 60 days after the distribution of such amount." 11 U.S.C. 522(b)(4)(D). If the debtor fails to reinvest within the 60-day window—even if that window closes during the

bankruptcy case—the post-petition distribution thus will "cease to qualify" for the exemption. *See In re Brown*, 614 B.R. 416, 426 (B.A.P. 1st Cir. 2020). And nothing in the Code suggests that every other exemption is inherently permanent except for that one. Rather, given the "equivalency of treatment accorded to federal and state exemptions," the Code is properly understood to allow States the same leeway to impose reinvestment requirements. See *Owen*, 500 U.S. at 313.

2. The Code's structure similarly supports the view that exemptions can expire. Under the modern Code, the contours of the estate "are not necessarily set in stone, but rather can and do expand and contract based on postpetition events." *In re Northington*, 876 F.3d 1302, 1314 & n.9 (11th Cir. 2017). In defining what the estate is "comprised of," the Code includes "[p]roceeds" of property of the estate, as well as "[a]ny interest in property that the estate acquires after" commencement." 11 U.S.C. 541(a)(6) and (7). Exemptions are similarly fluid: a debtor can amend his schedule of property claimed as exempt "as a matter of course at any time before the case is closed." Fed. R. Bankr. P. 1009(a). And a rollover can "cease to qualify for [the IRA] exemption" if it is not timely reinvested. 11 U.S.C. 522(b)(4)(D). Nothing in this structure suggests exemptions are permanently fixed the moment of a bankruptcy filing.

More broadly, in law and in life, exemptions are often subject to conditions subsequent. A charity "cease[s] to qualify for [a tax] exemption" if it drifts too far from its charitable design, 26 U.S.C. 504, just as a conscientious objector ceases to qualify for a draft "exempt[ion]" if he abandons his religious convictions, 50 U.S.C. 3806(j), (k). Bankruptcy exemptions work the same way.

3. Interpreting bankruptcy exemptions to cease to apply when the underlying state-law exemption ceases to apply also furthers the statutory purpose. Congress authorized each State to define its own exemptions—and to opt out of the federal scheme—to ensure that debtors in bankruptcy ordinarily have the same rights they would have outside bankruptcy. Cf. *Mission Prod. Holdings, Inc.* v. *Tempnology, LLC*, 139 S. Ct. 1652, 1662-1663 (2019); *Butner* v. *United States*, 440 U.S. 48, 54-55 (1979). The First Circuit's rule has the opposite effect, however, "allow[ing] a debtor-in-bankruptcy to obtain the liquidity of its homestead at a much earlier date—and without the risk of exposing itself to creditors—than a debtor who had not filed." *Frost*, 744 F.3d at 389.

The decision below similarly thwarts the statutes' underlying purposes. The purpose of homestead exemptions is to protect home ownership as something special. Haskins 1289. Reinvestment provisions then offer the debtor a bridge to move to a new home while retaining that important protection. *England*, 975 F.3d at 1174. But that state interest evaporates if the debtor sells the home and treats the proceeds as "a pot of money [to] be freely used for current consumption." *Clark*, 573 U.S. at 128; *Golden*, 789 F.2d at 700. States instead generally take the opposite rule for cash: all or virtually all cash is subject to attachment or execution. See p. 7, *supra*. Yet the First Circuit's rule disregards both judgments by permanently shielding an often large quantity of cash from bankruptcy creditors notwithstanding that it is no longer used for purposes of home ownership.

4. The First Circuit offered two principal arguments for its contrary position. Neither holds up.

First, the court relied on the Code's general purpose of providing debtors a "fresh start." App. 11a. But that

general purpose does not answer the interpretative question, because the Code "does not permit anything and everything that might advance that goal." *Mission Product*, 139 S. Ct. at 1665. Rather, the Code "strikes a balance" between a debtor's interest in obtaining a fresh start and "the creditors' interest in maximizing the value of the bankruptcy estate" for their recovery. *Florida Dep't of Revenue* v. *Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 51 (2008). Section 522 expressly delegates that choice to the States in defining their own exemptions.

Indeed, Congress gave the States *carte blanche* to eliminate exemptions entirely. See *Owen*, 500 U.S. at 308. There is no sound basis to believe that, in the same breath, Congress denied the States the lesser authority to grant a homestead exemption subject to the commonsense limitation that the debtor cannot sell the home and permanently keep the proceeds as cash. At that point, there is no longer a "homestead" to protect, which is why state law typically "requires reinvestment in order to prevent the debtor from squandering the proceeds for nonexempt purposes." *Jacobson*, 676 F.3d at 1200 (quoting *Golden*, 789 F.2d at 700).

Second, the court of appeals drew a negative inference from Section 522(c)'s list of narrow kinds of debts that may be enforced even against exempted property. App. 11a; *e.g.*, 11 U.S.C. 522(c)(1)-(2) (domestic support obligations and tax liens). The court reasoned that, because Congress did not include reinvestment requirements on that list, they are categorically excluded by negative implication. App. 11a.

That rationale is clearly wrong. Section 522(c) defines specific kinds of debts that can be enforced against property *even if* it is exempt. Reinvestment requirements, by contrast, are rules for determining which

property is exempt in the first place. It accordingly would have been incongruous for Congress to include reinvestment requirements within Section 522(c), and no negative inference can be drawn from that omission.

IV. This Case Is An Ideal Vehicle

The court of appeals' decision accordingly is wrong and conflicts with decisions of other circuits on an important and recurring question of federal law. This case also squarely tees up the issue for this Court's review. The First Circuit conclusively decided the question, adopting the "complete snapshot" rule to hold that state-law homestead exemptions remain applicable during the entire bankruptcy. App. 11a. Indeed, that is the only question on appeal, and all three courts below decided it. *Id.* at 11a, 44a, 63a. The courts below also found that respondent failed to comply with Maine's reinvestment requirement. *Id.* at 23a ("[C]ontrary to the express requirements of Maine's homestead exemption, [respondent] did not spend any of the proceeds of the sale on the purchase of a new residence."). The only question is whether that state-law exemption ceased to apply in bankruptcy as well: If so, the court of appeals' judgment must be reversed. If not, it would be affirmed.

This case presents a relatively rare opportunity to decide the question. Although myriad bankruptcy courts have decided this issue, see pp. 18-19, *supra* (collecting cases), only a handful of cases have made it to the courts of appeals: *E.g.*, App. 1a; *DeBerry*, 884 F.3d at 529-530; *Jacobson*, 676 F.3d at 1199; *Frost*, 744 F.3d 384; *Golden*, 789 F.2d 698. After all, parties in individual bankruptcy cases typically lack the resources and incentives to push through the multiple layers of review. See Troy A. McKenzie, *Judicial Independence, Autonomy and the Bankruptcy Courts*, 62 Stan. L. Rev. 747, 782 (2010).

This Court in turn has repeatedly granted certiorari in bankruptcy cases with relatively shallow splits. See, *e.g.*, *Mission Product*, 139 S. Ct. at 1660 (granting certiorari to resolve a 1-1 split); *Clark*, 573 U.S. at 126-27 (same); Pet. 2, *Harris, supra* (No. 14-400), 2014 WL 5019859, at *2 (same). This Court's review is warranted to resolve the circuit conflict here as well.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 19-2074

IN RE JEFFREY J. ROCKWELL,

Debtor.

JEFFREY J. ROCKWELL,

Appellee,

v.

NATHANIEL RICHARD HULL,

Appellant.

Appeal from the United States District Court for the District of Maine

[Hon. John A. Woodcock, Jr., *U.S. District Judge*]

Before

Thompson, Lipez, and Kayatta, *Circuit Judges*.

Nathaniel R. Hull and *Verrill Dana LLP* on brief for the appellant.

Christopher J. Keach and *Molleur Law Office* on brief for the appellee.

July 30, 2020

THOMPSON, *Circuit Judge.* Jeffrey J. Rockwell filed for Chapter 13 bankruptcy and exempted his home from the bankruptcy estate under Maine's homestead law. Later, while the bankruptcy was still proceeding, Rockwell sold that home, and, despite Maine's law, did not reinvest the proceeds of the sale in another homestead within six months. When he converted his bankruptcy to a Chapter 7 proceeding, Chapter 7 Trustee Nathaniel Richard Hull objected to Rockwell's homestead exemption. The bankruptcy court denied Hull's objection and the district court affirmed. Hull then appealed to us. Holding that the Bankruptcy Code dictates that Rockwell's homestead exemption maintains the status it held on the day Rockwell filed his bankruptcy petition, we affirm.

BACKGROUND

In 2001, Rockwell purchased property on B Street in South Portland, Maine. He still owned that property and was living there on August 19, 2015, when he filed for Chapter 13 bankruptcy. As he was entitled to under Maine law, 14 M.R.S. § 4422(1), Rockwell claimed a homestead exemption for $47,500 of equity for the B Street property.[1] As part of his Chapter 13 reorganization plan, Rockwell proposed to pay the owner of the B street mortgage (i.e., one of his creditors) directly from his other assets and retain ownership and possession

[1] A "homestead" is "[t]he house, outbuildings, and adjoining land owned and occupied by a person or family as a residence." *Homestead*, Black's Law Dictionary (11th ed. 2019). A "homestead exemption" is a tool a debtor can use to protect his homestead (or, depending on the state, a portion of the proceeds from the sale of it) from creditors. *See Homestead Law*, Black's Law Dictionary (11th ed. 2019).

of the property. The bankruptcy court confirmed Rockwell's Chapter 13 plan in November 2015.

By December 2016, Rockwell's plans to retain the B Street Property had changed. Specifically, he sought the bankruptcy court's permission to sell the property for $160,000. Rockwell proposed that he would retain the $47,500 allowed by Maine's homestead exemption and contribute the remaining, non-exempt proceeds to his Chapter 13 reorganization plan. At the hearing on Rockwell's motion to sell the property, the Chapter 13 trustee expressed concern about Rockwell's proposed sale price, but nonetheless expected the court to grant the motion.

The bankruptcy court granted Rockwell's motion and ordered him to use the money from the sale to pay the closing costs and the mortgage. Rockwell was to pay any remaining, non-exempt funds from the sale to the Chapter 13 trustee to pay down Rockwell's debt.

On March 6, 2017, Rockwell finalized the sale of the B Street property. After paying the closing costs and the lender, $51,682.87 was left. He kept $47,500 (his homestead exemption as allowed by Maine law) and paid the remaining $4,182.87 to the Chapter 13 trustee. The Chapter 13 trustee did not object.

After the sale, Rockwell still lived at the B Street property, but he planned to move into a home on Bancroft Court, in Portland. Though Rockwell did not own the Bancroft Court property, in the months after the sale and prior to his move, he contributed to its upkeep. Specifically, Rockwell spent $18,806.23 of his homestead exemption on paint, tile, fuel oil, carpet, plumbing, tree-cutting services, and other miscellaneous repairs and supplies, all for the Bancroft Court property, and on moving expenses to move his own belongings from the B Street property to the Bancroft

Court property. Then, on August 7, 2017, Rockwell converted his Chapter 13 case to a Chapter 7 case. Rockwell moved into the Bancroft Court property in September 2017 and continued to spend the money from his homestead exemption on repairs and improvements to the Bancroft Court property.

A few months later, the Chapter 7 trustee, Hull, objected to Rockwell's use of the homestead exemption. Hull argued that Rockwell was no longer using the exemption to protect his interest in a homestead because he had not reinvested the proceeds of the sale as required by Maine law. Therefore, from Hull's perspective, the previously protected money—specifically, the $28,693.77 that Rockwell had not yet spent when he converted his case to a Chapter 7 case—should become part of the bankruptcy estate and be used to pay off Rockwell's creditors.[2]

From Rockwell's point of view, he could take a homestead exemption of up to $47,500 when he first filed for bankruptcy in 2015 because he owned his residence at the time. Rockwell argued that the Bankruptcy Code and First Circuit precedent require that the bankruptcy court apply the "complete snapshot" rule, meaning the court evaluates Rockwell's affairs on the day he files for bankruptcy without considering any developments after that date (as if someone took a snapshot of the situation, leaving it frozen in time) to determine if assets are properly exempted from the bankruptcy estate.

The bankruptcy judge held a bench trial to resolve Hull's objection. The judge denied Hull's objection, ex-

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[2] Pursuant to 11 U.S.C. § 348(f), the trustee could only seek the $28,693.77 remaining at the time of conversion because there were no allegations of bad faith in the conversion.

plaining that "the complete snapshot view [of Rockwell's finances on the day he filed for bankruptcy] more faithfully adhere[d] to the Code, First Circuit authority, and the practicalities of administering a chapter 7 case."

On September 4, 2018, Hull appealed to the United States District Court for the District of Maine, which affirmed the bankruptcy court's decision. Hull filed a timely appeal to this court on October 22, 2019.

For the reasons that follow, we now affirm.

OUR TAKE

Before turning to the merits of Hull's appeal, we will give the reader some context on the Bankruptcy Code and law relevant to the instant litigation. When we review a district court's decision affirming a bankruptcy court's decision, as we do here, we review the bankruptcy court's decision directly. *In re Sheedy*, 801 F.3d 12, 18 (1st Cir. 2015). We review the bankruptcy judge's legal conclusions *de novo* and factual conclusions for clear error. *In re Goguen*, 691 F.3d 62, 68 (1st Cir 2012).

A. The Bankruptcy Code Framework

When a debtor files for bankruptcy, his interests in property are either compiled into the bankruptcy "estate" from which (to the extent the estate can afford) his creditors will be paid, or those interests are exempted from the estate for the debtor to keep. *See* 11 U.S.C. § 541. When the estate is created, a combination of federal and state law determines which of the debtor's assets are exempted (and will remain safe from creditor collection) and which belong to the estate (and will be lost to the debtor). *See id.* § 522(b); *Owen* v. *Owen*, 500 U.S. 305, 306 (1991). "[F]ederal law provides no authority for bankruptcy courts to deny an exemption on a

ground not specified in the Code." Law v. *Siegel*, 571 U.S. 415, 425 (2014) (emphasis omitted).

Pursuant to 11 U.S.C. § 522(b)(3)(A), a debtor can exempt from the bankruptcy estate any property permitted by his state of residence. Among those exemptions is an exemption commonly called a "homestead exemption" which protects, to varying extents, a debtor's interest in their home. *See Homestead Law*, Black's Law Dictionary (11th ed. 2019). Maine, Rockwell's state of residence, permits debtors to protect their "aggregate interest, not to exceed $47,500 in value, in real or personal property that the debtor . . . uses as a residence." 14 M.R.S. § 4422(1)(A).

Exemptions are determined at the time the debtor files for bankruptcy. *White* v. *Stump*, 266 U.S. 310, 313 (1924); *Myers* v. *Matley*, 318 U.S. 622, 628 (1943) ("[T]he bankrupt's right to a homestead exemption becomes fixed at the date of the filing of the petition in bankruptcy . . . ."); *In re Cunningham*, 513 F.3d 318, 318 (1st Cir. 2008). This maxim is called the "snapshot" rule because the debtor's financial situation is frozen in time, as if someone had taken a snapshot of it.[3] *In re Awayda*, 574 B.R. 692, 697 (Bankr. C.D. Ill. 2017) (noting the "snapshot rule [] controls the moment in time upon which a debtor's right to claim exemptions is based"). When the snapshot rule applies to an asset and the snapshot is "complete," the asset will retain whatever status (i.e., exempt or part of the estate) it had when the

[3] Though we have rarely used the term "snapshot" in this circuit, *see In re Rudler*, 576 F.3d 37, 50 (1st Cir. 2009), we have regularly recognized the concept. *See, e.g., In re Cunningham*, 513 F.3d 318, 324 (1st Cir. 2008) ("[I]t is a basic principle of bankruptcy law that exemptions are determined when a petition is filed.").

debtor filed for bankruptcy and cannot be altered by circumstances that change later. *See In re Williams*, 515 B.R. 395, 401 (Bankr. D. Mass. 2014) (explaining that the snapsnot rule "focus[es] on the facts and law as they exist on the petition date"); *see also In re Cunningham*, 513 F.3d at 318. Other times, the snapshot is "incomplete," meaning that the right circumstances could later alter the status of that asset relative to the bankruptcy estate, much like one can edit a snapshot after it has been taken. *See, e.g.*, 11 U.S.C. § 541(a)(5) (requiring that up to 180 days after filing of the bankruptcy petition, property that the debtor acquires by bequest, devise, inheritance, divorce, life insurance, or death benefit becomes part of the estate).

B. Chapter 13 and Chapter 7 Bankruptcy

Chapter 13 bankruptcy, the type of bankruptcy Rockwell entered when he first filed in August of 2015, is an entirely voluntary process. *Harris* v. *Viegelahn*, 135 S. Ct. 1829, 1835 (2015). During a Chapter 13 bankruptcy, a debtor contributes some of the income he earns after filing to the estate. 11 U.S.C. § 1306. A Chapter 13 debtor retains control of his property and works out a plan with the court to use the money from the estate to pay back his debt over three to five years. *Id.* § 1322.

If a debtor proceeds under Chapter 7, the chapter to which Rockwell converted his bankruptcy in 2017, all of his assets, other than the ones exempted from the estate per § 522, become a part of the estate. *Id.* § 541. The Chapter 7 trustee then sells or otherwise disposes of the debtor's property and pays off creditors from the estate. *Id.* §§ 704, 726. "Crucially, however, a Chapter 7 estate does not include the wages a debtor earns or the assets

he acquires *after* the bankruptcy filing." *Harris*, 135 S. Ct. at 1835 (emphasis in original).

A debtor may convert his bankruptcy from a Chapter 13 to a Chapter 7 proceeding at any time. 11 U.S.C. § 348. "Absent a bad-faith conversion, § 348(f) limits a converted Chapter 7 estate to property belonging to the debtor 'as of the date' the original Chapter 13 petition was filed." *Harris*, 135 S. Ct. at 1837.

C. Analysis of the Present Case

1. *The Code Controls this Analysis*

Having erected the applicable legal framework, we now turn to the issue before us. No one disputes that on the day Rockwell filed for bankruptcy, he properly protected $47,500 of his property from the bankruptcy estate by claiming Maine's homestead exemption, 14 M.R.S. § 4422(1). No one disputes that Rockwell sold the property and pocketed the $47,500 without spending it on a new Maine homestead within six months of the sale, which Maine law requires.[4] The sole dispute is whether that $47,500 (or what Rockwell didn't spend of it) lost its protection when Rockwell failed to reinvest in a homestead within the six-month limitation and should be available to pay creditors.

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[4] As detailed above, Rockwell continued to live at the B Street property until September 2017, when he moved into the Bancroft Court residence. No one disputes that he has no ownership interest in this property or that Rockwell spent his B Street proceeds on repairs and other care for the Bancroft Court property. Rockwell argued to the bankruptcy court that this qualifies as investing in a homestead under Maine law, so that money is still exempt from the estate. The bankruptcy court did not resolve this argument because it determined that the B Street proceeds were exempt, regardless of how Rockwell later spent them. For the same reason, we do not address that argument here.

At the outset, we recognize that the Supreme Court instructs that the rules of the Bankruptcy Code have the first and final say, even where equity might demand a different result. In *Law* v. *Siegel*, the Supreme Court held that the bankruptcy court had improperly awarded the value of the debtor's homestead exemption to pay for the Chapter 7 trustee's administrative expenses, even though the trustee generated those expenses solely when responding to the debtor's deliberate fraud. 571 U.S. at 422. The Court explained that the Bankruptcy Code permits debtors to claim a homestead exemption and for the value of that exemption to be protected from paying, among other things, the administrative expenses of the estate. *Id.* The debtor in that case properly claimed the homestead exemption and no one filed a timely objection. *Id.* at 423. Despite the debtor's post-petition conduct, which included submitting fraudulent documents to the bankruptcy court in an effort to wrest a share of the estate back to himself, and despite the fact that this fraud directly caused the trustee to incur approximately half a million dollars in legal fees, the Code did not permit the bankruptcy court to make the debtor's homestead exemption available to defray those legal fees. *Id.* at 418-22, 427-28 (explaining that the bankruptcy court "may not contravene express provisions of the Bankruptcy Code by ordering that the debtor's exempt property be used to pay debts and expenses for which that property is not liable under the Code"). The bankruptcy court's mandate, therefore, is to "reach . . . an end result required by the Code." *Id.* at 426.

2. *Exemptions are Analyzed on the date the Debtor Files for Bankruptcy*

With this framing in mind, we recognize that the Code (which we know is supreme here) instructs that the estate does not begin anew when a debtor converts a Chapter 13 bankruptcy proceeding into a Chapter 7 proceeding. 11 U.S.C. § 348(a) (conversion from Chapter 13 to Chapter 7 "does not effect a change in the date of the filing of the petition, the commencement of the case, or the order for relief"). "[N]othing in the Code den[ies] debtors funds that would have been theirs had the case proceeded under Chapter 7 from the start." *Harris*, 135 S. Ct. at 1838. So, without a doubt, we examine Rockwell's claim of a homestead exemption on the date he filed for his Chapter 13 bankruptcy. As previously noted, no one disputes that Rockwell properly claimed Maine's homestead exemption on that date.

3. *The Complete Snapshot Rule Applies*

Therefore, the final concept we must wrestle with is whether to apply the partial or complete snapshot rule: that is, we consider whether to examine Rockwell's claimed homestead exemption as unchanging, in accordance with the complete snapshot rule, or apply the partial snapshot rule and afford Rockwell the homestead exemption only so far as he maintains his homestead. Again, the Code answers this question for us. "Property that is properly exempted under § 522 is immunized against liability for prebankruptcy debts, subject only to a few exceptions." *In re Cunningham*, 513 F.3d at 323; *accord* 11 U.S.C. § 522(c)(1)-(3). The Code enumerates those exceptions, where property that is properly exempt on the day of filing (here, the day the snapshot is taken) can be later incorporated into the estate (because the snapshot was only partial and can

therefore be edited). *See* 11 U.S.C. § 522(c). "Those exceptions include: (1) debt from certain taxes and customs duties, (2) debt related to domestic support obligations, (3) liens that cannot be avoided or voided, including tax liens, and (4) debts for a breach of fiduciary duty to a federal depository institution." *In re Cunningham*, 513 F.3d at 323. Therefore, we must conclude that the complete snapshot rule applies to homestead exemptions taken pursuant to § 522, where none of the statute's enumerated exceptions applies. None of these explicit exceptions applies to Rockwell's case, nor does Hull contend that one does, so Rockwell's homestead exemption taken on the day he filed for bankruptcy must be viewed as unchanging, even in the face of his later sale of the property.

This result lines up with the Code's priority of providing a "fresh start" for debtors. "[W]hile a Chapter 7 debtor must forfeit virtually all his prepetition property, he is able to make a 'fresh start' by shielding from creditors his postpetition earnings and acquisitions." *Harris*, 135 S. Ct. at 1835. Debtors can best make a fresh start where they can make healthy financial choices moving forward, knowing what property is out of the reach of the pre-petition creditors. Indeed, "exemptions in bankruptcy cases are part and parcel of the fundamental bankruptcy concept of a fresh start." *Schwab* v. *Reilly*, 560 U.S. 770, 791 (2010) (internal quotation marks and citations omitted); *accord In re Cunningham*, 513 F.3d at 324 ("The efficacy of the fresh start policy requires finality that allows a debtor to rebuild his life without fear of lingering creditors."). "[A] central purpose of the [Bankruptcy Code] is to provide a procedure by which certain insolvent debtors can reorder their affairs, make peace with their creditors, and enjoy 'a new opportunity in life with a clear field for

future effort, unhampered by the pressure and discouragement of preexisting debt.'" *Grogan* v. Garner, 498 U.S. 279, 286 (1991) (quoting *Local Loan* Co. v. *Hunt*, 292 U.S. 234, 244 (1934)). By protecting Rockwell's exempt property, which was properly exempted on the day of filing, from later being made available to creditors, the bankruptcy court in this case supported Rockwell in achieving the "fresh start" that the Code prizes.

We addressed this aspect of the Code before in *In re Cunningham*, involving a Chapter 7 filing, where we considered "whether the post-petition sale of the debtor's home, for which he had obtained a homestead exemption under the law of Massachusetts protecting it from creditors, cause[d] the proceeds of the sale to lose their exempt status under the Bankruptcy Code and become subject to pre-petition, nondischargeable debt." *In re Cunningham*, 513 F.3d at 320. Cunningham, the debtor in that case, had properly claimed a homestead exemption under Massachusetts law. Later, he sold his home, made approximately $150,000 from the sale, and moved to Florida.[5] *Id.* at 322. One of Cunningham's creditors moved to have the proceeds from the sale used to satisfy Cunningham's debt. *Id.* at 321-22. The creditor argued, similar to Hull's argument here, that the once-exempt interest in the homestead was proper at the time Cunningham filed for bankruptcy, but once he sold the property, it no longer enjoyed the protection of Massachusetts' homestead exemption and therefore could be collected to satisfy Cunningham's debts. *Id.* at 322. When analyzing that case, we noted that § 522(c)

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[5] The Massachusetts homestead exemption in place at the time did not exempt proceeds recovered from a sale of the homestead. *See In re Cunningham*, 513 F.3d at 321.

has an "immunizing effect" on any exempt assets, other than those explicitly excepted, and those exempt assets are therefore exempt from pre-petition debt collection during and after the bankruptcy. *Id.* at 323-24. Though we did not address the rule by name, our approach in *In re Cunningham* was compatible with the complete snapshot rule, when we held that because the exemption was proper on the day Cunningham filed for bankruptcy, Cunningham's interest in that asset was "permanently immuniz[ed]" from pre-petition debt collection, even if he later sold that homestead. *Id.* at 322-325. Our analysis does not differ here.

4. *Hull's Concerns*

Trying to distinguish our *Cunningham* holding, Hull urges us to view this as a distinct Chapter 13 issue because Rockwell sold his home while proceeding in that type of bankruptcy. He tells us that "[t]he differences between a [C]hapter 7 case and a [C]hapter 13 case bear on the outcome of this appeal." According to Hull, our analysis of the homestead exemption should include changes based on post-petition activity because after Rockwell filed his petition, "he retained, exclusive of the [C]hapter 13 trustee, possession of the house and the attendant decision-making authority over what to do with it and the proceeds arising from its sale."[6]

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[6] Though not dispositive, we disagree with Hull's characterization of Rockwell's control. While it is true that a hallmark of Chapter 13 proceedings is that the debtor retains possession of his property, *see* 11 U.S.C. §§ 1322, 1327, the bankruptcy court still exercises control over the debtor. Once the court confirms the debtor's plan, the debtor is bound by the plan's provisions, *id.* § 1327(a), and the debtor must obtain the court's approval for any modification of the confirmed plan. *Id.* § 1329. In order to discharge his debt (a debtor's goal in bankruptcy), absent approval by the court under special

Essentially, the complete snapshot rule does not apply to a Chapter 13 proceeding because under Chapter 13, the debtor maintains control of his property.

The Code continues to inform our approach and we find this argument unavailing. The Code considers the transition from a Chapter 13 to a Chapter 7 case and specifies how to examine these cases: we look to the date the petition was filed when evaluating exemptions. 11 U.S.C. § 348(f). The bankruptcy court looks at the debtor's assets on the *conversion* date (as Hull urges us to do here), rather than the *petition* date only when the debtor converts in bad faith. *Id.* § 348(f)(2); *see Harris*, 135 S. Ct. 1837-38. Hull does not allege Rockwell converted to a Chapter 7 bankruptcy in bad faith and the bankruptcy court made no such finding. The Code does not contain any other provisions (and Hull does not cite any) that instruct the bankruptcy court to treat a Chapter 7 debtor differently if he converted his case from Chapter 13. *See Law*, 571 U.S. at 425 ("[f]ederal law provides no authority for bankruptcy courts to deny an exemption on a ground not specified in the Code." (emphasis omitted)). Rather, the Code values the right of Chapter 13 debtors to convert to Chapter 7 proceedings and specifies that the conversion right cannot be waived. 11 U.S.C. § 1307(a).

We are unpersuaded by Hull's implication that we should ignore the connection between Chapter 13 and Chapter 7 proceedings. "Many debtors . . . fail to complete a Chapter 13 plan successfully." *Harris*, 135 S. Ct. at 1835 (citing Katherine Porter, *The Pretend Solution: An Empirical Study of Bankruptcy Outcomes*, 90 Tex. L. Rev. 103, 107–111 (2011) for the proposition

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circumstances, the debtor must "complet[e] . . . all payments under the [Chapter 13] plan." *Id.* § 1328(a).

that only one third of Chapter 13 cases results in the debtor successfully discharging debt). The simple fact of this case is that Rockwell did convert his case to a Chapter 7 bankruptcy, as many Chapter 13 debtors ultimately do.[7] *See id.* As a result, we must view this as what it is: a Chapter 7 case.

Hull further argues that our holding will effectively read the six-month limitation out of the Maine statute in bankruptcy proceedings. Where, as here, the debtor exempts their homestead under Maine law and then later sells the homestead, Maine's six-month period for protecting the value of that homestead would not apply. From our perspective, that is what the Code requires. "To interpret § 522(c) as conferring merely an ephemeral exemption, subject to post-termination events, would undermine that basic principle and its relationship to the fresh start policy of the Bankruptcy Code." *In re Cunningham*, 513 F.3d at 324; *see Myers*, 318 U.S. at 628 ("[A debtor's] right to a homestead exemption becomes fixed at the date of the filing of the petition in bankruptcy and cannot thereafter be enlarged or altered by anything the [debtor] may do."). As one bankruptcy court aptly put it: "[a] debtor is not required to maintain exempt property in its exempt state indefinitely after filing in order to avoid a retroactive loss of the exemption." *In re Hageman*, 388 B.R. 896, 900 (Bankr. C. D. Ill. 2008).

Finally, Hull reminds us that other circuits that have addressed similar questions have reached a result that is (or seems) at odds with the result we reach here. Hull

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[7] We do not decide whether sale proceeds continue to be exempted under the Maine homestead exemption if the six-month period expires after the petition date in a Chapter 13 case where there is no conversion to Chapter 7.

points us to the Ninth Circuit's approach in *In re Jacobson* where a Chapter 7 debtor claimed a homestead exemption under California law, a creditor forced the sale of the homestead during the bankruptcy, and the debtor did not reinvest the proceeds of the sale during the six-month period, as required by California's homestead statute. *In re Jacobson*, 676 F.3d 1193, 1197 (9th Cir. 2012). The Ninth Circuit held that the sale's proceeds belonged to the estate, once the six-month reinvestment period had passed. *Id.* The Ninth Circuit purported to apply the snapshot rule, explaining that the snapshot rule, in its view, incorporates "the entire state law[,] includ[ing] a reinvestment requirement for the debtor's share of the homestead sale proceeds." *Id.* at 1199. Hull also relies upon the Fifth Circuit's approach in *In re Frost*, where a Chapter 13 debtor exempted his homestead pursuant to Texas's vanishing homestead law and then did not reinvest the proceeds within the required time limit. *In re Frost*, 744 F.3d 384, 385 (5th Cir. 2014). The Fifth Circuit held that the debtor lost the protection of the homestead exemption, declining to apply the complete snapshot rule. *Id.* at 388 ("[O]nce a new homestead has been purchased, the funds become proceeds from the sale of a *former* homestead, which fall outside the protection of the Texas statute." (emphasis in original)).

We find these cases unpersuasive. Neither of these cases addresses the Code's valued "fresh start" principles as articulated in *Harris*, 135 S. Ct. 1829, or the Supreme Court's admonishments in *Law*, 571 U.S. 415, that courts reach the result required by the text of the Bankruptcy Code. The Ninth Circuit issued its opinion in *In re Jacobson* in 2012, approximately two years before having the benefit of the Supreme Court's guidance in *Law* and three years before *Harris*. *See In*

re Jacobson, 676 F.3d at 1193. The Fifth Circuit issued its opinion in *In re Frost* one day after the Supreme Court's decision in *Law*, but does not mention that case, and approximately one year before the Supreme Court's decision in *Harris*. *See In re Frost*, 744 F.3d at 384. We are, of course, bound by Supreme Court precedent, not that of our sister circuits, and reach our decision here in accordance with the Supreme Court's guidance.

The outcome is also not altered by our own decision in *Howison* v. *Hanley*, 141 F.3d 384 (1st Cir. 1998). In that case, more than two years before filing for bankruptcy, the debtor conveyed his interest in his homestead to his wife for no consideration "with the admitted purpose of putting it beyond the reach of his creditors." *Howison*, 141 F.3d at 385. The district court found that this was a fraudulent transfer and we affirmed. *Id.* When analyzing that case, we summarized Maine's homestead exemption statute, 14 M.R.S. § 4422, (the same statute at issue here), and commented that if the debtor sells his homestead, he retains the value of the homestead exemption, but only if he reinvests in a new homestead in six months, as prescribed by the statute. *Id.* at 386.

Howison is not on point. It does observe that under Maine law proceeds received in the sale of an exempt homestead lose the protection of the exemption, and thus become available to creditors, if not reinvested in a residence within six months. *Id.* We agree. *Howison* said nothing at all, though, about the issue before us: what to do if the debtor files for bankruptcy protection while the asset (whether home or proceeds of selling the home) is still exempt under Maine law? *Howison* had no need to say anything about that issue because the debtor in that case had conveyed his interest in his residence well more than six months before he petitioned for bank-

ruptcy. *See id.* at 385. If there had been any proceeds from that conveyance, the six-month homestead exemption protection would have expired long before the debtor's bankruptcy filing. So, it would have made no difference to the debtor in *Howison* whether one takes a "snapshot" at the time of petitioning because, by that time, the proceeds had already become nonexempt and available to creditors. For that reason, this court's summary of Maine's homestead statute in *Howison* has no bearing on the outcome of this case.

In some circumstances, perhaps even in this circumstance, the result of this ruling will not prioritize the debt owed to creditors. Yet, "Congress balanced the difficult choices that exemption limits impose on debtors with the economic harm that exemptions visit on creditors[,]" *Schwab*, 560 U.S. at 791, and "it is not for courts to alter the balance struck by the statute." *Law*, 571 U.S. at 427.

WRAP UP

For the foregoing reasons, the district court's order is affirmed. Costs awarded to Rockwell.

APPENDIX B

UNITED STATES DISTRICT COURT, D. MAINE

2:18-cv-00385-JAW

NATHANIEL RICHARD HULL, Chapter & Trustee,

Appellant,

v.

JEFFREY J. ROCKWELL, Debtor, d/b/a/ Rockwell Productions formerly d/b/a/ Rockwell Productions Inc.,

Appellee.

Signed September 24, 2019

Nathaniel R. Hull, Verrill Dana LLP, Portland, ME, for Appellant.

Christopher J. Keach, Jennifer G. Hayden, Tanya Sambatakos, Molleur Law Office, James F. Molleur, Law Office of James F. Molleur, Biddeford, ME, for Appellees.

ORDER ON BANKRUPTCY APPEAL

JOHN A. WOODCOCK, JR., *United States District Judge*

This bankruptcy appeal presents a narrow question of law that calls on the Court to resolve conflicting provisions of state and federal law. To be eligible for a state homestead exemption, a resident who claims the exemption and sells the residence must invest the exempt proceeds in another residence within six months

of the sale. If the person claiming the exemption fails to make a timely investment, the exemption disappears or becomes—in the language of the law—a vanishing exemption. By contrast, in bankruptcy law, the well-known snapshot doctrine dictates that the rights and obligations of the debtor become frozen as of the date of a bankruptcy filing, much as a snapshot freezes the image of an object as of a specific time. If the snapshot is complete, it cannot be changed; if partial, it is subject to revision based on subsequent events.

In this case, a person, who filed in chapter 13 and converted into a chapter 7 bankruptcy, sold the residence during the chapter 13 proceeding and failed to invest the proceeds of the sale of the residence within six months as state law requires. The issue on appeal is whether the person loses the exemption or retains it; or, applying terms of bankruptcy law, whether the snapshot is complete or partial. In practical terms, the resolution of this question determines whether the amount of the claimed exemption may be retained by the person filing in bankruptcy or must be transferred to the trustee for distribution in accordance with bankruptcy law.

The Bankruptcy Court, in a well-researched and thoughtful opinion, ruled that the homestead exemption does not vanish, because the snapshot is complete as of the date of bankruptcy filing. The effect of the Bankruptcy Court ruling is to allow the person claiming the exemption to retain it despite the failure to comply with the six-month limitation. Although there are persuasive arguments for either position, the Court agrees with the Bankruptcy Court and affirms its ruling.

I. BACKGROUND

A. Procedural History

On September 20, 2018, chapter 7 trustee Nathaniel R. Hull filed an appeal pursuant to 28 U.S.C. § 158 from the August 23, 2018 Order of the United States Bankruptcy Court for the District of Maine overruling Mr. Hull's objection to Mr. Rockwell's claimed homestead exemption. *Notice of Appeal* (ECF No. 1). On November 2, 2018, Mr. Hull filed his brief in support of the appeal. *Br. of the Appellant* (ECF No. 5) (*Appellant's Br.*). On December 3, 2018, Appellee Jeffrey J. Rockwell filed his response. *Br. of Appellee Jeffrey J. Rockwell* (ECF No. 7) (*Appellee's Opp'n*). On December 17, 2018, Mr. Hull filed his reply. *Reply Br. of Appellant* (ECF No. 8) (*Appellant's Reply*).

B. The Bankruptcy Court Proceedings

1. Facts

The facts are undisputed. Jeffrey J. Rockwell purchased the property and buildings located at 24 B Street, South Portland, Maine, in 2001. *Bankruptcy Appeal*, Attach. 4 at 2 (ECF No. 1) (*Mem. of Decision*); *Appellee's Opp'n* at 2. On August 19, 2015, Mr. Rockwell filed a voluntary petition for relief in Bankruptcy Court, pursuant to the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101, *et seq. Mem. of Decision* at 2; *Appellee's Opp'n* at 2. At the time of his petition, he owned and resided at the property. *Mem. of Decision* at 2; *Appellee's Opp'n* at 2 ("The Appellee had owned the Property since 2001 and it was the Appellee's primary residence").

According to Mr. Rockwell's chapter 13 bankruptcy schedule, pursuant to 11 U.S.C. § 522(b)(3)—which allows a debtor to claim available state law exemptions he claimed an exemption under Maine's homestead

exemption statute, 14 M.R.S.A. § 4422(1), in the maximum statutory amount of $47,500, based on his equity in the property. *Mem. of Decision* at 2.

In November 2015, the Bankruptcy Court confirmed Mr. Rockwell's chapter 13 plan of reorganization. *Id.* His plan anticipated he would directly pay the holder of the first mortgage on the property and retain the B Street property. *Id.* However, by December of 2016, Mr. Rockwell decided to sell the property. *Appellee's Opp'n* at 2. Mr. Rockwell sought permission from the Bankruptcy Court to sell the property for $160,000 and to apply any non-exempt proceeds from the sale to the chapter 13 plan. *Id.*

At the hearing on the motion to sell the B Street property, the chapter 13 trustee, in his words, "mildly" voiced concerns about the sale price but expected the Bankruptcy Court would grant the motion to sell as a proper exercise of Mr. Rockwell's business judgment. *Mem. of Decision* at 2. On January 12, 2017, the Bankruptcy Court approved the change, authorizing Mr. Rockwell to sell the B Street property and to pay from the proceeds of the sale (1) his ordinary and customary closing expenses, (2) the balance due to U.S. Bank, and (3) to contribute any non-exempt sale proceeds to his chapter 13 plan. *Id.*

The closing took place on March 6, 2017. *Id.* After the closing, $51,682.87 remained after the first mortgage obligation was satisfied and closing costs were paid; Mr. Rockwell received $47,500 and Mr. Hull, as chapter 13 trustee, received $4,182.87. *Mem. of Decision* at 2. Under 14 M.R.S. § 4422(1)(C), a person claiming a homestead exemption must reinvest the exempted portion of the proceeds of the sale of the residence in a new residence within six months. *Id.* ("C. That portion of the proceeds from any sale of property which is exempt

under this section shall be exempt for a period of 6 months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period"). However, contrary to the express requirements of Maine's homestead exemption, Mr. Rockwell did not spend any of the proceeds of the sale on the purchase of a new residence. *Bankruptcy Case No.* 15-20583 (*Bankruptcy Case*), *Stipulation* (ECF No. 144) (*Stip.*).

On August 7, 2017, Mr. Rockwell converted his chapter 13 bankruptcy to a chapter 7 bankruptcy case. *Appellee's Opp'n* at 3; *Mem. of Decision* at 2-3. On November 8, 2017, the Bankruptcy Court granted an order of discharge under 11 U.S.C. § 727. *Bankruptcy Case*, *Order Discharging Debtor* (ECF No. 123). As of the date of the conversion, Mr. Rockwell had spent $18,806.23 of the proceeds of the sale, leaving a balance of $28,693.77. *Mem. of Decision* at 3. On December 4, 2017, Mr. Hull filed an objection to Mr. Rockwell's claim of exemptions pursuant to Rule 4003(b) of the Federal Rules of Bankruptcy Procedure, claiming that Mr. Rockwell failed to meet the six-month reinvestment requirement of Maine's homestead exemption. *Bankruptcy Case*, *Obj. to Debtor's Claim of Exemptions*, at 1-2 (ECF No. 125). The Bankruptcy Court held a trial on May 22, 2018 and overruled Mr. Hull's objection in its August 23, 2018 Order and Memorandum of Decision. *See Order* at 1; *Mem. of Decision* at 1.

2. Memorandum of Decision

In its Memorandum of Decision, the Bankruptcy Court "examine[d] the permanence of an exemption claim in proceeds resulting from the sale of the debtor's homestead in a converted chapter 7 case in a jurisdiction with a temporal limit to its homestead proceeds exemption . . . ." *Mem. of Decision* at 1. The Bankruptcy

Court acknowledged that "[t]here is no specific controlling authority from the United States Court of Appeals for the First Circuit on the exact issue presented in the case and there is no uniform approach among the courts to vanishing state law homestead proceeds exemptions in bankruptcy[.]" *Id.* at 5.

The Bankruptcy Court discussed at length the two approaches used by other courts when applying similar exemptions to chapter 7 cases: the partial snapshot view and the complete snapshot view. *Id.* at 8. As the Bankruptcy Court explained, "[t]he 'snap-shot' doctrine provides that the rights of the debtor, and the facts and circumstances that undergird those rights, are locked in as of the petition date." *Id.* at 8 n.8. However, some courts interpret the snapshot rule as incorporating the debtor's post-petition failure to reinvest the proceeds in another residence, as required by the temporal limitation on a state's homestead exemption, while others hold the exemption as fixed as of the date of filing. *Id.* at 9-10. After discussing these two approaches, the Bankruptcy Court concluded that "the complete snap-shot view more faithfully adheres to the Code, First Circuit authority, and the practicalities of administering a chapter 7 case." *Id.* at 11.

II. POSITIONS OF THE PARTIES

A. Brief of Appellant Nathaniel Hull

Mr. Hull's appeal

> challenges the Bankruptcy Court's conclusion that Maine's homestead proceeds exemption . . . does not continue to operate during the course of a bankruptcy case and, instead, is frozen in time at the filing date and immutable thereafter, even by the voluntary failure of the debtor

> to comply with Maine's statutory reinvestment requirement.

Appellant's Br. at 4. According to Mr. Hull, "in the absence of an overriding Bankruptcy Code policy that would compel such a drastic departure from the operation of Maine's exemption scheme, the Bankruptcy Court should adhere to the calibrated limitations placed on exemptions by the State of Maine." *Id.* at 5. Mr. Hull contends that the "partial" snapshot rule would reflect the deference Congress has given states to define exemptions under state law, while also adhering to Supreme Court caselaw regarding homestead claims. *Id.* at 7.

According to Mr. Hull, the fact that Congress allows states to opt out of the set of federal exemptions in § 522(b) in favor of the state's own exemptions shows a congressional intent to defer to the state's interest regarding the applicability of exemptions, a priority reflected in *Butner v. United States*, 440 U.S. 48, 55, 99 S.Ct. 914, 59 L.Ed.2d 136 (1979). *Appellant's Br.* at 8-9. Furthermore, Mr. Hull argues that applying the partial snapshot approach is in keeping with the purpose behind the homestead exemption under 14 M.R.S. § 4422(1), which is to "preserve the equity value that the homeowners built up in the first home, to the extent of the maximum amount of the exemption." *Appellant's Br.* at 11 (citing *In re Grindal*, 30 B.R. 651, 653 n.4 (Bankr. D. Me. 1983)). The Bankruptcy Court's interpretation, Mr. Hull argues, favors non-homeowners over homeowners and results in a dramatic difference in the exempted property allowed for a debtor in a bankruptcy case in comparison with a non-debtor who has not sought bankruptcy protection. *Id.* at 12-14.

Mr. Hull contends that the Bankruptcy Court erred in concluding that the six-month limitation under

§ 522(b) conflicts with the Bankruptcy Code, because Supreme Court cases have "look[ed] to post-petition events to determine the applicability of those exemptions on the filing date." *Id.* at 15 (citing *White v. Stump*, 266 U.S. 310, 45 S.Ct. 103, 69 L.Ed. 301 (1924); *Myers v. Matley*, 318 U.S. 622, 63 S.Ct. 780, 87 L.Ed. 1043 (1943)). Mr. Hull also cites the Fifth Circuit, which, in applying *White* and *Myers* in a vanishing exemption case, concluded that

> *Myers* thus confirms the basic holding from *White v. Stump* that the law and facts existing on the date of filing the bankruptcy petition determine the existence of available exemption, but flags the important reminder that it is the entire state law applicable on the filing date that is determinative.

Id. at 21 (citing *In re Zibman*, 268 F.3d 298, 304 (5th Cir. 2001)). Here, Mr. Hull says, the right to take the act authorized under § 522(b) was frozen when Mr. Rockwell filed his petition, but as Mr. Rockwell failed to take the affirmative act required by the statute, he should not reap the benefit of the exemption. *Id.* The Bankruptcy Court's application of the complete snapshot approach, Mr. Hull says, "effectively read the six (6) month limitation out of the statute, and transformed an explicitly limited exemption into a permanent one." *Id.*

Mr. Hull says that *Owen v. Owen*, 500 U.S. 305, 111 S.Ct. 1833, 114 L.Ed.2d 350 (1991) is distinguishable because in *Owen*, a Bankruptcy Code policy expressly conflicted with the state exemption statute. As a result, "the Supreme Court held that a debtor could 'avoid' a pre-existing judicial lien encumbering property pursuant to 11 U.S.C. § 522(f) even though the state exemption statute had defined the exemption to specifically

exclude property to which pre-existing judicial liens had attached." *Appellant's Br.* at 22 (citing *Owen*, 500 U.S. at 305, 111 S.Ct. 1833). Mr. Hull says that *Owen* is a preemption case, whereas "[t]his case solely concerns Maine's ability to set a time in which the debtor must take an affirmative action in order to maintain a property's exempt status . . . ." *Id.* at 24.

Similarly, Mr. Hull says the First Circuit case of *In re Cunningham* is distinguishable from the present case in two ways: first, it "was in a significantly different place procedurally when the appeal was taken . . . [because] the First Circuit was considering this issue only after an unsuccessful challenge to the exemption," *id.* at 25-26, and second, because the exemption in *Cunningham* was not time-limited. *Id.* at 27-28 (citing *In re Cunningham*, 513 F.3d 318, 321 (1st Cir. 2008)).

In Mr. Hull's view, *In re Williams*, however, addressed the Massachusetts law after it had been changed to a vanishing exemption similar to the exemption at issue here, and concluded that "a state law exemption defined by an innate temporal limitation shall expire pursuant to that limitation notwithstanding an intervening bankruptcy." *Id.* at 27 (citing M.G.L.A. ch. 188, § 11(a)(1); *In re Williams*, 515 B.R. 395, 403 (Bankr. D. Mass 2014)). Mr. Hull says that *In re Williams* reflects Fifth Circuit and Ninth Circuit authority regarding the operation of vanishing exemptions under similar circumstances. *Id.* at 29.

Mr. Hull cites Federal Rule of Bankruptcy Procedure 1019(2)(B)(i) as support for the partial-snapshot approach, because the rule "provides that '[a] new time period for filing an objection to a claim of exemptions shall commence under Rule 4003(b) after conversion' of a chapter 13 case to one under chapter 7." *Id.* at 30 (quoting FED. R. BANKR. P. 1019(2)(B)). Although Mr.

Hull admits that "the Maine Law Court has not spoken directly about he operation of the 'vanishing' exemption," he argues that if faced with the issue, the Law Court would enforce the limitation and deny the exemption, given the "language of the statute and the unequivocal legislative intent." *Id.* at 31-32.

Finally, Mr. Hull contends that applying Maine's temporal limitation would still allow for the prompt administration of bankruptcy cases, because the Bankruptcy Code's abandonment provision, § 554(b), allows a bankruptcy court to order the trustee to abandon any property of the estate that is "burdensome to the estate or of inconsequential value and benefit to the state" upon the request of a party in interest. *Id.* at 34-35 (quoting 11 U.S.C. § 554(b)).

B. Brief of Appellee Jeffrey Rockwell

Mr. Rockwell, in response, argues that the snapshot rule is a well-established "maxim in bankruptcy matters that the Supreme Court . . . articulated nearly a century ago," and that the Bankruptcy Court correctly overruled Mr. Hull's objection to Mr. Rockwell's homestead objection, "properly claimed pursuant to 11 U.S.C. § 522(b)(3) and 14 M.R.S.A. § 4422(1)(A) . . . ." *Appellee's Opp'n* at 5. According to Mr. Rockwell, the Bankruptcy Court correctly concluded that the rights of a debtor to an exemption should be determined by "the facts and law in place on the petition date . . . ." *Id.* (quoting *Mem. of Decision* at 8). The Bankruptcy Court's decision, according to Mr. Rockwell, reflects both "the binding precedent of the First Circuit in *Cunningham* that exemptions are determined when a petition is filed and the binding precedent of the Supreme Court that conversion from chapter 13 to chapter 7 does not change the petition date." *Id.* at 7-8 (citing *Harris v. Viegelahn*, 575 U.S. 510, 135 S. Ct.

1829, 1836, 191 L.Ed.2d 783 (2015); *Cunningham*, 513 F.3d at 324). Mr. Rockwell also quotes *Myers*, 318 U.S. at 628, 63 S.Ct. 780, for the proposition that "the bankrupt's right to a homestead exemption becomes fixed at the date of the filing of the petition in bankruptcy and cannot thereafter be enlarged or altered by anything the bankrupt may do." *Appellee's Opp'n* at 9.

Mr. Rockwell contends that "[t]o require that the proceeds of a sale that occurs during bankruptcy of a homestead property that the debtor has properly claimed as exempt be made available for the satisfaction of prepetition debts and/or administrative expense claims would violate the fresh start principles of the Bankruptcy Code." *Id.* at 13-14 (citing *Cunningham*, 513 F.3d at 324; *Butner*, 440 U.S. 48, 55, 99 S.Ct. 914, 59 L.Ed.2d 136 (1979)). Mr. Rockwell says this "competing federal interest[ ]" overrides the temporal limitation set forth in Maine's homestead exemption provisions. *Id.* at 15. Mr. Rockwell argues that the duty of a trustee to "collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest" conflicts with the Maine state law provision. *Id.* at 16-17 (quoting 11 U.S.C. § 704(a)(1)). Additionally, Mr. Rockwell disputes the significance of the committee report Mr. Hull cited, arguing that it is improper to interpret legislative intent when the language of the statute is clear and unambiguous, citing *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340, 117 S.Ct. 843, 136 L.Ed.2d 808 (1997), and that the report itself "is by no means determinative of the legislative intent of the full Maine legislature at the time 14 M.R.S.A. § 4422(1)(C) became law." *Appellee's Opp'n* at 19.

In response to Mr. Hull's reliance on the decisions from the Fifth and Ninth Circuits *In re Frost* and

Zibman "for the proposition that 'state law exemptions must be analyzed in terms of the exact scope of the rights [the statute] confers at the time of the bankruptcy petition,'" Mr. Rockwell says that this authority actually supports his position, because he sold the residence after he filed his bankruptcy petition. *Id.* at 21-22 (quoting *Appellant's Br.* at 29) (alteration in original). Therefore, according to Mr. Rockwell, "[t]he exact scope of the rights conferred by Maine's homestead exemption law on the Appellee at the time he filed his bankruptcy petition was for the Appellee's 'aggregate interest, not to exceed $47,500 in value, in real or personal property . . . .'" *Id.* at 22 (quoting Section 4422(1)(A)). In other words, the post-petition sale of the residence did not change Mr. Rockwell's right to the exemption claimed pursuant to section 4422(1)(A), as Mr. Rockwell says the Fifth Circuit held in *Matter of DeBerry*, 884 F.3d 526, 529 (5th Cir. 2018), and in *In re Williams*, 525 B.R. at 397. *Appellee's Opp'n* at 22-23.

C. Reply Brief of Appellant Nathaniel Hull

In reply, Mr. Hull states that "all of the important events underlying this dispute occurred while the Debtor maintained full control of his property under the protection of chapter 13 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. . . . rather than chapter 7." *Appellant's Reply* at 1. As such, Mr. Hull argues, Mr. Rockwell "was not a passive bystander" in a chapter 7 trustee's effort to sell his home, but was in control of his property at the time the home was sold. *Id.* at 2. Mr. Hull highlights language in *DeBerry* noting that there is a key distinction between "holding debtors accountable for their failure to reinvest homestead proceeds within the applicable statutory period" in chapter 13 cases versus chapter 7 cases. *Id.* (citing

DeBerry, 884 F.3d at 526). Mr. Hull argues that there is "no reason why a debtor should be permitted to evade the operation of vanishing exemptions simply by converting his case from chapter 13 to chapter 7 after the house is sold and the proceeds are gone." *Id.* at 3.

Mr. Hull contends that the Fifth Circuit differentiated between the proper application of vanishing exemptions in chapter 7 and chapter 13 cases in its body of case-law. *Id.* at 9 (citing *In re Frost*, 744 F.3d 384, 384 (5th Cir. 2014)). In *Frost*, the Fifth Circuit held that the proceeds of the sale of the debtor's residence, sold after he filed for chapter 13 bankruptcy, were "removed from the protection of Texas bankruptcy law and no longer exempt from the case" because the debtor "failed to reinvest the sale proceeds in another homestead within six months of the sale." *Id.* at 9-10 (citing *Frost*, 744 F.3d at 385, 387). Mr. Hull argues that this outcome is reasonable so that chapter 13 debtors, who maintain full control of their property during the pendency of a chapter 13 case, are held "accountable for their failure to reinvest their proceeds after a wholly voluntary sale . . . ." *Id.* at 11.

Mr. Hull also disputes Mr. Rockwell's assertion that applying the full operation of Maine's vanishing exemption would lead to complications in the administration of chapter 7 cases and potential delay in their resolution. *Id.* at 11-12. Mr. Hull contends that the abandonment provision of the Bankruptcy Code could ensure prompt administration of chapter 7 cases. *Id.* at 12. Mr. Hull notes that other courts have chosen not to base their decisions on the potential delay in the resolution of chapter 7 cases, which the Ninth Circuit called " 'too speculative' to drive the decision." *Id.* at 14 (quoting *Wolfe v. Jacobson (In re Jacobson)*, 676 F.3d 1193, 1200 (9th Cir. 2012)).

III. DISCUSSION

A. Standard of Review

"Review of the Bankruptcy Court order on appeal before [the District Court] is governed by Rule 8013 of the Federal Rules of Bankruptcy, which provides a District Court may 'affirm, modify or reverse a bankruptcy judge's judgment, order, or decree or remand with instructions for further proceedings.'" *In re Wolverine, Proctor & Schwartz, LLC*, 436 B.R. 253, 260 (D. Mass. 2010) (quoting FED. R. BANKR. P. 8013). "Although other issues may remain for resolution in a case after the determination of the Debtor's claimed exemptions, orders granting or denying exemptions are appealable as final orders . . . ." *Howe v. Richardson (In re Howe)*, 232 B.R. 534, 535 (1st Cir. BAP 1999), *aff'd*, 193 F.3d 60 (1st Cir. 1999). "[W]hen a party chooses to appeal a bankruptcy court decision to the district court pursuant to 28 U.S.C. § 158(a), the district court reviews the bankruptcy court's conclusions of law *de novo*." *Braemer v. Lowey*, No. 08-cv-349-P-S, 2009 WL 465972, at *1, 2009 U.S. Dist. LEXIS 14426 (D. Me. Feb. 24, 2009) (italics in original) (citing *Davis v. Cox*, 356 F.3d 76, 82 (1st Cir. 2004); *In re Watman*, 301 F.3d 3, 7 (1st Cir. 2002)). "In accordance with Federal Rule of Bankruptcy Procedure 8013, the Bankruptcy Court's findings of fact will not be set aside 'unless clearly erroneous.'" *Id.* at *1, 2009 U.S. Dist. LEXIS 14426, at *2-3 (quoting FED. R. BANK. P. 8013).

B. Jurisdiction

This Court has jurisdiction over this appeal pursuant to 28 U.S.C. § 158(a)(1), as the Appellant is appealing the Order Overruling the Trustee's Objection to Mr. Rockwell's Exemption entered by the Bankruptcy Court

on August 23, 2018. *See Order* at 1. "Orders granting or denying exemptions are appealable as final orders under 28 U.S.C. § 158." *Howe*, 232 B.R. at 535 (citations omitted). Mr. Hull, as chapter 7 trustee, has a right to appeal the Order because it was a final order, which he timely appealed under Bankruptcy Rule 8003. On September 19, 2018, the Appellee, Mr. Rockwell, filed his Statement of Election, electing to have this appeal heard by this Court rather than the Bankruptcy Appellate Panel for the First Circuit. *Bankruptcy Certificate of Readiness Received*, Attach. 2 (ECF No. 2).

C. Maine's Homestead Exemption, 14 M.R.S. § 4422

"An estate in bankruptcy consists of all the interests in property, legal and equitable, possessed by the debtor at the time of filing, as well as those interests recovered or recoverable through transfer and lien avoidance provisions." *Owen v. Owen*, 500 U.S. 305, 308, 111 S.Ct. 1833, 114 L.Ed.2d 350 (1991). "A debtor may claim that certain interests in property are exempt from the estate, thus withdrawing that 'interest . . . from the estate (and hence from the creditors) for the benefit of the debtor.'" *In re Williams*, 515 B.R. 395, 399 (Bankr. D. Mass. 2014) (quoting *Owen*, 500 U.S. at 308, 111 S.Ct. 1833). Pursuant to § 522(b)(1), debtors can "elect[ ] between those exemptions provided in 522(d), or, alternatively, exemptions available under state and federal non-bankruptcy law." *Howe*, 232 B.R. at 536.

Section 522(b)(1) also allows individual states to "opt out" of the § 522(d) exemption scheme, removing that option for its bankruptcy debtors. *Id.* "If a State opts out, then its debtors are limited to the exemptions provided by state law." *Owen*, 500 U.S. at 308, 111 S.Ct. 1833. Maine, along with thirty other states, "opted out" of the federal exemptions. *Dubois v. Fales (In re Dubois)*, 306

B.R. 423, 427 (Bankr. D. Me. 2004). In doing so, Maine created its own exemption scheme applicable to bankruptcy proceedings, providing that "any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph B, may exempt the amount allowed in that paragraph." 14 M.R.S. § 4426. This exemption allows the debtor to protect up to $47,500 in real or personal property that the debtor or the debtor's dependents use as a residence. *Id.* § 4422(1)(A). It also allows the proceeds from the sale of the exempt property to retain exempt status for six months for purposes of reinvesting in a residence. *Id.* § 4422(1)(C).

Exemptions must be considered within the context of what would otherwise be property of the bankruptcy estate, which is created "as of the commencement of the [bankruptcy] case." *Maine Dep't of Health & Human Servs. v. Getchell Agency*, No. 1:17-cv-00252-JAW, 2018 WL 1831412, at *4 (D. Me. Apr. 17, 2018) (quoting 11 U.S.C. § 541(a)(1)). "It is a basic principle of bankruptcy law that exemptions are determined when a petition is filed." *In re Cunningham*, 513 F.3d 318, 324 (1st Cir. 2008).

If Maine's homestead exemption is consistent with federal bankruptcy law, it may stand. However, if "the Maine residence exemption statute . . . is at odds with federal bankruptcy law[, a]s [*Bruin Portfolio, LLC v.*] *Leicht* [*(In re Leicht)*, 222 B.R. 670 (1st Cir. BAP 1998)], teaches, the conflicting state law provision must give way." *(In re Dubois)*, 306 B.R. 423, 427 (Bankr. D. Me. 2004).

D. Analysis

1. The Bankruptcy Court Ruling

As the Bankruptcy Court discussed in its Memorandum of Decision, the First Circuit has not directly

addressed whether the Maine (or similar) homestead exemption vanishes in the circumstances of this case, *Mem. of Decision* at 5, and the Maine Supreme Judicial Court has not provided insight into the intended effect of the state law exemption in chapter 7 cases. Courts outside this circuit have taken different approaches with vanishing exemptions in the context of chapter 7 cases and have reached opposite conclusions.

For example, "the United States Courts of Appeal for the Fifth and Ninth Circuits have both held sale proceeds not reinvested within the applicable statutory periods under Texas and California law, respectively, subsequently lost their exempt status post-petition." *In re Williams*, 515 B.R. 395, 401 (Bankr. D. Mass. 2014) (citing *In re Frost*, 744 F.3d 384, 388 (5th Cir. 2014); *In re Jacobson*, 676 F.3d 1193, 1199 (9th Cir. 2012); *In re Morgan*, 481 Fed. App'x 183, 187 (5th Cir. 2012); *In re Zibman*, 268 F.3d 298, 304 (5th Cir. 2001); *In re Golden*, 789 F.2d 698, 700 (9th Cir. 1986)). The Fifth Circuit in *Zibman* cited the Supreme Court's holdings in *Myers* and *White* as concluding that "the law and facts existing on the date of filing the bankruptcy petition determine the existence of available exemptions, [while] flag[ging] the important reminder that it is the *entire* state law applicable on the filing date that is determinative." *Zibman*, 268 F.3d at 303-04 (emphasis in original) (citing *Myers v. Matley*, 318 U.S. 622, 628, 63 S.Ct. 780, 87 L.Ed. 1043 (1943); *White v. Stump*, 266 U.S. 310, 310, 45 S.Ct. 103, 69 L.Ed. 301 (1924)).

Other courts have held that "developments which occur after filing should not impact on the entitlement to an exemption properly claimed at filing," highlighting the inefficiency and uncertainty that could result from trustees waiting for an exemption to expire before closing a chapter 7 case, *id.* (quoting *In re Snowden*, 386

B.R. 730, 734 (Bankr. C. D. Ill. 2008); *In re Lantz*, 446 B.R. 850, 861 (Bankr. N. D. Ill. 2011)), and the importance of the fresh start principles of the Bankruptcy Code. *In re Awayda*, 574 B.R. 692, 695 (Bankr. C.D. Ill. 2017). As one court stated, "[a] debtor is not required to maintain exempt property in its exempt state indefinitely after filing in order to avoid a retroactive loss of the exemption." *In re Hageman*, 388 B.R. 896, 900 (Bankr. C. D. Ill. 2008).

In light of this divergent body of case-law, the Bankruptcy Court weighed both approaches and concluded "that the complete snap-shot view more faithfully adheres to the Code, First Circuit authority, and the practicalities of administering a chapter 7 case." *Mem. of Decision* at 11. For support, it cited *In re Cunningham*, 513 F.3d 318, 324 (1st Cir. 2008), and *Law v. Siegel*, 571 U.S. 415, 422-23, 134 S.Ct. 1188, 188 L.Ed.2d 146 (2014). *Mem. of Decision* at 11-12.

2. Overview

As the Bankruptcy Court's opinion thoroughly addresses the issues Mr. Hull presents on appeal, the Court declines to rewrite what the Bankruptcy Court already articulated. *See Talbott v. C.R. Bard, Inc.*, 63 F.3d 25, 31 (1st Cir. 1995); *In re San Juan Dupont Plaza Hotel Fire Litig.*, 989 F.2d 36, 38 (1st Cir. 1993) (where district judge produces a well-reasoned opinion that reaches the correct result, a reviewing court should not write at length merely to put matters in its own words). The Court writes to provide analysis on the issues Mr. Hull raised on appeal to expand slightly upon the Bankruptcy Court's order.

3. Practicalities of Chapter 7 Administration

First, the Court accepts the Bankruptcy Court's assessment of the pragmatic impact of the parties' respective positions on the "practicalities of administering a chapter 7 case," and its determination that the practicalities of bankruptcy administration favor Mr. Rockwell. *Mem. of Decision* at 11, 15 n.17. The Court considers the Bankruptcy Court's finding not a conclusion of law, but a finding of fact (or perhaps judicial notice) based on the Bankruptcy Court's superior knowledge of its own docket. Indeed, the Bankruptcy Court expressed concern that, if Mr. Hull's view prevailed, chapter 7 trustees would be incentivized to run out the clock, waiting out the time limit imposed by state statute to see if the bankrupt failed to comply with the state statute, a result that the Bankruptcy Court noted would be contrary to the Bankruptcy Code's directive to trustees to "expeditiously" resolve chapter 7 proceedings. *Id.* at 15 n.17 (quoting 11 U.S.C. § 704(a)(1)). The Bankruptcy Court did not find this observation to be determinative but cited it as a "pragmatic reason against adopting the partial snapshot approach." *Id.* The Court adopts the Bankruptcy Court's observation as reflective of its greater expertise on matters within its aegis.

In his objection, Mr. Hull writes that courts have considered arguments about the practical impact of adopting the partial-snapshot approach to be "'too speculative' to drive the decision." *Appellant's Reply* at 14 (quoting *In re Jacobson*, 676 F.3d 1193, 1200 (9th Cir. 2012)). It is true that the Ninth Circuit in *In re Jacobson* did not credit the Bankruptcy Court's assessment of the practical and policy considerations potentially affected by its ruling.

On this narrow point, this Court respectfully disagrees but only slightly with the Ninth Circuit's "too speculative" conclusion. Whether characterized as a finding of fact or a policy assessment, it strikes this Court that a bankruptcy judge is in an ideal position to evaluate the practical consequences of a bankruptcy law ruling on the administration of bankruptcy cases. At the same time, the bankruptcy judge in this case was careful to note that the assessment of the practical consequences of adopting the partial snapshot approach was "not determinative of the conclusion reached by the court." *Mem. of Decision* at 15, n.17. This Court interprets the Bankruptcy Court's discussion on the practical impact of a partial snapshot approach as of limited value because, as the Ninth Circuit intimated, it is difficult to know how a chapter 7 trustee would act in a specific future case. Yet, unlike the Ninth Circuit, this Court does not entirely disregard the Bankruptcy Court's concerns about the impact of its ruling on the administration of bankruptcy cases.

4. An Actual Conflict

Mr. Hull argues that there is no actual conflict between the Bankruptcy Code and section 4422 in this case; instead, there is "an inherent limitation to an exemption that is generally applicable"; therefore, the temporal limitation in Maine's homestead exemption must apply. *Appellant's Br.* at 6-7. To conclude otherwise, Mr. Hull argues, would be to fail to "adhere[ ] to the deference Congress has provided to states to define the scope and extent of exemptions applicable in their respective state . . . ." *Id.* at 7. Mr. Hull contends that applying the complete snapshot rule to Maine's vanishing exemption, in effect, "transform[s] an explicitly limited exemption . . . to a permanent one" in

cases in which a residence is sold during a bankruptcy case, but the debtor fails to reinvest the proceeds of the sale in a new residence as section 4422(1)(C) requires. *Id.* at 14. This result, as noted by the Fifth Circuit in *Zibman*, "effectively read[s] the 6 month limitation out of the statute." *In re Zibman*, 268 F.3d 298, 304 (1st Cir. 2001). This argument is not without merit.

In making this argument, Mr. Hull relies on the Fifth Circuit *Zibman* case. There is an important factual difference between *Zibman* and the facts of this case: here, there is no dispute that Mr. Rockwell sold his residence well after he filed for bankruptcy under chapter 13.[1] By contrast, the debtors in *Zibman* sold the residence before they filed under chapter 7. *Id.* at 300 ("On November 27, 1998, the Zibmans sold the Houston home . . . . [O]n February 9, 1999, the Zibmans filed for

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[1] It is well-settled that exemptions are determined at the time of filing. *In re Cunningham*, 513 F.3d 318, 318 (1st Cir. 2008). The Bankruptcy Court, in determining the effect of Mr. Rockwell's conversion of his chapter 13 case to a chapter 7 case, concluded that pursuant to section 348(a) of the Bankruptcy Code, the conversion of a case from one chapter to another does not change the date of filing, which is the "appropriate time to use to determine [Mr. Rockwell's] rights to exempt proceeds." *Mem. of Decision* at 7.

Mr. Hull places great emphasis on the fact that at the time Mr. Rockwell sold his residence, the case was a chapter 13 case, and therefore, the decision to sell the residence was completely within his control, not the control of a chapter 7 trustee. But "[a]t no time during the chapter 13 portion of the case did the chapter 13 trustee challenge the exempt status of the $47,500 proceeds." *Mem. of Decision* at 6. Mr. Hull objected to Mr. Rockwell's exemption four months after the case was converted to chapter 7. *Id.* The Court, therefore, considers the exemption in the context of a chapter 7 case but refers back to Mr. Rockwell's original date of filing of the chapter 13 petition for the purposes of determining the property of the bankruptcy estate and Mr. Rockwell's right to exemptions.

bankruptcy protection under chapter 7, claiming as exempt the full amount of the proceeds from the sale of their Houston homestead").

This was a critical distinction, according to the Fifth Circuit's later decision in *DeBerry*: "Because the *Zibman* debtor had sold the homestead prepetition, the proceeds were only conditionally exempted subject to the reinvestment Texas requires. In contrast, this homestead was owned on the date of DeBerry's filing and thus was 'subject to an unconditional exemption under Texas law.'" *In re DeBerry*, 884 F.3d 526, 529 (5th Cir. 2018) (quoting *Hawk v. Engelhart*, 871 F.3d 287, 296 (5th Cir. 2017) (holding that the exemption for retirement accounts under Texas law is unconditionally exempted at the time of the chapter 7 filing)). The *DeBerry* Court concluded that "the homestead [is] exempt because it was owned at the commencement of DeBerry's bankruptcy." *Id.* at 530.

Here, as in *DeBerry*, Mr. Rockwell's residence, at the time he filed for chapter 13 bankruptcy, was subject to an unconditional exemption provided under section 4422(1)(A). The conditional exemption that applies in the case of the sale of the exempted residence under section 4422(1)(C) did not apply at the time the petition was filed, because Mr. Rockwell had not yet sold the residence. In short, Mr. Hull's reliance on the Fifth Circuit's reasoning in *Zibman* is less compelling in light of the distinction the Fifth Circuit subsequently drew between pre-and post-petition proceeds in *Hawk* and *DeBerry*.

Mr. Hull argues that relevant Supreme Court and First Circuit caselaw supports the application of the partial snapshot rule, not the complete snapshot rule. *Appellant's Br.* at 6. He interprets *Myers* and *White* as "set[ting] forth the same understanding that the

Supreme Court maintained as recently as 2014 when it stated in *Law v. Siegel* that 'when a debtor claims a state-created exemption, the exemption's scope is determined by state law.'" *Id.* at 16 (quoting *Law v. Siegel*, 571 U.S. 415, 425, 134 S.Ct. 1188, 188 L.Ed.2d 146 (2014)); *see also Myers v. Matley*, 318 U.S. 622, 63 S.Ct. 780, 87 L.Ed. 1043 (1943); *White*, 266 U.S. 310, 45 S.Ct. 103, 69 L.Ed. 301 (1924). However, consistent with the Fifth Circuit's clarification in *DeBerry*, Mr. Rockwell's right at the date of filing was to a permanent exemption in the equity of his residence, rather than the right to a conditional exemption in the proceeds from the sale of his residence.

5. State Law and the Bankruptcy Code

Even if the conditional exemption applied at the date of petition, the cases Mr. Hull cites do not support his proposition. While it is true, as stated by the *Siegel* Court, that "federal law provides no authority for bankruptcy courts to deny an exemption on a ground not specified in the Code," *Siegel*, 571 U.S. at 425, 134 S.Ct. 1188, "[t]he snapshot rule merely controls the moment in time upon which a debtor's right to claim exemptions is based and what state laws apply to the facts as they are at that time." *In re Awayda*, 574 B.R. 692, 697-98 (Bankr. C.D. Ill. 2017). Here, as in *Awayda*, "the Debtor should not be deprived of her exemptions by this Court reading into the Code a provision that exemptions need not be determined as of the date of filing or can be considered conditional and subject to postpetition divestiture." *Id.* (citing *Siegel*, 571 U.S. at 424-25, 134 S.Ct. 1188).

6. *Cunningham* and Its Binding Force

Mr. Hull argues that *Cunningham* can be distinguished because the case did not involve a vanishing exemption, and "*Cunningham* held that exemptions should not be subject to post-termination events but a vanishing exemption is not the same as one that is 'terminated.' Instead, a vanishing exemption merely reflects an inherent limitation on the continued entitlement to the exemption." *Appellant's Br.* at 28.

The Court disagrees and considers the First Circuit's holding instructive for the purposes of this case. In evaluating whether the proceeds from the sale of a home sold post-petition remain exempt, the First Circuit concluded "that the proceeds from the sale of the home retain the exempt status of the home itself." *In re Cunningham*, 513 F.3d 318, 320 (1st Cir. 2008). The same principle applies here, and the permanent exemption applies allowing for the debtor's interest in the residence itself under Maine's homestead exemption, rather than the conditional exemption allowed for the proceeds from the sale of the home.

7. Legislative Intent and Fresh Start Principles

Mr. Hull argues that applying the complete snapshot rule to Maine's homestead exemption would run against the Legislature's purpose in enacting the exemption, which he argues was "intended to help homeowners . . . maintain that status; but not to provide the debtor funds for other purposes." *Appellant's Br.* at 32 (citing *In re Grindal*, 30 B.R. 651, 653 n.4 (Bankr. D. Me. 1983). He argues that the effect of this broad interpretation "create[s] an absolute dispensation for former homeowners, increasing the allotted personal property exemption . . . one-hundred-fold during a six (6) month period following the sale simply because the debtor is

operating under the protection of the Bankruptcy Code." *Id.* at 33. Again, as his position relies on the presumed intention of the Maine Legislature, Mr. Hull's argument must be considered seriously.

Nevertheless, even if the Court viewed this case as one involving the interpretation of the conditional exemption under section 4422(1)(C), the Court agrees with the Bankruptcy Court's conclusion that "such a result is not only permitted but required," given that "fresh start principles promulgated in § 522(c) override state law exemption limitations, even definitional limitations . . . ." *Mem. of Decision* at 14-15 (quoing *In re Leicht*, 222 B.R. 670, 680 (1st Cir. BAP 1998)). As the First Circuit stated in *Cunningham*, "[t]he efficacy of the fresh start policy requires finality that allows a debtor to rebuild his life without fear of lingering creditors." 513 F.3d at 324. As noted earlier, when provisions of the Bankruptcy Code and state law conflict, the provisions of the Bankruptcy Code must prevail.

8. Conclusion

The challenge of applying state-created vanishing exemptions to chapter 7 cases is reflected in the inconsistent approaches in the caselaw. As noted by the Bankruptcy Court, neither approach is without flaws, and the outcome reached by the Bankruptcy Court could lead to what some view as unfair results in a narrow group of cases. However, the Court agrees with the Bankruptcy Court that the complete snapshot view is more in line with the "fresh start principles" of the Bankruptcy Code as well as the body of existing First Circuit and Supreme Court caselaw. The Court therefore affirms the Bankruptcy Court's decision to overrule the chapter 7 trustee's objection to the exemption.

IV. CONCLUSION

The Court DENIES Nathaniel R. Hull's appeal of the Bankruptcy Court's Order overruling his objection to Jeffrey J. Rockwell's homestead exemption (ECF No. 1 4). The Court AFFIRMS the Bankruptcy Court's Order overruling Nathaniel R. Hull's objection to Jeffrey J. Rockwell's homestead objection in Case No. 15-20583.

SO ORDERED.

APPENDIX C

UNITED STATES BANKRUPTCY COURT,
D. MAINE

Case No.: 15-20583

In Re: JEFFREY J. ROCKWELL d/b/a
Rockwell Productions f/d/b/a
Rockwell Productions, Inc.,

Debtor.

Filed 08/23/2018

Jennifer Gail Hayden, Esq., Christopher J. Keach, James F. Molleur, Esq., Tanya Sambatakos, Esq., Molleur Law Office, Biddeford, ME, for Debtor.
Nathaniel R. Hull, Esq., Verrill Dana LLP, Portland, ME, for Trustee.

MEMORANDUM OF DECISION

Chief Judge PETER G. CARY.

This case examines the permanence of an exemption claim in proceeds resulting from the sale of the debtor's homestead in a converted chapter 7 case in a jurisdiction with a temporal limit to its homestead proceeds exemption, also known as a "vanishing" exemption. The applicable exemption for Maine debtors who seek to protect the proceeds from the sale of their homesteads requires that the proceeds be reinvested in a residence within six months of the sale. Here, Mr. Rockwell filed for chapter 13 relief, received proceeds from the sale of his house during the pendency of the chapter 13, but

failed to reinvest all of the proceeds in a new residence before he converted his case to one under chapter 7 and before six months passed from the date of the sale. The chapter 7 trustee lodged an objection to Mr. Rockwell's claim of exemption pursuant to Fed. R. Bankr. P. 4003(b) and a trial was held on May 22, 2018.

For the reasons set forth below, the trustee's objection is overruled.

I. Facts.[1]

In 2001, Mr. Rockwell bought the real estate and buildings located at 24 B Street, South Portland, Maine. When he filed for relief under chapter 13 of the Bankruptcy Code[2] on August 19, 2015, he owned the property and resided there. On his bankruptcy schedules, Mr. Rockwell claimed he was entitled to an exemption of $47,500 of equity in the property pursuant to the Maine homestead exemption statute, 14 M.R.S.A. § 4422(1). This court confirmed Mr. Rockwell's chapter 13 plan of reorganization in November 2015 and his plan anticipated that he would pay the holder of the first mortgage on that property directly and would retain the B Street property. However, by December of 2016, Mr. Rockwell sought permission to sell the B Street property for $160,000 and contribute any non-exempt proceeds of the sale to his chapter 13 plan. At the hearing on the motion to sell the B Street property, the chapter 13 trus-

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[1] These facts are taken from the parties' stipulations, Mr. Rockwell's May 9, 2018 declaration, the testimony provided and exhibits admitted into evidence at the May 22, 2018 trial, and the various filings in this matter.

[2] All references to the "Code" or to specific statutory sections are to the Bankruptcy Reform Act of 1978, as amended, 11 U.S.C. §§ 101, et seq. All references to a "Rule" are to the Federal Rules of Bankruptcy Procedure.

tee, in his words, "mildly" voiced his concerns about the sale price but expected the court to grant the motion to sell as being a proper exercise of Mr. Rockwell's business judgment. On January 12, 2017, the court entered an order authorizing Mr. Rockwell to sell the B Street property and to pay from the proceeds of the sale (1) his ordinary and customary closing expenses, (2) the balance due to U.S. Bank, and (3) to contribute any nonexempt proceeds of the sale to his chapter 13 plan.

The closing for the sale of the B Street property occurred on March 6, 2017, and after the payment of the closing costs and the first mortgage obligation, the amount of $51,682.87 remained and was distributed between Mr. Rockwell ($47,500) and the chapter 13 trustee ($4,182.87). The chapter 13 trustee never objected to Mr. Rockwell's exemption claims and on August 7, 2017, Mr. Rockwell converted his case to one under chapter 7. As of the conversion date, Mr. Rockwell had spent $18,806.23 of the cash proceeds of the sale, leaving a balance of $28,693.77.[3] Upon conversion, the Federal Rules of Bankruptcy Procedure permitted the chapter 7 Trustee an opportunity to object to Mr. Rockwell's exemption claims, Fed. R. Bankr. P. 1019(2)(B), 4003(b), and on December 4, 2017, he did so after the court granted his motion to enlarge the time to file such objections, to which Mr. Rockwell consented. Mr. Rockwell resided at the B Street property until September 2017, when he established his residence at 25 Bancroft Court, Portland, Maine, which was owned by Lorraine H. Flint. Mr. Rockwell has never held an ownership interest in the Bancroft Court property.

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[3] Mr. Rockwell's May 9, 2018 declaration, ¶ 10, Rockwell Trial Exhibit G.

II. Jurisdiction and Venue.

This court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334, and the general order of reference entered in this district pursuant to 28 U.S.C. § 157(a). D. Me. Local R. 83.6(a). Venue here is proper pursuant to 28 U.S.C. § 1408(1). This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and (b)(2)(B).

III. Burden of Proof.

As the objecting party, the burden of proof is on the chapter 7 trustee to establish that Mr. Rockwell is not entitled to an exemption in the $47,500 cash proceeds. Fed. R. Bankr. P. 4003(c); *In re Gourdin*, 431 B.R. 885, 891 (1st Cir. BAP 2010); *see also In re Chaney*, Case No.15 20725, 2016 WL 4446007, at *1 (Bankr. D. Me. Aug. 23, 2016); *In re Toppi*, 378 B.R. 9, 11 (Bankr. D. Me. 2007), as amended (Nov. 15, 2007); *In re Cole*, 185 B.R. 95, 96 (Bankr. D. Me. 1995).

IV. Positions of the Parties.

The chapter 7 trustee objects to Mr. Rockwell's exemption claim on the basis that Mr. Rockwell failed to reinvest the cash proceeds from the sale of his B Street property in a new residence within six months of the sale of the property, as required by 14 M.R.S.A. § 4422(1)(C) which provides: "That portion of the proceeds from any sale of property which is exempt under this section shall be exempt for a period of six months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period."[4] Given

[4] The "proceeds" exemption in 14 M.R.S.A. § 4422(1)(C) was added to the Maine homestead exemptions by the Maine Legislature by P.L. 1989, c. 286, § 1. Prior to then, a debtor was permitted a homestead exemption in real estate only, not in cash proceeds from the sale of a residence.

the temporal limits of the Maine exemption, the chapter 7 trustee argues, the cash proceeds lost their exempt status when Mr. Rockwell failed to reinvest in a residence in a timely manner. Therefore, these funds must be delivered to the chapter 7 trustee to be administered under chapter 7 of the United States Bankruptcy Code.

Mr. Rockwell counters that the chapter 7 trustee's objection must be overruled because (1) the vanishing nature of the six month rule of 14 M.R.S.A. § 4422(1)(C) runs counter to the Code, (2) the objection disregards controlling First Circuit authority, (3) Mr. Rockwell's right to a homestead exemption was fixed on the date he filed for bankruptcy relief, and (4) Mr. Rockwell's investment of proceeds into the Bancroft Court property is protected under 14 M.R.S.A. § 4422(1)(C), notwithstanding his admission that he has no ownership interest in that property.

V. Discussion.

There is no specific controlling authority from the United States Court of Appeals for the First Circuit on the exact issue presented in this case and there is no uniform approach among the courts to vanishing state law homestead proceeds exemptions in bankruptcy. To address the issue here this court must examine (1) the effect the bankruptcy filing has on the debtor's property, (2) whether the conversion in this case is of any consequence, and, most importantly, (3) how courts treat vanishing exemptions in chapter 7 cases.[5]

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[5] The treatment of these exemptions in chapter 13 cases is not relevant here given that the objection to Mr. Rockwell's exemption was raised in the chapter 7 portion of his case.

A. Effect of Bankruptcy on the Debtor's Property.

Upon the commencement of a bankruptcy case, an estate is created which encompasses all of the debtor's property, even property that the debtor may later seek to claim as exempt. § 541(a)(1) and (2); *Owen v. Owen*, 500 U.S. 305, 308, 111 S.Ct. 1833, 114 L.Ed.2d 350 (1991); *In re Reed*, 184 B.R. 733, 737 n. 5 (Bankr. W.D. Tex. 1995). The Code permits a debtor to exempt or exclude certain property from the bankruptcy estate which would otherwise be available for distribution to creditors or for administrative expenses. § 522. *Owen v. Owen*, 500 U.S. at 308, 111 S.Ct. 1833 (1991) ("An exemption is an interest withdrawn from the estate (and hence from the creditors) for the benefit of the debtor."); *Nealon v. Matthews (In re Nealon)*, BAP No. MW 15-035, 2016 WL 312409, at *6 (1st Cir. BAP Jan. 20, 2016). Exemptions are critical to a fundamental underpinning of the Code: providing a debtor the opportunity for a fresh start. *Schwab v. Reilly*, 560 U.S. 770, 791, 130 S.Ct. 2652, 177 L.Ed.2d 234 (2010). Congress permitted each of the states to adopt the federal exemption scheme set forth at § 522(d) or to reject the federal scheme in favor of state law exemptions. *See* § 522(b)(2). The Maine legislature, along with over 30 other state legislatures, "opted out" of the federal exemptions. 14 M.R.S.A. § 4426; Hon. W.H. Brown, L. Ahern, N. Fraas MacLean, *Bankruptcy Exemption Manual*, § 4:2 (2018). Thus, a Maine debtor must look to Maine state law for homestead exemptions in bankruptcy proceedings. *Chaney*, 2016 WL 4446007, at *1. Under Maine's homestead exemption, Mr. Rockwell can protect up to $47,500 in real or personal property that he or his dependents uses as a residence. 14 M.R.S.A. § 4422(1)(A). It also allows the proceeds from the sale of exempt prop-

erty to retain its exempt status for six months for purposes of reinvesting in a residence. 14 M.R.S.A. § 4422(1)(C).

Upon filing for bankruptcy relief, Mr. Rockwell claimed the full $47,500 exemption in his B Street property in accordance with Fed. R. Bankr. P. 4003(a) and 14 M.R.S.A. § 4422(1)(A). He then proposed a chapter 13 plan which was premised, in part, upon his retention of the B Street property. Time passed, and circumstances changed for Mr. Rockwell. He sought court permission to sell the B Street property and, after the chapter 13 trustee weighed in over the treatment of the nonexempt portion of the sale proceeds, this court approved the sale by a final, non-appealed order. The closing occurred, and the chapter 13 trustee accepted $4,182.87 in funds as being the non-exempt component of the sale proceeds while Mr. Rockwell received $47,500 as exempt proceeds. A little over five months after the sale of the B Street property, Mr. Rockwell converted his case to one under chapter 7 and the chapter 7 trustee was appointed to the case. At no time during the chapter 13 portion of the case did the chapter 13 trustee challenge the exempt status of the $47,500 proceeds. However, four months after conversion, and after the six-month time limitation in 14 M.R.S.A. § 4422(1)(C) expired, the chapter 7 trustee objected to Mr. Rockwell's exemption in the cash proceeds. He asserts that in keeping with the specific wording of 14 M.R.S.A. § 4422(1)(C), the passage of more than six months after the sale of the B Street property transformed the exempt cash proceeds into non-exempt assets which must be included in the bankruptcy estate.

B. Effect of Conversion from Chapter 13 to Chapter 7.

When Mr. Rockwell converted his case, he brought other Code sections into play. Section 348(a) provides that the conversion of a case from one chapter to another under the Code does not change the date of the filing, the case commencement, or the order for relief for purposes of the converted case.[6] So although Mr. Rockwell converted his case to chapter 7 in 2017, the 2015 filing date is the appropriate time to use to determine his rights to exempt proceeds. It is also an important date in the determination of the extent of the property of the bankruptcy estate in the converted case. *In re Tracy*, 28 B.R. 189, 190 n. 1 (Bankr. D. Me. 1983). Section § 348(f)(1)(A) provides that so longas the debtor does not convert a case in bad faith, "property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion." Bad faith is not alleged here, therefore, prior to considering the issue of exemptions, property of Mr. Rockwell's chapter 7 estate included the property he scheduled in his chapter 13 filings which was still in his possession upon conversion. When Mr. Rockwell filed his chapter 13 case in 2015, he owned his residence but when he converted his case to chapter 7in 2017, only $28,693.77 of the proceeds from the homestead's sale remained in his control and only this amount was, before considering exemptions, property of the chapter 7 estate.[7]

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[6] There are exceptions to this which do not apply in this case. § 348(b), (c).

[7] Mr. Rockwell spent $18,806.23 of the homestead proceeds before the conversion date, leaving $28,693.77 of the homestead proceeds in his possession.

That leaves the ultimate question: whether the $28,693.77 is exempt property or whether Mr. Rockwell's failure to reinvest it within six months of the sale date caused its protective status to evaporate.

C. Vanishing Exemptions in Proceeds in Chapter 7 Cases.

Courts differ in how vanishing exemptions in homestead proceeds are addressed in the chapter 7 context. See, Exemption of Proceeds of Voluntary Sale of Homestead, 46 A.L.R. 814; Danielle Nicole Rushing, Use It or Lose It: Grappling with Classification of Post-Petition Sale Proceeds Under Chapter Seven Bankruptcy for Consumer Debtors in the Lone Star State, 47 St. Mary's L.J. 901, 915 (2016); Stephen W. Sather, *Fifth Circuit Walks Back on the Disappearing Exemption Case*, Am. Bankr. Inst. J. 38, 38 (2018). Most agree that the facts and law in place on the petition date determine the rights of a debtor to exemptions. *White v. Stump*, 266 U.S. 310, 313, 45 S.Ct. 103, 69 L.Ed. 301 (1924); *Myers v. Matley*, 318 U.S. 622, 628, 63 S.Ct. 780, 87 L.Ed. 1043 (1943); *In re Cunningham*, 513 F.3d 318, 324 (1st Cir. 2008). This principle is part of the snap- shot rule.[8] *In re*

[8] "The "snap-shot" doctrine is a well-known bankruptcy principle, calling to mind the image of a photograph or still-picture where the subject depicted is frozen in time and unchanging. The snap-shot doctrine provides that the rights of the debtor, and the facts and circumstances that undergird those rights, are locked in as of the petition date. A bankruptcy filing is a temporal event that serves to divide a debtor's assets, liabilities, financial transactions and transfers between those that exist or occur before the filing and those that come into existence or occur after the filing. Different treatment is accorded those assets, liabilities, transactions and transfers depending on which side of the line they fall. For most purposes, it makes sense to use the petition date as the point of separation." *In re Stewart*, 452 B.R. 726, 738–39 (Bankr. C.D. Ill. 2011).

Awayda, 574 B.R. 692, 695 (Bankr. C.D. Ill. 2017); *In re Williams*, 515 B.R. 395, 402 (Bankr. D. Mass. 2014). However, courts disagree over the scope of the snap-shot; over what exactly the snapshot captures.

Some hold that the snap-shot rule requires that exemptions to which the debtor is entitled in homestead proceeds must be determined by examining the exact scope of the exemption as of the time of the bankruptcy filing and if, post-petition, the debtor fails to reinvest the proceeds within the time frame permitted by the state exemption, the exemption expires. Thus, the snapshot is a partial one and not everything is fixed precisely as of the filing date. From this perspective, the proceeds must lose their exempt status if not reinvested in the relevant statutory period and then would be available to the chapter 7 trustee to administer. *In re Zibman*, 268 F.3d 298 (5th Cir. 2001) provides an example of this view. There, the chapter 7 debtors sold their residence two and one-half months before filing for bankruptcy relief. They did not reinvest the cash proceeds from that sale in a residence within six months as required by the Texas exemption law. The court concluded: "The Texas statute that provides an exemption for proceeds from the sale of a homestead contains a temporal element that explicitly limits the exemption to six months. When the Zibmans failed to reinvest the proceeds in another Texas homestead within the statutory time period, those proceeds lost their exemption, freeing the Trustee to reach the proceeds as part of the bankruptcy estate." *Id.* at 305 (footnotes omitted). The court noted that "the law and facts existing on the date of filing the bankruptcy petition determine the existence of available exemptions, but . . . it is the *entire* state law applicable on the filing date that is determinative." *Id.* at 304 (emphasis in the original). Ignoring the debtors' post-

petition failure to reinvest the proceeds within the six month term would, according to the *Zibman* court, eliminate an integral aspect of the Texas homestead exemption for proceeds – the requirement of reinvestment in a residence within six months, and would ignore the purpose of the temporal limits of the proceeds law – "[t]he object of the proceeds exemption statute was solely to allow the claimant to invest the proceeds in another homestead, not to protect the proceeds, in and of themselves." *Id.* at 305 (quotations and emphasis omitted).[9]

The partial snap-shot view is not universal. Other courts reason that the snapshot must be complete and that the exemption in proceeds is fixed as of the filing date, and if the statutory time frame requiring reinvestment has not expired prior to the filing of the chapter 7 case the exemption is forever preserved, notwithstanding the post-petition passage of time and failure to reinvest. *In re Thomas*, BKY MER 17-43367, 2018 WL 3655654 (Bankr. D. Minn. July 31, 2018), provides a recent example of this. In *Thomas*, the debtor sold her residence before filing for chapter 7 relief and claimed proceeds from the sale exempt under Minnesota's homestead exemption laws. The chapter 7 trustee objected on

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[9] See e.g., *In re Williams*, 515 B.R. 395, 409 (Bankr. D. Mass. 2014) ("[A] state law exemption defined by an innate temporal limitation shall expire pursuant to that limitation notwithstanding an intervening bankruptcy."); In *re Stewart*, 452 B.R. 726, 745 (Bankr. C.D. Ill. 2011) ("[T]his Court holds that the exemption should be allowed if the debtor reinvests the proceeds within the one-year period, but denied if reinvestment does not occur even though this determination must be made based upon what does or does not occur postpetition."); *In re Jacobson*, 676 F.3d 1193, 1199 (9th Cir. 2012) (Court held that the debtor received the proceeds subject to a reinvestment condition and that the proceeds could thus lose their exempt status once the reinvestment period lapsed.).

the ground that Minnesota permitted proceeds to be exempt so long as they are reinvested in a residence within 12 months following the sale. Thus, the debtor must reinvest all of the proceeds in a residence or she would lose her exemption in them. The bankruptcy court held that the snap-shot rule limits the exemption to the circumstances in place at the time of filing, and that post filing activity should not impact the debtor's entitlement to exempt property.[10] "This Court aligns itself with those courts that have examined the 'snap-shot rule' based on circumstances in existence as of the petition date to determine the lifespan of exemptions in

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[10] *See also In re Awayda*, 574 B.R. 692 (Bankr. C.D. Ill. 2017) (Post-petition developments do not impact the debtor's entitlement to a properly claimed exemption.); *In re Snowden*, 386 B.R. 730, 734 (Bankr. C.D. Ill. 2008) ("Courts interpreting Illinois exemption laws have traditionally followed a "snapshot" rule holding that exemptions are determined as of the date of a case filing. . . Developments which occur after filing should not impact on the entitlement to an exemption properly claimed at filing."). *In re Reed*, 184 B.R. 733, 738 (Bankr. W.D. Tex. 1995). In *Reed*, prior to converting their chapter 11 case to one under chapter 7, the debtors sold their home and received a promissory note for some of its equity. After conversion, the note was paid and disbursed. The chapter 7 trustee commenced an adversary proceeding to recover the disbursements claiming that the proceeds of the note were estate property because the debtors did not reinvest the proceeds in accordance with the time limitations of the relevant Texas homestead exemption. The court held that "a postpetition transformation of exempt property into a form of property which would not be exempt under state law does not return the property to the estate." *Id.*

The *Reed* holding is not the same as that here in Mr. Rockwell's case. Reed does not hold that "proceeds of the disposition of exempt property are therefore also 'exempt' ". *Id. at* n. 7. Rather, once property is removed from the estate it can never be restored to the estate and the conversion of exempt property into non-exempt property does not change that result. *Id.*

a chapter 7 case. They would take that to mean that generally what happens after filing should not impact on the entitlement to an exemption properly claimed at filing." *Id.* at *3 (citations and quotations omitted).

In considering both of these approaches, this court is aware that either is viable and both have flaws,[11] but nonetheless concludes that the complete snap-shot view more faithfully adheres to the Code, First Circuit authority, and the practicalities of administering a chapter 7 case.

First, determining that the exemption in the property is frozen as of the filing date, notwithstanding the failure of the debtor to reinvest those proceeds within six months, when that six months date expires after the filing date is in accord with § 522(c) and (k). Section 522(c) states that "property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case . . .".[12] *Pasquina v. Cunningham (In re Cunningham)*, 513 F.3d 318, 324 (1st Cir. 2008) ("By the plain language of the statute,

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[11] "Ultimately, the arguments in favor of either result seemingly devolve into circularity. Courts inclined to permit a temporal limitation find no conflict between a state exemption statute and the Bankruptcy Code because 11 U.S.C. § 522(c) only applies to "exempted" property, which according to the state's definition of the exemption in effect on the petition date, the property will eventually cease to be by operation of law. On the other hand, courts that find a conflict arising from temporal limitations construe 11 U.S.C. §§ 522(b)(1), (3), and (c) to mean that property claimed exempt pursuant to a (sic) an exemption available on the petition date is "exempted under this section," and forever removed from the estate." *In re Williams*, 515 B.R. at 408.

[12] Although there are exceptions to this, § 522(c)(1-4) and § 522(k)(1-2), none are relevant here.

exemptions under § 522(c) persist beyond the termination of the case, making the property subject to an exemption unavailable for the satisfaction of pre-petition debt (other than for the categories of debt noted in § 522(c) itself).”). Section 522(k) provides that with the exception for certain avoidance costs set forth in § 522(k)(1) and (2), “[p]roperty that the debtor exempts under this section is not liable for payment of any administrative expense.” *Law v. Siegel*, 571 U.S. 415, 422-23, 134 S.Ct. 1188, 188 L.Ed.2d 146 (2014) (“The Bankruptcy Court thus violated § 522’s express terms when it ordered that the $75,000 protected by Law’s homestead exemption be made available to pay Siegel’s attorney’s fees, an administrative expense. In doing so, the court exceeded the limits of its authority under § 105(a) and its inherent powers.”). These subsections mean that, once property is exempted and is no longer part of the bankruptcy estate, the Code specifically insulates it from the reach of pre-petition creditors or administrative claimants (with limited exceptions). Applying the partial snap-shot view and thus permitting the expiration of exemptions postpetition would create a subset of ephemeral exemptions which impermissibly would allow previously exempt property to be liable for pre-petition debts and administrative expenses, in contravention of § 522(c) and § 522(k). See, *Owen v. Owen*, 500 U.S. at 308, 111 S.Ct. 1833 (“Property that is properly exempted under § 522 is (with some exceptions) immunized against liability for prebankruptcy debts.”).

Second, permitting the estate to be supplemented by the cash proceeds because of a post-conversion transformation of the property runs counter to § 541(a) and the framework of chapter 7. The starting point to determine the extent of estate property in a chapter 7 case is the

commencement date. *See* § 541(a)(5) ("[The bankruptcy] estate is comprised of all the following property, wherever located and by whomever held . . . [a]ny interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition . . ."). [13] Though there are a few exceptions to this general rule in chapter 7 cases[14] they are limited enactments by Congress designed to address specific and discrete exceptions.

> The examples cited include certain postpetition claims being treated as though they arose on the petition date, some property becoming property of the estate if the debtor becomes entitled to it within 180 days postpetition, and actions to recover preferences and fraudulent transfers that have look-back periods ranging from ninety days to two years. *Id.* (citing 11 U.S.C §§ 502, 541(a)(5), 547, 548). The examples cited, however, are all express provisions of the Code in which Congress explicitly directed bankruptcy courts to calculate deadlines or look at circumstances arising at some time other than the petition date. These lim-

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[13] In contrast, estate property in a chapter 13 case includes all of the property specified in § 541 *and* property and earnings the debtor acquires after the commencement of the case but before it is closed, dismissed, or converted. § 1306(a).

[14] The bankruptcy estate also includes (1) property which a debtor receives or is entitled to receive within 180 days of the bankruptcy filing from inheritances, property settlements in divorces, and life insurance benefits, (§ 541(a)(5)(A), (B) and (C)); (2) proceeds, product, offspring, rents or profits (other than the earnings of individuals) from property of the estate (§ 541(a)(6)); (3) property that the estate acquires post-filing (§ 541(a)(7)); and (4) recoveries of preferential and fraudulent transfers (§§ 547 and 548).

> ited, enumerated exceptions do not support the claim that the general rule of evaluating property of the estate and claims of exemptions as of the petition date is discretionary.

In re Awayda, 574 B.R. at 696.

The existence of several limited exceptions does not undermine the general rule that the chapter 7 estate is captured at the commencement of the case and the exemptions defined at that time are immutable despite post-petition events.[15]

Third, the complete snap-shot approach coexists with the holding of *In re Cunningham*, 513 F.3d 318 (1st Cir. 2008), which, though not specifically on point because the exemption at issue was not a vanishing exemption, provides helpful and relevant guidance. In *Cunningham*, a creditor holding a state court judgment

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[15] *See also In re Reed*, 184 B.R. 733, 737–38 (Bankr. W.D. Tex. 1995) ("The majority of courts, however, hold that a postpetition change in the character of property properly claimed as exempt will not change the status of that property, relying on the principle that once property is exempt, it is exempt forever and nothing occurring postpetition can change that fact; *In re Peterson*, 897 F.2d 935, 937 (8th Cir. 1990) (debtor's postpetition death did not cause his homestead exemption to lapse); *Payne v. Wood*, 775 F.2d 202, 204 (7th Cir. 1985) (insurance proceeds of destroyed exempt property did not become property of the estate); *Lasich v. Estate of A.N. Wickstrom (Matter of Wickstrom)*, 113 B.R. 339, 343–44 (Bankr. W.D. Mich.1990) (debtor's postpetition death did not cause exempt worker's compensation proceeds to lapse); *In re Whitman*, 106 B.R. 654, 656–57 (Bankr. S.D. Cal.1989) (conversion of homestead to proceeds postpetition does not cause proceeds to become property of the estate); In *re Harlan*, 32 B.R. 91, 92–93 (Bankr.W.D.Tex. 1983) (same). The thrust of these cases is that property which is deemed to be exempt is deemed, as of that point, no longer to be property of the estate, so that its subsequent transformation does not restore it to the estate.").

against a chapter 7 debtor filed a motion instate court seeking a determination that the debtor's exemption in certain homestead property would expire upon the post-petition sale of the house and the resulting conversion of the debtor's interest in the homestead into cash proceeds. *Id.* at 322. The United States Court of Appeals for the First Circuit affirmed the decision below and held that the proceeds were exempt. *Id.* at 325. The debtor's homestead exemption claim, which survived a challenge by the judgment creditor, permanently immunized the homestead from pre-petition debts by removing the proceeds from the bankruptcy estate. *Id.* at 324. The *Cunningham* court held that § 522(c) did not confer a conditional exemption subject to post-petition events. To hold otherwise, the court noted, would undermine the basic principle that the bankruptcy law exemptions are determined when a petition is filed and that a debtor is entitled to a fresh start permit ting a debtor to rebuild his life without fear of tarrying creditors. *Id.*

Advocates of the partial snap-shot approach caution that "freezing" exemptions at the time of filing and applying the complete snap-shot approach results in the expansion of a state created exemption from a temporary exemption, requiring reinvestment within an allotted time, to a permanent exemption.[16] While that may be, so such a result is not only permitted but required. *In re Weinstein*, 164 F.3d 677, 683 (1st Cir. 1999)

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[16] At least one court reasons that is not so. "The Bankruptcy Code does not 'change' the state exemption in homestead proceeds into a 'permanent' exemption one, since the exemption for bankruptcy purposes only affects pre-petition creditors. Post-petition creditors are not bound by the debtor's discharge, and therefore if the Debtors fail to reinvest the proceeds in a new homestead, their post-petition creditors could seek to collect against the proceeds." *In re Lantz*, 446 B.R. 850, 859 (Bankr. N.D. Ill. 2011).

(Massachusetts homestead statute was preempted by the Code to the extent that the state statute conflicted with the Code); *In re Leicht*, 222 B.R. 670, 680 (1st Cir. BAP 1998) ("In the exemption arena, federal courts have, time and again, concluded that the federal fresh start principles promulgated in § 522(c) override state law exemption limitations, even definitional limitations. . . . Indeed, the 1994 amendments to § 522(f) make it clear that Congress intended a debtor's exemptions (whether state or federal law in their source) to operate in particular, federal-law-ways to advance the policies embodied in the bankruptcy fresh start."); *In re Dubois*, 306 B.R. 423, 428 (Bankr. D. Me. 2004).[17]

VI. Conclusion.

For these reasons, this court concludes that in order to protect the integrity of the Code (*e.g.* § 522(c), § 522(k), § 541) and to follow the guidance of *Cunningham*, the complete snapshot rule should be applied. Therefore, the chapter 7 trustee's objection to Mr. Rockwell's homestead exemption is overruled. The

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[17] Though not determinative of the conclusion reached by the court, there is also a pragmatic reason against adopting the partial snap-shot approach. "If the rule were that property must maintain its exempt status until case closure, chapter 7 trustees would be incentivized to keep cases open as long as possible and to run out the clock on homestead proceeds exemptions and other exemptions with built-in time limits. Trustees might also hold cases open, waiting to see if debtors sell exempt property or withdraw funds from exempt accounts, only to seek turnover of proceeds or funds once converted to a nonexempt state. No policy is served by encouraging such activities, and the impact would be impractical, inefficient, and contrary to the Code's command that trustees close cases "expeditiously." 11 U.S.C. § 704(a)(1)." *In re Awayda*, 574 B.R. at 697. Other courts have found this "concern too speculative" and unpersuasive. *In re Jacobson*, 676 F.3d 1193, 1200 (9th Cir. 2012).

cash proceeds from the sale of the B Street property that remained in Mr. Rockwell's control as of the conversion date ($28,693.77) are exempt and beyond the reach of the chapter 7 trustee, notwithstanding Mr. Rockwell's failure to reinvest them within six months of the sale of his homestead.[18]

A separate order shall enter.

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[18] Given this holding, the court does not need to address Mr. Rockwell's other arguments, including whether 14 M.R.S.A. § 4422(c)(1) permits a debtor to invest in property in which he has no ownership interest or whether moving expenses or tree removal expenditures constitute "reinvestment" in a residence.

APPENDIX D

1. 11 U.S.C. 522:
Exemptions

(a) In this section—

(1) "dependent" includes spouse, whether or not actually dependent; and

(2) "value" means fair market value as of the date of the filing of the petition or, with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate.

(b)(1) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate the property listed in either paragraph (2) or, in the alternative, paragraph (3) of this subsection. In joint cases filed under section 302 of this title and individual cases filed under section 301 or 303 of this title by or against debtors who are husband and wife, and whose estates are ordered to be jointly administered under Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, one debtor may not elect to exempt property listed in paragraph (2) and the other debtor elect to exempt property listed in paragraph (3) of this subsection. If the parties cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (2), where such election is permitted under the law of the jurisdiction where the case is filed.

(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.

(3) Property listed in this paragraph is—

(A) subject to subsections (o) and (p), any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition to the place in which the debtor's domicile has been located for the 730 days immediately preceding the date of the filing of the petition or if the debtor's domicile has not been located in a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place;

(B) any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law; and

(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.

If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).

(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to

qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

(ii) A distribution described in this clause is an amount that—

(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount.

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in such paragraph);

(2) a debt secured by a lien that is—

(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

(ii) not void under section 506(d) of this title; or

(B) a tax lien, notice of which is properly filed;

(3) a debt of a kind specified in section 523(a)(4) or 523(a)(6) of this title owed by an institution-affiliated party of an insured depository institution to a Federal depository institutions regulatory agency acting in its capacity as conservator, receiver, or liquidating agent for such institution; or

(4) a debt in connection with fraud in the obtaining or providing of any scholarship, grant, loan, tuition, discount, award, or other financial assistance for purposes of financing an education at an institution of higher education (as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(d) The following property may be exempted under subsection (b)(2) of this section:

(1) The debtor's aggregate interest, not to exceed $25,150 [originally "$15,000", adjusted effective April 1, 2019] in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's interest, not to exceed $4,000 [originally "$2,400", adjusted effective April 1, 2019] in value, in one motor vehicle.

(3) The debtor's interest, not to exceed $625 [originally "$400", adjusted effective April 1, 2019] in value in any particular item or $13,400 [originally "$8,000", adjusted effective April 1, 2019] in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtor's aggregate interest, not to exceed $1,700 [originally "$1,000", adjusted effective April 1, 2019] in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest in any property, not to exceed in value $1,325 [originally "$800", adjusted effective April 1, 2019] plus up to $12,575 [originally "$7,500", adjusted effective April 1, 2019] of any unused amount of the exemption provided under paragraph (1) of this subsection.

(6) The debtor's aggregate interest, not to exceed $2,525 [originally "$1,500", adjusted effective April 1, 2019] in value, in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed in value $13,400 [originally "$8,000", adjusted effective April 1, 2019] less any amount of property of the estate transferred in the manner specified in section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive—

(A) a social security benefit, unemployment compensation, or a local public assistance benefit;

(B) a veterans' benefit;

(C) a disability, illness, or unemployment benefit;

(D) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(E) a payment under a stock bonus, pension, profitsharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

(ii) such payment is on account of age or length of service; and

(iii) such plan or contract does not qualify under section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1986.

(11) The debtor's right to receive, or property that is traceable to—

(A) an award under a crime victim's reparation law;

(B) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(C) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(D) a payment, not to exceed $25,150 [originally "$15,000", adjusted effective April 1, 2019], on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.

(e) A waiver of an exemption executed in favor of a creditor that holds an unsecured claim against the debtor is unenforceable in a case under this title with respect to such claim against property that the debtor may exempt under subsection (b) of this section. A waiver by the debtor of a power under subsection (f) or (h) of this section to avoid a transfer, under subsection (g) or (i) of this section to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer, is unenforceable in a case under this title.

(f)(1) Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—

(A) a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5); or

(B) a nonpossessory, nonpurchase-money security interest in any—

(i) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

(ii) implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or

(iii) professionally prescribed health aids for the debtor or a dependent of the debtor.

(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

(i) the lien;

(ii) all other liens on the property; and

(iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

(B) In the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.

(C) This paragraph shall not apply with respect to a judgment arising out of a mortgage foreclosure.

(3) In a case in which State law that is applicable to the debtor—

(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

(B) either permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property or prohibits avoidance of a consensual lien on property otherwise eligible to be claimed as exempt property;

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor to the extent the value of such implements, professional books, tools of the trade, animals, and crops exceeds $6,825 [originally "$5,000", adjusted effective April 1, 2019].

(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term "household goods" means—

(i) clothing;

(ii) furniture;

(iii) appliances;

(iv) 1 radio;

(v) 1 television;

(vi) 1 VCR;

(vii) linens;

(viii) china;

(ix) crockery;

(x) kitchenware;

(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

(xii) medical equipment and supplies;

(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

(xv) 1 personal computer and related equipment.

(B) The term "household goods" does not include—

(i) works of art (unless by or of the debtor, or any relative of the debtor);

(ii) electronic entertainment equipment with a fair market value of more than $725 [originally "$500", adjusted effective April 1, 2019] in the aggregate (except 1 television, 1 radio, and 1 VCR);

(iii) items acquired as antiques with a fair market value of more than $725 [originally "$500", adjusted effective April 1, 2019] in the aggregate;

(iv) jewelry with a fair market value of more than $725 [originally "$500", adjusted

effective April 1, 2019] in the aggregate (except wedding rings); and

(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.

(g) Notwithstanding sections 550 and 551 of this title, the debtor may exempt under subsection (b) of this section property that the trustee recovers under section 510(c)(2), 542, 543, 550, 551, or 553 of this title, to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred, if—

(1)(A) such transfer was not a voluntary transfer of such property by the debtor; and

(B) the debtor did not conceal such property; or

(2) the debtor could have avoided such transfer under subsection (f)(1)(B) of this section.

(h) The debtor may avoid a transfer of property of the debtor or recover a setoff to the extent that the debtor could have exempted such property under subsection (g)(1) of this section if the trustee had avoided such transfer, if—

(1) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title or recoverable by the trustee under section 553 of this title; and

(2) the trustee does not attempt to avoid such transfer.

(i)(1) If the debtor avoids a transfer or recovers a setoff under subsection (f) or (h) of this section, the debtor may recover in the manner prescribed by, and subject to the limitations of, section 550 of this title, the same as if the trustee had avoided such transfer, and may exempt any property so recovered under subsection (b) of this section.

(2) Notwithstanding section 551 of this title, a transfer avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, under subsection (f) or (h) of this section, or property recovered under section 553 of this title, may be preserved for the benefit of the debtor to the extent that the debtor may exempt such property under subsection (g) of this section or paragraph (1) of this subsection.

(j) Notwithstanding subsections (g) and (i) of this section, the debtor may exempt a particular kind of property under subsections (g) and (i) of this section only to the extent that the debtor has exempted less property in value of such kind than that to which the debtor is entitled under subsection (b) of this section.

(k) Property that the debtor exempts under this section is not liable for payment of any administrative expense except—

(1) the aliquot share of the costs and expenses of avoiding a transfer of property that the debtor exempts under subsection (g) of this section, or of recovery of such property, that is attributable to the value of the portion of such property exempted in relation to the value of the property recovered; and

(2) any costs and expenses of avoiding a transfer under subsection (f) or (h) of this section, or of recovery of property under subsection (i)(1) of this section, that the debtor has not paid.

(l) The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. If the debtor does not file such a list, a dependent of the debtor may file such a list, or may claim property as exempt from property of the estate on behalf of the debtor. Unless a party in interest objects, the property claimed as exempt on such list is exempt.

(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.

(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,362,800 [originally "$1,000,000", adjusted effective April 1, 2019] in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.

(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

(3) a burial plot for the debtor or a dependent of the debtor; or

(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead; shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.

(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $170,350 [originally "$125,000", adjusted effective April 1, 2019] in value in—

(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

(C) a burial plot for the debtor or a dependent of the debtor; or

(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $170,350 [originally "$125,000", adjusted effective April 1, 2019] if—

(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

(B) the debtor owes a debt arising from—

(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

(iii) any civil remedy under section 1964 of title 18; or

(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.

2. 11 U.S.C. 541:

Property of the estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of

the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include—

(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor;

(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case;

(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.), or any accreditation status or State licensure of the debtor as an educational institution;

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

(A)(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include the interest

referred to in clause (i) only by virtue of section 365 or 544(a)(3) of this title; or

(B)(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 542 of this title;

(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as

does not exceed $6,825 [originally "$5,000", adjusted effective April 1, 2019];

(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(6) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,825 [originally "$5,000", adjusted effective April 1, 2019];

(7) any amount—

(A) withheld by an employer from the wages of employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

(B) received by an employer from employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a

governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title;

(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b);

(9) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition; or

(10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(h) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,825 [originally "$6,225", adjusted effective April 1, 2019].

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.

(c)(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.

(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

3. Me. Rev. Stat. Tit. 14 § 4422:
Exempt Property

The following property is exempt from attachment and execution, except to the extent that it has been fraudulently conveyed by the debtor.

> 1. Residence. The exemption of a debtor's residence is subject to this subsection.
>
> > A. . . . [T]he debtor's aggregate interest, not to exceed $47,500 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence . . . .
> >
> > . . .
> >
> > C. That portion of the proceeds from any sale of property which is exempt under this section shall be exempt for a period of 6 months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period.

4. Me. Rev. Stat. Tit. 14 § 4426:
Exemptions in bankruptcy proceedings

Notwithstanding anything to the contrary in the United States Code, Title 11, Section 522(b), a debtor may exempt from property of the debtor's estate under United States Code, Title 11, only that property exempt under the United States Code, Title 11, Section 522(b)(3)(A) and (B) . . . .