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3 SENATE F&TG COMMITTEE SUBSTITUTE FOR SB427  
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8 SYNOPSIS: Under existing law, surviving spouses of  
9 decedents domiciled in the state are entitled to a  
10 six thousand dollars (\$6,000) homestead allowance.

11 Existing law also provides that if there is  
12 no surviving spouse, each minor child and dependent  
13 child of the decedent is entitled to an equal share  
14 of that allowance.

15 Existing law also provides that an  
16 individual Alabama debtor is entitled to a  
17 homestead exemption of \$5,000 and a married couple  
18 is entitled to the double homestead exemption.

19 This bill would have the effect of  
20 increasing the homestead exemption to \$30,000.

21 This bill would also allow debtors filing  
22 bankruptcy the option of exempting homestead and  
23 personal property in accordance with federal  
24 bankruptcy law.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To amend Sections 6-10-2, 6-10-11, 43-8-110, and  
4 43-8-113, Code of Alabama 1975, to increase permissible  
5 exemptions available to a surviving spouse to thirty thousand  
6 dollars (\$30,000) for homestead; to increase an Alabama  
7 debtor's individual homestead exemption to thirty thousand  
8 dollars (\$30,000); and to provide debtors filing bankruptcy  
9 options of additional exemptions allowable under federal  
10 bankruptcy law.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 6-10-2, 6-10-11, 43-8-110, and  
13 43-8-113, Code of Alabama 1975, are amended to read as  
14 follows:

15 "§6-10-2.

16 "The homestead of every resident of this state, with  
17 the improvements and appurtenances, not exceeding in value  
18 ~~\$5,000~~ thirty thousand dollars (\$30,000) and in area 160  
19 acres, shall be, to the extent of any interest he or she may  
20 have therein, whether a fee or less estate or whether held in  
21 common or in severalty, exempt from levy and sale under  
22 execution or other process for the collection of debts during  
23 his or her life and occupancy and, if he or she leaves  
24 surviving him or her a spouse and a minor child, or children,  
25 or either, during the life of the surviving spouse and  
26 minority of the child, or children, but the area of the  
27 homestead shall not be enlarged by reason of any encumbrance

1 thereon or of the character of the estate or interest owned  
2 therein by him or her. When a husband and wife jointly own a  
3 homestead each is entitled to claim separately the exemption  
4 provided herein, to the same extent and value as an unmarried  
5 individual. For purposes of this section and Sections 6-10-38  
6 and 6-10-40, a mobile home or similar dwelling if the  
7 principal place of residence of the individual claiming the  
8 exemption shall be deemed to be a homestead.

9           "§6-10-11.

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

17           "§43-8-110.

18           "(a) A surviving spouse of a decedent who was  
19 domiciled in this state is entitled to a homestead allowance  
20 of ~~\$6,000.00~~ thirty thousand dollars (\$30,000). If there is no  
21 surviving spouse, each minor child and each dependent child of  
22 the decedent is entitled to a homestead allowance amounting to  
23 ~~\$6,000.00~~ thirty thousand dollars (\$30,000) divided by the  
24 number of minor and dependent children of the decedent. The  
25 homestead allowance is exempt from and has priority over all  
26 claims against the estate. Homestead allowance is in addition  
27 to any share passing to the surviving spouse or minor or

1 dependent child by the will of the decedent unless otherwise  
2 provided in the will, by intestate succession or by way of  
3 elective share.

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

10 "§43-8-113.

11 "If the estate is otherwise sufficient, property  
12 specifically devised is not used to satisfy rights to  
13 homestead and exempt property. Subject to this restriction,  
14 the surviving spouse, the guardians of the minor children, or  
15 children who are adults may select property of the estate as  
16 homestead allowance and exempt property. The personal  
17 representative may make these selections if the surviving  
18 spouse, the children or the guardians of the minor children  
19 are unable or fail to do so within a reasonable time or if  
20 there are no guardians of the minor children. The personal  
21 representative may execute an instrument or deed of  
22 distribution to establish the ownership of property taken as  
23 homestead allowance or exempt property. He may determine the  
24 family allowance in a lump sum not exceeding ~~\$6,000.00~~ thirty  
25 thousand (\$30,000) or in periodic installments not exceeding  
26 \$500.00 per month ~~for one year~~, and may disburse funds of the  
27 estate in payment of the family allowance and any part of the

1 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 Section 2. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.