

Senate Bill 495

By: Senators Davis of the 22nd, Jackson of the 24th, Powell of the 23rd and Jackson of the 2nd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 44 of the Official Code of Georgia Annotated, relating to  
2 exemptions from levy and sale, so as to change the nonbankruptcy exemptions from levy and  
3 sale; to change certain provisions relating to the exemption from bankruptcy for residences  
4 and burial plots; to change the amounts of certain property exemptions; to amend certain  
5 references; to change certain domicile requirements; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 13 of Title 44 of the Official Code of Georgia Annotated, relating to exemptions  
10 from levy and sale, is amended by revising Code Section 44-13-1, relating to amount of  
11 exemption, who may claim exemption, and what charges are enforceable, as follows:

12 "44-13-1.

13 Except as otherwise provided in this article, there shall be exempt from levy and sale by  
14 virtue of any process whatever under the laws of this state any real or personal property or  
15 both of a debtor ~~in the amount of \$5,000.00~~ described in subsection (a) of Code Section  
16 44-13-100. No court or ministerial officer in this state shall ever have jurisdiction or  
17 authority to enforce any judgment, execution, or decree against property set apart under this  
18 Code section, including such improvements as may be made thereon from time to time,  
19 except for taxes, for the purchase money of the property, for labor done on the property,  
20 for material furnished for the property, or for the removal of encumbrances on the  
21 property."

22 **SECTION 2.**

23 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
24 44-13-100, relating to exemptions for purposes of bankruptcy and intestate insolvent estates,  
25 as follows:

26 "(1) The debtor's aggregate interest, not to exceed ~~\$10,000.00~~ \$20,200.00 in value, in real  
 27 property or personal property that the debtor or a dependent of the debtor uses as a  
 28 residence, in a cooperative that owns property that the debtor or a dependent of the debtor  
 29 uses as a residence, ~~or~~ and in a burial plot for the debtor or a dependent of the debtor. In  
 30 the event title to property used for the exemption provided under this paragraph is in one  
 31 of two spouses who is a debtor, the amount of the exemption hereunder shall be  
 32 ~~\$20,000.00~~ \$40,400.00;"

### 33 SECTION 3.

34 Said chapter is further amended by revising paragraph (2.1) of Code Section 44-13-100,  
 35 relating to exemptions for purposes of bankruptcy and intestate insolvent estates, as follows:

36 "(2.1) The debtor's aggregate interest in any funds or property held on behalf of the  
 37 debtor, and not yet distributed to the debtor, under any retirement or pension plan or  
 38 system:

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

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

46 (C) To the extent permitted by the bankruptcy laws of the United States as such laws  
 47 existed on September 1, 2009, similar benefits from the private sector of such debtor  
 48 shall be entitled to the same treatment as those specified in subparagraphs (A) and (B)  
 49 of this paragraph,

50 provided that the exempt or nonexempt status of periodic payments from such a  
 51 retirement or pension plan or system shall be as provided under subparagraph (E) of  
 52 paragraph (2) of this subsection; or

53 (D) An individual retirement account within the meaning of Title 26 U.S.C. Section  
 54 408;"

### 55 SECTION 4.

56 Said chapter is further amended by revising subsection (b) of Code Section 44-13-100,  
 57 relating to exemptions for purposes of bankruptcy and intestate insolvent estates, as follows:

58 "(b) Pursuant to 11 U.S.C. Section 522(b)(1), an individual debtor whose domicile is in  
 59 Georgia is prohibited from applying or utilizing 11 U.S.C. Section 522(d) in connection  
 60 with exempting property from his or her estate; and such individual debtor may exempt

61 from property of his or her estate only such property as may be exempted from the estate  
62 pursuant to 11 U.S.C. Section ~~522(b)(2)(A)~~ 522(b)(3)(A) and (B). For the purposes of this  
63 subsection, an 'individual debtor whose domicile is in Georgia' means an individual whose  
64 domicile has been located in Georgia for the 180 days immediately preceding the date of  
65 the filing of the bankruptcy petition or for a longer portion of such 180 day period than in  
66 any other place."

67 **SECTION 5.**

68 This Act shall become effective upon its approval by the Governor or upon its becoming law  
69 without such approval.

70 **SECTION 6.**

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