

1 SB327
2 169571-3
3 By Senators Ward and Hightower
4 RFD: Finance and Taxation General Fund
5 First Read: 02-APR-15

1 SB327

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4 ENROLLED, An Act,

5 To amend Sections 6-10-2, 6-10-6, 6-10-11, 43-8-110,
6 43-8-111, 43-8-113, and 43-8-115, Code of Alabama 1975, to
7 increase permissible exemptions available to a surviving
8 spouse to fifteen thousand dollars (\$15,000) for homestead and
9 seven thousand five hundred dollars (\$7,500) for personal
10 property; to increase an Alabama debtor's individual homestead
11 exemption to fifteen thousand dollars (\$15,000) and an
12 individual's personal property exemption to seven thousand
13 five hundred dollars (\$7,500); and to add Sections 6-10-6.1,
14 6-10-12, and 43-8-116 to the Code of Alabama 1975, to provide
15 for the adjustment of allowances and deductions under certain
16 conditions.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 6-10-2, 6-10-6, 6-10-11,
19 43-8-110, 43-8-111, 43-8-113, and 43-8-115, Code of Alabama
20 1975, are amended to read as follows:

21 "§6-10-2.

22 "The homestead of every resident of this state, with
23 the improvements and appurtenances, not exceeding in value
24 ~~\$5,000~~ fifteen thousand dollars (\$15,000) and in area 160
25 acres, shall be, to the extent of any interest he or she may

1 have therein, whether a fee or less estate or whether held in
2 common or in severalty, exempt from levy and sale under
3 execution or other process for the collection of debts during
4 his or her life and occupancy and, if he or she leaves
5 surviving him or her a spouse and a minor child, or children,
6 or either, during the life of the surviving spouse and
7 minority of the child, or children, but the area of the
8 homestead shall not be enlarged by reason of any encumbrance
9 thereon or of the character of the estate or interest owned
10 therein by him or her. When a husband and wife jointly own a
11 homestead each is entitled to claim separately the exemption
12 provided herein, to the same extent and value as an unmarried
13 individual. For purposes of this section and Sections 6-10-38
14 and 6-10-40, a mobile home or similar dwelling if the
15 principal place of residence of the individual claiming the
16 exemption shall be deemed to be a homestead.

17 "§6-10-6.

18 "The personal property of such resident, except for
19 wages, salaries, or other compensation, to the extent of the
20 resident's interest therein, to the amount of ~~\$3,000~~ seven
21 thousand five hundred dollars (\$7,500) in value, to be
22 selected by him or her, and, in addition thereto, all
23 necessary and proper wearing apparel for himself or herself
24 and family, all family portraits or pictures and all books
25 used in the family shall also be exempt from levy and sale

1 under execution or other process for the collection of debts.
2 No wages, salaries, or other compensation shall be exempt
3 except as provided in Section 5-19-15 or Section 6-10-7.

4 "§6-10-11.

5 "In cases instituted under the provisions of Title
6 11 of the United States Code entitled "Bankruptcy," there
7 shall be exempt from the property of the estate of an
8 individual debtor only that property and income which is
9 exempt under the laws of the State of Alabama and under
10 federal laws other than Subsection (d) of Section 522 of ~~said~~
11 Title 11 of the United States Code.

12 "§43-8-110.

13 "(a) A surviving spouse of a decedent who was
14 domiciled in this state is entitled to a homestead allowance
15 of ~~\$6,000.00~~ fifteen thousand dollars (\$15,000). If there is
16 no surviving spouse, each minor child and each dependent child
17 of the decedent is entitled to a homestead allowance amounting
18 to ~~\$6,000.00~~ fifteen thousand dollars (\$15,000) divided by the
19 number of minor and dependent children of the decedent. The
20 homestead allowance is exempt from and has priority over all
21 claims against the estate. Homestead allowance is in addition
22 to any share passing to the surviving spouse or minor or
23 dependent child by the will of the decedent unless otherwise
24 provided in the will, by intestate succession or by way of
25 elective share.

1 "(b) The value of any constitutional right of
2 homestead in the family home received by a surviving spouse or
3 child shall be charged against that spouse or child's
4 homestead allowance to the extent that the family home is part
5 of the decedent's estate or would have been but for the
6 homestead provision of the Constitution.

7 "§43-8-111.

8 "If the decedent was domiciled in this state at the
9 time of death the surviving spouse is entitled to receive, in
10 addition to the homestead allowance, property of a value not
11 exceeding ~~\$3,500.00~~ seven thousand five hundred dollars
12 (\$7,500) in excess of any security interests therein in
13 household furniture, automobiles, furnishings, appliances and
14 personal effects. If there is no surviving spouse, children of
15 the decedent are entitled jointly to the same value. If
16 encumbered chattels are selected and if the value in excess of
17 security interests, plus that of other exempt property, is
18 less than ~~\$3,500.00~~ seven thousand five hundred dollars
19 (\$7,500), or if there is not ~~\$3,500.00~~ seven thousand five
20 hundred dollars (\$7,500) worth of exempt property in the
21 estate, the spouse or children are entitled to other assets of
22 the estate, if any, to the extent necessary to make up the
23 ~~\$3,500.00~~ seven thousand five hundred dollars (\$7,500) value.
24 Rights to exempt property and assets needed to make up a
25 deficiency of exempt property have priority over all claims

1 against the estate, except that the right to any assets to
2 make up a deficiency of exempt property shall abate as
3 necessary to permit prior payment of homestead allowance and
4 family allowance. These rights are in addition to any benefit
5 or share passing to the surviving spouse or children by the
6 will of the decedent unless otherwise provided, by intestate
7 succession, or by way of elective share.

8 "§43-8-113.

9 "If the estate is otherwise sufficient, property
10 specifically devised is not used to satisfy rights to
11 homestead and exempt property. Subject to this restriction,
12 the surviving spouse, the guardians of the minor children, or
13 children who are adults may select property of the estate as
14 homestead allowance and exempt property. The personal
15 representative may make these selections if the surviving
16 spouse, the children or the guardians of the minor children
17 are unable or fail to do so within a reasonable time or if
18 there are no guardians of the minor children. The personal
19 representative may execute an instrument or deed of
20 distribution to establish the ownership of property taken as
21 homestead allowance or exempt property. He may determine the
22 family allowance in a lump sum not exceeding ~~\$6,000.00~~ fifteen
23 thousand dollars (\$15,000) or in periodic installments not
24 exceeding \$500.00 per month ~~for one year~~, and may disburse
25 funds of the estate in payment of the family allowance and any

1 part of the homestead allowance payable in cash. The personal
2 representative or any interested person aggrieved by any
3 selection, determination, payment, proposed payment, or
4 failure to act under this section may petition the court for
5 appropriate relief, which relief may provide a family
6 allowance larger or smaller than that which the personal
7 representative determined or could have determined.

8 "§43-8-115.

9 "(a) Whenever an employee of another shall die
10 intestate and there shall be due him or her any sum as wages
11 or salary the debtor may discharge himself from liability
12 therefor by paying such amount to the surviving spouse of the
13 deceased employee or, if there is no surviving spouse to the
14 person having the legal custody and control of his or her
15 minor child or children, or either as the case may be, who may
16 commence an action for and recover the same as part of the
17 property or allowance exempted to them.

18 "(b) Any sums paid in accordance with the provisions
19 of subsection (a) of this section shall be considered as part
20 of the exempt property, as defined in section 43-8-111; and,
21 if the sums exceed ~~\$3,500.00~~ seven thousand five hundred
22 dollars (\$7,500) the excess shall be considered part of the
23 family allowance, as defined in section 43-8-112."

24 Section 2. Sections 6-10-6.1 and 6-10-12 are added
25 to the Code of Alabama 1975, to read as follows:

1 §6-10-6.1.

2 (a) Wages, salaries, or other compensation of a
3 resident are not personal property for the purposes of
4 exemption from garnishment, levy, sale under execution, or
5 other process for the collection of debt.

6 (b) It is the intent of this section to exclude from
7 the meaning of personal property the wages, salaries, or other
8 compensation of a resident for the purposes of the personal
9 property exemption under Section 6-10-6 and Section 204 of the
10 Constitution of Alabama of 1901.

11 §6-10-12.

12 On July 1, 2017, and at the end of each 3-year
13 period thereafter, the State Treasurer shall adjust each
14 dollar amount in this ~~chapter~~ article or, for each adjustment
15 after July 1, 2017, each adjusted amount, by an amount
16 determined by the State Treasurer to reflect the cumulative
17 change in the consumer price index (CPI), as published by the
18 United States Department of Labor, or, if that index is no
19 longer published, a generally available comparable index, for
20 the 3-year period ending on the December 31 preceding the
21 adjustment date and rounded to the nearest twenty-five dollars
22 (\$25.00). The State Treasurer shall publish the adjusted
23 amounts. The adjusted amounts apply to ~~cases filed~~ exemptions
24 claimed on or after April 1 following the adjustment date.

1 Section 3. Section 43-8-116 is added to the Code of
2 Alabama 1975, to read as follows:

3 §43-8-116.

4 On July 1, 2017, and at the end of each 3-year
5 period thereafter, the State Treasurer shall adjust each
6 dollar amount in this ~~chapter~~ article or, for each adjustment
7 after July 1, 2017, each adjusted amount, by an amount
8 determined by the State Treasurer to reflect the cumulative
9 change in the consumer price index (CPI), as published by the
10 United States Department of Labor, or, if that index is no
11 longer published, a generally available comparable index, for
12 the 3-year period ending on the December 31 preceding the
13 adjustment date and rounded to the nearest twenty-five dollars
14 (\$25.00). The State Treasurer shall publish the adjusted
15 amounts. The adjusted amounts apply to ~~cases filed~~ exemptions
16 claimed on or after April 1 following the adjustment date.

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB327

Senate 14-MAY-15

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Amended and passed 04-JUN-15

Senate concurred in House amendment 04-JUN-15

By: Senator Ward