

Congress amended the federal bankruptcy statute to allow states to exempt a debtor's home from judgment creditors, so long as the debtor had established permanent residency in the state at least two years before entry of the judgment. The two-year residency requirement was intended to prevent debtors from defrauding creditors by moving to a state solely to take advantage of a favorable home-exemption law.

A state's law prohibited the execution of a judgment against a debtor's home. After the federal amendment, the state amended its law "to conform with the federal bankruptcy amendments," making the debtor's home exemption unavailable to any person who had established permanent residency in the state less than two years before entry of the judgment.

Following these amendments, a man moved to the state and purchased a home. Six months later, a creditor obtained a judgment against the man for negligently causing a car accident. The creditor now seeks to execute the judgment against the man's home, but the man has responded that he is entitled to the generally applicable debtor's home exemption under state law.

Which of the following is the man's best argument?

- A. Automobile negligence is not a commercial activity and is therefore beyond the regulatory power of Congress pursuant to the commerce clause.
- B. Congress cannot commandeer a state legislature to enact a law implementing federal policy.
- C. Congress lacks the power to authorize the states to enact such restrictions based on the length of a person's residence within a state.
- D. The two-year time period is too long to be rationally related to the prevention of fraud against creditors.

Correct

Collecting Statistics

01 min, 54 secsTime Spent

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## Explanation:

### Fourteenth Amendment protections

Clause	Applicability
<b>Equal protection</b>	Discriminatory treatment of similarly situated people
<b>Due process</b>	Substantive – deprivation of life, liberty, or property without adequate <i>justification</i>  Procedural – deprivation of life, liberty, or property without adequate <i>process</i>
<b>Privileges or immunities*</b>	Interference with rights of national citizenship

\*Rarely a correct answer.

The necessary and proper clause allows Congress to take actions that are reasonably necessary to carry out its enumerated [Article I powers](#). As a result, **Congress may** enact legislation to carry out its enumerated power to **regulate bankruptcy proceedings**. But when exercising its powers, Congress **cannot violate or authorize states to violate other constitutional provisions**, including the Fourteenth Amendment **privileges or immunities** and **equal protection clauses**.

Under both clauses, state laws that **infringe on** the [fundamental right to interstate travel](#) are typically unconstitutional unless the state satisfies its nearly impossible strict scrutiny burden. Durational residency requirements frequently infringe on this fundamental right by deterring people from moving to the state through restrictions based on the length of a person's residence within a state.

Here, a federal bankruptcy statute allows states to require debtors to be permanent residents for at least two years before a debtor's home can be exempted from judgment creditors. However, Congress lacks the power to authorize states to enact such durational residency requirements that are likely unconstitutional. Therefore, this is the man's best argument that he is entitled to the generally applicable debtor's home exemption under state law.

**(Choice A)** Congress amended the federal statute to carry out its enumerated power to regulate bankruptcy proceedings—not to regulate automobile negligence pursuant to its [commerce clause](#) powers.\*

\*Had Congress sought to regulate automobile negligence pursuant to its powers under the commerce clause, it likely could have done so, since automobile negligence is likely an activity that substantially impacts interstate commerce.

**(Choice B)** The Tenth Amendment bars Congress from **commandeering** state legislatures by requiring them to enact laws. But here, the federal amendment allows—but does not require—states to enact durational residency requirements.

**(Choice D)** The two-year time period may be too long to be rationally related to preventing fraud against creditors, but this is irrelevant since state laws that infringe on the right to interstate travel are subject to strict scrutiny—not rational basis scrutiny.

**Educational objective:**

When exercising its enumerated powers, Congress cannot violate or authorize states to violate other constitutional provisions—eg, the Fourteenth Amendment privileges or immunities and equal protection clauses, both of which generally prohibit states from infringing upon the fundamental right to interstate travel.

**References**

U.S. Const. art. I, § 8, cl. 4 (bankruptcy clause).

Saenz v. Roe, 526 U.S. 489, 508 (1996) (explaining that Congress cannot authorize states to violate the Fourteenth Amendment when Congress enacts legislation based on its enumerated powers).

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