

The House Committee on Judiciary offers the following substitute to HB 373:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 13 of Title 44 of the Official Code of Georgia Annotated, relating to statutory exemptions, so as to change the provisions relating to exemptions for purposes of bankruptcy and intestate insolvent estates; to change the amounts of certain exemptions; to provide for calculation of the amounts of certain exemptions and the standards, practices, and procedures connected therewith; to provide for duties of the administrator of the Governor's Office of Consumer Affairs; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 13 of Title 44 of the Official Code of Georgia Annotated, relating to statutory exemptions, is amended by striking Code Section 44-13-100, relating to exemptions for purposes of bankruptcy and intestate insolvent estates, and inserting in its place the following:

"44-13-100.

(a) In lieu of the exemption provided in Code Section 44-13-1, any debtor who is a natural person may exempt, pursuant to this article, for purposes of bankruptcy, the following property:

(1) The debtor's aggregate interest, not to exceed ~~\$5,000.00~~ \$10,000.00 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. In the event title to property used for the exemption provided under this paragraph is in one of two spouses filing jointly, it shall be treated as though it were in the names of both spouses for purposes of determining the amount of the exemption hereunder;

(2) The debtor's right to receive:

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

(B) A veteran's 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 pension, 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; and

(F) A payment from an individual retirement account within the meaning of Title 26 U.S.C. Section 408 to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(2.1) The debtor's aggregate interest in any funds or property held on behalf of the debtor, and not yet distributed to the debtor, under any retirement or pension plan or system:

(A) Which is: (i) maintained for public officers or employees or both by the State of Georgia or a political subdivision of the State of Georgia or both; and (ii) financially supported in whole or in part by public funds of the State of Georgia or a political subdivision of the State of Georgia or both;

(B) Which is: (i) maintained by a nonprofit corporation which is qualified as an exempt organization under Code Section 48-7-25 for its officers or employees or both; and (ii) financially supported in whole or in part by funds of the nonprofit corporation;

(C) To the extent permitted by the bankruptcy laws of the United States similar benefits from the private sector of such debtor shall be entitled to the same treatment as those specified in subparagraphs (A) and (B) of this paragraph, provided that the exempt or nonexempt status of periodic payments from such a retirement or pension plan or system shall be as provided under subparagraph (E) of paragraph (2) of this subsection; or

(D) An individual retirement account within the meaning of Title 26 U.S.C. Section 408;

(3) The debtor's interest, not to exceed the total of ~~\$1,000.00~~ \$3,500.00 in value, in all motor vehicles;

(4) The debtor's interest, not to exceed ~~\$200.00~~ \$300.00 in value in any particular item, 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. The exemption of the debtor's

1 interest in the items contained in this paragraph shall not exceed ~~\$3,500.00~~ \$5,000.00 in
2 total value;

3 (5) The debtor's aggregate interest, not to exceed \$500.00 in value, in jewelry held
4 primarily for the personal, family, or household use of the debtor or a dependent of the
5 debtor;

6 (6) The debtor's aggregate interest, not to exceed ~~\$400.00~~ \$600.00 in value plus any
7 unused amount of the exemption provided under paragraph (1) of this subsection, in any
8 property;

9 (7) The debtor's aggregate interest, not to exceed ~~\$500.00~~ \$1,500.00 in value, in any
10 implements, professional books, or tools of the trade of the debtor or the trade of a
11 dependent of the debtor;

12 (8) Any unmaturred life insurance contract owned by the debtor, other than a credit life
13 insurance contract;

14 (9) The debtor's aggregate interest, not to exceed \$2,000.00 in value, less any amount
15 of property of the estate transferred in the manner specified in Section 542(d) of U.S.
16 Code Title 11, in any accrued dividend or interest under, or loan or cash value of, any
17 unmaturred life insurance contract owned by the debtor under which the insured is the
18 debtor or an individual of whom the debtor is a dependent;

19 (10) Professionally prescribed health aids for the debtor or a dependent of the debtor; and

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

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

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

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

28 (D) A payment, not to exceed ~~\$7,500.00~~ \$10,000.00, on account of personal bodily
29 injury, not including pain and suffering or compensation for actual pecuniary loss, of
30 the debtor or an individual of whom the debtor is a dependent; or

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

34 (b) Pursuant to 11 U.S.C. Section 522(b)(1), an individual debtor whose domicile is in
35 Georgia is prohibited from applying or utilizing 11 U.S.C. Section 522(d) in connection
36 with exempting property from his or her estate; and such individual debtor may exempt
37 from property of his or her estate only such property as may be exempted from the estate

1 pursuant to 11 U.S.C. Section 522(b)(2)(A) and (B). For the purposes of this subsection,
2 an 'individual debtor whose domicile is in Georgia' means an individual whose domicile
3 has been located in Georgia for the 180 days immediately preceding the date of the filing
4 of the bankruptcy petition or for a longer portion of such 180 day period than in any other
5 place.

6 (c) The exemptions and protections contained in this article are extended to intestate
7 insolvent estates in all cases where there is a living widow or child of the intestate.

8 (d) On July 1, 2004, and at each three-year interval ending on July 1 thereafter, each dollar
9 amount contained in subsection (a) of this Code section shall be adjusted to reflect changes
10 in consumer prices for urban consumers for the most recent three-year period ending
11 immediately before January 1 preceding such July 1. The calculation of such amounts shall
12 be made by the administrator of the Governor's Office of Consumer Affairs appointed
13 pursuant to subsection (a) of Code Section 10-1-395. In calculating such amounts, the
14 administrator is authorized to consider all available information relevant to the
15 determination of such consumer prices, including the Consumer Price Index for All Urban
16 Consumers published by the United States Department of Labor. The amounts so
17 calculated shall be rounded to the nearest \$25.00. The amounts so calculated shall be
18 certified by the administrator, shall be made available over the Internet, and shall be
19 certified to the Office of Legislative Counsel and the publisher for inclusion in the Official
20 Code of Georgia Annotated."

21 **SECTION 2.**

22 All laws and parts of laws in conflict with this Act are repealed.