

Senate Bill 87

By: Senators Setzler of the 37th, Kirkpatrick of the 32nd, Robertson of the 29th, Gooch of the 51st, Summers of the 13th and others

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 of property, so as to provide for the exemption of the full
3 value of a debtor's primary residence from levy and sale by virtue of any process whatever
4 under the laws of this state; to provide for the exemption, for purposes of bankruptcy, of the
5 full value of a debtor's aggregate interest in his or her primary residence; to provide for
6 related matters; to provide an effective date; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

14 Except as otherwise provided in this article, there shall be exempt from levy and sale by
15 virtue of any process whatever under the laws of this state any real or personal property or
16 both of a debtor in the amount of \$5,000.00 or ~~\$21,500.00~~ for the full value of real or

17 personal property that is the debtor's primary residence. No court or ministerial officer in
18 this state shall ever have jurisdiction or authority to enforce any judgment, execution, or
19 decree against property set apart under this Code section, including such improvements as
20 may be made thereon from time to time, except for taxes, for the purchase money of the
21 property, for labor done on the property, for material furnished for the property, or for the
22 removal of encumbrances on the property."

23

SECTION 2.

24 Said chapter is further amended in Code Section 44-13-100, relating to exemptions for
25 purposes of bankruptcy and intestate insolvent estates, by adding a new subsection to read
26 as follows:

27 "44-13-100.

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

31 (1) The debtor's aggregate interest, not to exceed \$21,500.00 in value, in real property
32 or personal property that the debtor or a dependent of the debtor uses as a residence, in
33 a cooperative that owns property that the debtor or a dependent of the debtor uses as a
34 residence, or in a burial plot for the debtor or a dependent of the debtor. In the event title
35 to property used for the exemption provided under this paragraph is in one of two spouses
36 who is a debtor, the amount of the exemption hereunder shall be \$43,000.00;

37 (2) The debtor's right to receive:

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

40 (B) A veteran's benefit;

41 (C) A disability, illness, or unemployment benefit;

- 42 (D) Alimony, support, or separate maintenance, to the extent reasonably necessary for
43 the support of the debtor and any dependent of the debtor;
- 44 (E) A payment under a pension, annuity, or similar plan or contract on account of
45 illness, disability, death, age, or length of service, to the extent reasonably necessary for
46 the support of the debtor and any dependent of the debtor;
- 47 (F) A payment from an individual retirement account within the meaning of Title 26
48 U.S.C. Section 408 to the extent reasonably necessary for the support of the debtor and
49 any dependent of the debtor; and
- 50 (G) Moneys paid into or out of, the assets of, and the income of a health savings
51 account or medical savings account authorized under Chapter 51 of Title 33 or Sections
52 220 and 223 of the Internal Revenue Code of 1986.
- 53 (2.1) The debtor's aggregate interest in any funds or property held on behalf of the
54 debtor, and not yet distributed to the debtor, under any retirement or pension plan or
55 system:
- 56 (A) Which is:
- 57 (i) ~~maintained~~ Maintained for public officers or employees or both by the State of
58 Georgia or a political subdivision of the State of Georgia or both; and
- 59 (ii) ~~financially~~ Financially supported in whole or in part by public funds of the State
60 of Georgia or a political subdivision of the State of Georgia or both;
- 61 (B) Which is:
- 62 (i) ~~maintained~~ Maintained by a nonprofit corporation which is qualified as an exempt
63 organization under Code Section 48-7-25 for its officers or employees or both; and
- 64 (ii) ~~financially~~ Financially supported in whole or in part by funds of the nonprofit
65 corporation;
- 66 (C) To the extent permitted by the bankruptcy laws of the United States, similar
67 benefits from the private sector of such debtor shall be entitled to the same treatment
68 as those specified in subparagraphs (A) and (B) of this paragraph,

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

72 (D) An individual retirement account within the meaning of Title 26 U.S.C. Section
73 408;

74 (3) The debtor's interest, not to exceed the total of \$5,000.00 in value, in all motor
75 vehicles;

76 (4) The debtor's interest, not to exceed \$300.00 in value in any particular item, in
77 household furnishings, household goods, wearing apparel, appliances, books, animals,
78 crops, or musical instruments that are held primarily for the personal, family, or
79 household use of the debtor or a dependent of the debtor. The exemption of the debtor's
80 interest in the items contained in this paragraph shall not exceed \$5,000.00 in total value;

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

84 (6) The debtor's aggregate interest, not to exceed \$1,200.00 in value plus any unused
85 amount of the exemption, not to exceed \$10,000.00, provided under paragraph (1) of this
86 subsection, in any property;

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

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

92 (9) The debtor's aggregate interest, not to exceed \$2,000.00 in value, less any amount of
93 property of the estate transferred in the manner specified in Section 542(d) of U.S. Code
94 Title 11, in any accrued dividend or interest under, or loan or cash value of, any

95 unmatured life insurance contract owned by the debtor under which the insured is the
96 debtor or an individual of whom the debtor is a dependent;
97 (10) Professionally prescribed health aids for the debtor or a dependent of the debtor; and
98 (11) The debtor's right to receive, or property that is traceable to:
99 (A) An award under a crime victim's reparation law;
100 (B) A payment on account of the wrongful death of an individual of whom the debtor
101 was a dependent, to the extent reasonably necessary for the support of the debtor and
102 any dependent of the debtor;
103 (C) A payment under a life insurance contract that insured the life of an individual of
104 whom the debtor was a dependent on the date of such individual's death, to the extent
105 reasonably necessary for the support of the debtor and any dependent of the debtor;
106 (D) A payment, not to exceed \$10,000.00, on account of personal bodily injury, not
107 including pain and suffering or compensation for actual pecuniary loss, of the debtor
108 or an individual of whom the debtor is a dependent; or
109 (E) A payment in compensation of loss of future earnings of the debtor or an individual
110 of whom the debtor is or was a dependent, to the extent reasonably necessary for the
111 support of the debtor and any dependent of the debtor.
112 (a.1) Notwithstanding any provision of this Code section or Code Section 44-13-21 to the
113 contrary, and without waiving any exemption allowed by Code Section 44-13-1, any debtor
114 who is a natural person may exempt, pursuant to this article, for purposes of bankruptcy,
115 the debtor's aggregate interest, not to exceed the full value, in real property or personal
116 property that the debtor uses as a primary residence or in a cooperative that owns property
117 that the debtor uses as a primary residence.
118 (b) Pursuant to 11 U.S.C. Section 522(b)(1), an individual debtor whose domicile is in
119 Georgia is prohibited from applying or utilizing 11 U.S.C. Section 522(d) in connection
120 with exempting property from his or her estate; and such individual debtor may exempt
121 from property of his or her estate only such property as may be exempted from the estate

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

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

129 (d)(1) At any time after closing of a case filed pursuant to an act of Congress relating to
130 bankruptcy, the debtor, his or her receiver or trustee, or any interested party may file with
131 a clerk of court where a judgment lien is recorded an affidavit of lien release and shall
132 attach thereto a certified copy of the discharge of such bankrupt or debtor and a lien
133 avoidance order, or a certified copy of the order of confirmation of a plan and the plan
134 as confirmed, together with a copy of the portions of the schedules filed by the debtor in
135 the bankruptcy case listing the judgment creditor and identifying property as exempt. In
136 addition, the filer shall certify that no order has been entered in the bankruptcy limiting
137 the discharge as to the judgment or retaining the judgment lien.

138 (2) Upon filing such affidavit, the lien of such judgment shall be deemed cancelled as
139 to:

140 (A) Any property which was:

141 (i) Identified as exempt and for which a lien avoidance order was issued; or

142 (ii) Re-vested in the debtor without lien retention under a plan; and

143 (B) Any other property acquired by the debtor after the filing of the bankruptcy
144 petition.

145 (3) The clerk of court shall file such affidavit in the deed records and index the recording
146 information as to the affidavit of lien release on the judgment lien in the appropriate lien
147 record."

148

SECTION 3.

149 This Act shall become effective on July 1, 2025.

150

SECTION 4.

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