
Is opt out limited to residents or domiciliaries of the state? Yes, with limitation as to prepetition period debtor domiciled in Georgia. Ga. Code Ann. § 44-13-100(b): “an individual debtor whose domicile is in Georgia is prohibited from applying or utilizing § 522(d)”; an “individual debtor whose domicile is in Georgia” means an individual whose domicile has been located in Georgia for the 180 days immediately preceding the date of the filing of the bankruptcy petition or for a longer portion of such 180 day period than in any other place.” See In re Chandler, 362 B.R. 723 (Bankr. N.D. W. Va. 2007).

Do state’s exemptions have extraterritorial application?


Personal property: Not specified in exemption statute, but possibly yes. See In re Stockburger, 1997 WL 41202 (6th Cir. Jan. 31, 1997) (Georgia exemption applies to personal property located in Tennessee because it is the law of the debtor’s domicile that controls under § 522(b), not the location of the property).

Wages: Ga. Code Ann. §§ 18-4-1, 18-4-5, 18-4-6, 18-4-82.

Scope: Compensation paid or payable for personal services, whether called wages, salary, commission, fee, bonus, tips, overtime, or severance pay, or otherwise, including periodic payments pursuant to a pension or retirement program, including, but not limited to, the United States Department of Veterans Affairs, Railroad Retirement Board, Keoghs, and individual retirement accounts. Ga. Code Ann. § 18-4-1.


Survival after payment/deposit: Not specified in exemption statute.

Waiver: Not specified in exemption statute.


Procedural requirements: None stated. Exemptions may be claimed after judgment.

Special provisions: If debtor fails to claim exemption, spouse or anyone acting on behalf of minor children or dependents may do so.

Waiver: May be waived except as to certain essential personal property.


Waiver: Permitted, except as to wearing apparel and $300 worth of household and kitchen furniture and provisions.

**Benefits, retirement plans, insurance, judgments, and other intangibles:** Ga. Code Ann. §§ 18-4-6, 44-13-100.

**Public benefits:** Bankruptcy only: Social Security; veterans’ benefits; unemployment, illness, or disability benefits; local public assistance. Ga. Code Ann. § 44-13-100(2).

**Pensions, retirement plans, and annuities:** Certain tax-qualified retirement plans until paid to beneficiary; after payment they are treated like wages. Funds in an unfunded plan, maintained by an employer to provide deferred compensation to a select group of management or highly paid employees are not exempt. Ga. Code Ann. § 18-4-6 Bankruptcy only: Payments from IRAs, pensions, annuities, or similar plans, as needed for support. Ga. Code Ann. § 44-12-100(2).

**Insurance, judgments, or other compensation for injury:** Bankruptcy only: unmatured life insurance contracts, up to $2000 in accrued dividends or cash or loan value of life insurance (Ga. Code Ann. § 44-13-100(8)); right to receive or property traceable to crime victim reparations, wrongful death award to extent needed for support, personal injury judgment up to $10,000 (not including pain and suffering or actual pecuniary loss), compensation for loss of future earnings of debtor or one on whom debtor is dependent. Ga. Code Ann. § 44-13-100(11).

**Bank accounts:** Not specified in exemption statute.

**Alimony, child support:** Bankruptcy only: alimony, support, or separate maintenance to the extent needed for support. Ga. Code Ann. § 44-13-100(2).

**Tax refunds:** Not specified in exemption statute.

**Survival after payment or deposit:** Not specified in exemption statute.

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