

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

616

By: Senator Hopkins

For An Act To Be Entitled

"AN ACT TO ALLOW RESIDENTS OF THE STATE OF ARKANSAS TO USE
FEDERAL EXEMPTIONS PROVIDED IN SECTION 522(d) OF THE
BANKRUPTCY CODE OF 1978."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Purpose. The General Assembly hereby declares that this Act is necessary to provide for the effective rehabilitation of the citizens of the State of Arkansas seeking relief under the applicable provisions of Title 11 of the United States Code. It has come to the attention of the General Assembly of the State of Arkansas that certain decisions in the United States Bankruptcy Court and the United States District Court for Western District of Arkansas have held that bankruptcy exemptions as are more particularly set forth in Arkansas Code Annotated 16-66-218(b) are in violation of Article 9 of the Arkansas Constitution to the extent that exemptions claimed with respect to personal property exceed \$500.00 in the aggregate; that such a ruling jeopardizes the right of residents of this State to exempt property rights such as Workers' Compensation benefits, IRA accounts, public assistance grants and other exemptions previously approved by the General Assembly, that for the rehabilitation of debtors in cases under Title 11 to be effective, it is necessary that certain properties belonging to debtors be exempted to allow debtors to obtain a "fresh start". Such relief is available for Arkansas debtors under 11 U.S.C. 522(d). Therefore, it is the intent of the General Assembly that residents of this State be entitled to use the federal exemptions provided in 11 U.S.C. 522(d) of the Bankruptcy Code of 1978.

SECTION 2. Allowance of federal bankruptcy exemptions. It is hereby established that residents of the State of Arkansas shall be entitled to full

use of the federal exemptions provided in 11 U.S.C. Section 522(d) of the Bankruptcy Code of 1978.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. Emergency. It is hereby found and determined by the Arkansas General Assembly that it is necessary to allow residents of the State of Arkansas the use of federal exemptions provided in 11 U.S.C. Section 522(d) of the Bankruptcy Code of 1978. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.