Guide To Exemption Options For Nonresident Debtors
John R. Bates

1 State Whose Law is Applicable[1]	2 Does The State Allow Nonresidents[2] To Use Its Exemptions?[3]	3 Are The State's Exemptions Extraterritorial?[4]	4 Does the State Allow Nonresidents[5] To Use The Federal Exemptions?[6]	5 Result: Which Exemptions May Nonresidents[7] Use?	6 State Whose Law is Applicable (Same as Column 1)
If there is no state[8]	Not applicable	Not applicable	Not applicable	Federal[9]	None
Alabama	No[10]	Irrelevant[11]	Yes[12]	Federal[13]	Alabama
Alaska	No[14]	Irrelevant[15]	Yes[16]	Federal[17]	Alaska
Arizona	No[18]	Irrelevant[19]	Yes[20]	Federal[21]	Arizona
Arkansas	No[22]	Irrelevant[23]	Yes[24]	Federal[25]	Arkansas
California	Yes[26]	Yes[27]	No[28]	State	California
Colorado	No[29]	Irrelevant[30]	Yes[31]	Federal[32]	Colorado
Connecticut	Yes[33]	Unknown[34]	Yes[35]	State or Federal	Connecticut
Delaware	No[36]	Irrelevant[37]	Yes[38]	Federal[39]	Delaware
District Of Columbia	No[40]	Irrelevant[41]	Yes[42]	Federal[43]	District Of Columbia
Florida	No[44]	Irrelevant[45]	Yes[46]	Federal[47]	Florida
Georgia	No[48]	Irrelevant[49]	Yes[50]	Federal[51]	Georgia
Hawaii	Yes[52]	Not Homestead[53]	Yes[54]	State or Federal[55]	Hawaii
Idaho	No[56]	Irrelevant[57]	No[58]	Federal[59]	Idaho
Illinois	Yes[60]	Unknown[61]	Yes[62]	State or Federal[63]	Illinois
Indiana	No[64]	Irrelevant[65]	Yes[66]	Federal[67]	Indiana
Iowa	Homestead[68]	Homestead[69]	No[70]	State or Federal[71]	Iowa
Kansas	Some[72]	No[73]	No[74]	State or Federal[75]	Kansas
Kentucky	Some[76]	Not Homestead[77]	Yes[78]	State or Federal[79]	Kentucky
Louisiana	Yes[80]	Unknown[81]	No[82]	State	Louisiana
Maine	Yes[83]	Unknown[84]	No[85]	State	Maine
Maryland	No[86]	Irrelevant[87]	No[88]	Federal[89]	Maryland
Massachusetts	Yes[90]	Unknown[91]	Yes[92]	State or Federal	Massachusetts
Michigan	Yes[93]	No[94]	Yes[95]	State or Federal[96]	Michigan
Minnesota	Yes[97]	Yes[98]	Yes[99]	State or Federal	Minnesota
Mississippi	No[100]	Irrelevant[101]	Yes[102]	Federal[103]	Mississippi
Missouri	Yes[104]	Yes[105]	No[106]	State	Missouri
Montana	No[107]	Irrelevant[108]	No[109]	Federal[110]	Montana
Nebraska	Yes[111]	Unknown[112]	No[113]	State	Nebraska
Nevada	Yes[114]	Unknown[115]	Yes[116]	State or Federal[117]	Nevada
New Hampshire	Yes[118]	Yes[119]	Yes[120]	State or Federal	New Hampshire
New Jersey	Yes[121]	Unknown[122]	Yes[123]	State or Federal	New Jersey
New Mexico	Some[124]	Unknown[125]	Yes[126]	State or Federal[127]	New Mexico
New York	No[128]	Irrelevant[129]	Yes[130]	Federal[131]	New York

1 State Whose Law is ApplicableT[1]	2 Does The State Allow Nonresidents[2] To Use Its Exemptions?[3]	3 Are The State's Exemptions Extraterritorial?[4]	4 Does the State Allow Nonresidents[5] To Use The Federal Exemptions?[6]	5 Result: Which Exemptions May Nonresidents[7] Use?	6 State Whose Law is Applicable (Same as Column 1)
North Carolina	No[132]	Irrelevant[133]	Yes[134]	Federal[135]	North Carolina
North Dakota	Some[136]	Unknown[137]	Yes[138]	State or Federal[139]	North Dakota
Ohio	No[140]	Irrelevant[141]	Yes[142]	Federal[143]	Ohio
Oklahoma	No[144]	Irrelevant[145]	Yes[146]	Federal[147]	Oklahoma
Oregon	No[148]	Irrelevant[149]	Yes[150]	Federal[151]	Oregon
Pennsylvania	Yes[152]	Unknown[153]	Yes[154]	State or Federal	Pennsylvania
Puerto Rico	Yes[155]	Unknown[156]	Yes[157]	State or Federal	Puerto Rico
Rhode Island	Yes[158]	Probably[159]	Yes[160]	State or Federal	Rhode Island
South Carolina	No[161]	Irrelevant[162]	No[163]	Federal [164]	South Carolina
South Dakota	Some[165]	Unknown[166]	Yes[167]	State or Federal[168]	South Dakota
Tennessee	No[169]	Irrelevant[170]	Yes[171]	Federal[172]	Tennessee
Texas	Yes[173]	Not Homestead[174]	Yes[175]	State or Federal[176]	Texas
Utah	Yes[177]	Not Homestead[178]	No[179]	State or Federal[180]	Utah
Vermont	Yes[181]	Probably[182]	Yes[183]	State or Federal	Vermont
Virgin Islands	Yes[184]	Unknown[185]	Yes[186]	State or Federal	Virgin Islands
Virginia	No[187]	Irrelevant[188]	No[189]	Federal [190]	Virginia
Washington	Yes[191]	Unknown[192]	Yes[193]	State or Federal	Washington
West Virginia	Yes[194]	Unknown[195]	Yes[196]	State or Federal[197]	West Virginia
Wisconsin	No[198]	Irrelevant[199]	Yes[200]	Federal[201]	Wisconsin
Wyoming	No[202]	Irrelevant[203]	Yes[204]	Federal[205]	Wyoming

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[1] This is the state whose law "is applicable on the date of the filing of the petition." 11 USC § 522(b)(1)(3)(A). To identify that state requires, first, a determination of whether there is a "730-day state," i.e., a state in which debtor has been continuously domiciled for 730-days immediately preceding the date of filing. If such a state exists, it is the state whose law is applicable in column 1. If there is no "730-day state," debtor must next determine whether there is a "180-day state," i.e., a state in which debtor has been domiciled for the "longer portion" of the 180 days immediately preceding the 730 days than in any other state. If there is a "180-day state," it is the state whose law is applicable in column 1. If there is no "180-day state," then there is no state whose law is applicable. In that case, refer to the first row of the chart.

The 730-day and 180-day tests use domicile, not residence. Domicile is established by physical presence in a place with intent to remain there for an unlimited or indefinite period of time. Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, (1989); Freeman v. Northwest Acceptance Corp., 754 F.2d 553 (5th Cir.1985). A person has only one domicile at a particular time, even though he may have several residences. Williamson v. Osenton, 232 U.S. 619 (1914). In re Sparfven, 265 B.R. 506, 518–19 (Bankr.D.Mass.2001) ("when a person has more than one residence, intent is particularly relevant").

Some factors considered in establishing domicile include: (1) current residence; (2) voting registration and voting practices; (3) location of spouse and family; (4) location of personal or real property; (5) location of brokerage and bank accounts; (6) memberships in churches, clubs, unions and other organizations; (7) location of a person's physician, lawyer, accountant, dentist and stockbroker; (8) place of employment or business; (9) driver's license and automobile registration; and (10) payment of taxes. In re Stone, 329 B.R. 860 (N.D.Iowa 2005).

[2] "Nonresident" means a debtor who, on the date of filing, is not what the applicable law (see note 1) referred to in columns 2 and/or 4 specifies as to debtor's residency, if anything. If that law refers to residents, debtor is not a resident. If that law refers to domiciliaries, debtor is not a domiciliary. Of course, a debtor who is not a resident is unlikely to be a domiciliary, and vice versa. Note that, although 11 U.S.C. § 522(b)(3)(A) refers to "domicile," the applicable state (see note 1) law usually refers to "resident." See the notes to the entries in columns two and four for the term used by the applicable state.

[3] These are the exemptions referred to in 11 USC § 522(b)(3)(A). If the applicable state has limited its exemptions to residents or to domiciliaries, the indication in this column is "no." If the applicable state has not limited its exemptions to domiciliaries or to residents, the indication is "yes." For cases in which debtor may be a resident, but not a domiciliary, or vice versa, refer to the note for the applicable state in this column to determine which the statute specifies. Also, a few states are indicated that have limited some, not all, of their exemptions to residents or domiciliaries.

[4] This column deals with whether the State's exemptions are extraterritorial, i.e., whether they can be applied to property located outside the state. This is to be distinguished from the issue covered in column 2, i.e., whether the State restricts use of its exemptions to residents. The Courts are divided on the issue of whether a state's exemptions extend beyond the state's border. Several decisions on both sides of the issue are given in the notes to this column.

[5] See note 2.

[6] These are the "federal bankruptcy exemptions" listed in 11 USC § 522(d). A nonresident debtor has these exemptions as an option unless the applicable state has "specifically" opted out and the opt-out applies to nonresidents. 11 USC § 522(b)(2). If the applicable state has not opted out of the federal exemptions or if it has an opt-out that is limited to residents or to domiciliaries, the indication is "yes," i.e., the federal exemptions are available to nonresidents. If the applicable state has an opt-out that is not limited to residents or to domiciliaries, the indication is "no," i.e., the federal exemptions are not available to nonresidents.

[7] See note 2.

[8] If debtor is not domiciled so as to satisfy either of the residency requirements in 11 USC section 522(b)(3)(A), there will be no state of "applicable law." See note 1.

[9] The only way a debtor can be deprived of the federal bankruptcy exemptions as an option is by the applicable state opting out. 11 USC § 522(b)(2). If there is no applicable state, there is no opt-out. Debtor, therefore, is eligible for the federal exemptions. In re Arispe, 289 B.R. 245 (Bankr.S.D.Fla.2002); In re Goldsmith, 2003 WL 295690 (Bankr.S.D.Fla.2003).

[10] Alabama's exemptions are limited to residents. "The homestead of every resident of this state with the improvements and appurtenances, not exceeding in value $ 5,000 and in area 160 acres, shall be . . . exempt from levy and sale under execution or other process . . .." Ala. Code § 6-10-2 . "The personal property of such resident, except for wages, salaries, or other compensation, . . . to the amount of $3,000 in value . . . shall also be exempt from levy and sale under execution or other process for the collection of debts." Ala. Code § 6-10-6.

[11] "Irrelevant," when used in this column, means that, because the state's exemptions cannot be used by nonresidents, it does not matter whether those exemptions are extraterritorial. Nevertheless, some information is given for some states. Alabama's homestead exemption is not extraterritorial. In re Carter, 213 B.R. 26 (Bankr.N.D.Ala.1997).

[12] Alabama's opt-out is not expressly limited to domiciliaries or residents. "In cases instituted under the provisions of Title 11 of the United States Code entitled 'Bankruptcy,' there shall be exempt from the property of the estate of an individual debtor only that property and income which is exempt under the laws of the State of Alabama and under federal laws other than Subsection (d) of Section 522 of said Title 11 of the United States Code." Alabama Code § 6-10-11. However, it has been construed to apply only to residents. In re Walley, 9 B.R. 55 (Bankr.S.D.Ala.1981).

[13] In re Chandler, 2007 WL 643319 (Bankr.N.D.W.Va.2007) (because Georgia had not opted out for nonresidents, debtor was eligible for federal exemptions); In re Battle, 2006 WL 3702734 (Bankr.W.D.Tex.2006) (because debtor was not resident of Florida on date of filing, debtor could not claim Florida's exemptions, but Florida's opt-out, which was limited to residents, did not bar debtor from claiming federal exemptions); In re West, 352 B.R. 905 (Bankr.M.D.Fla.2006) (because debtor was not resident of Indiana on date of filing, and its exemptions were limited to residents, its exemptions were not available to her and debtor was eligible for the federal exemptions under the saving provision in 11 USC § 522(b)(3)); In re Jewell, 2006 WL 2258363 (Bankr.W.D.N.Y.2006) (debtors, who were not residents of Colorado on date of filing were not eligible for its exemptions because its exemptions were limited to residents, but debtors were eligible for federal exemptions under the saving provision in 11 USC § 522(b)(3)); In re Crandall, 2006 WL 2051367 (Bankr.M.D.Fla.2006) (because debtor was not domiciled in New York on date of filing, and its exemptions were limited to domiciliaries, debtor was eligible for federal

exemptions under the saving provision in 522(b)(3)); In re Underwood, 342 B.R. 358 (Bankr.N.D.Fla.2006) (because debtor was not a resident of Colorado on date of filing and Colorado's exemptions and opt-out were limited to residents, debtor was eligible for federal exemptions) In re Schulz, 101 B.R. 301 (Bankr.N.D.Fla.1989) (because debtor was not resident of Florida on date of filing, and Florida's exemptions and opt-out were limited to residents, debtor was not eligible for state exemptions, but was entitled to federal exemptions); In re Volk, 26 B.R. 457 (Bankr.D.S.D.1983) (exemptions of South Dakota were limited to residents and, therefore, were not available to debtors who were not residents of South Dakota on date of filing, but debtors were eligible for federal exemptions because South Dakota's opt-out was limited to residents); In re Walley, 9 B.R. 55 (Bankr.S.D.Ala.1981) (because Alabama's exemptions and opt-out were limited to residents and debtor was not a resident of Alabama on date of filing, Alabama's opt-out did not apply and she could use the federal exemptions).

[14] Alaska's exemptions are limited to residents. "(a) Residents of this state are entitled to the exemptions provided under this chapter. Nonresidents are entitled to the exemptions provided by the law of the jurisdiction of their residence. (b) The term 'resident' means an individual who is physically present in the state and who intends to maintain a permanent home in Alaska." Alaska Stat. § 09.38.120.

[15] See note 11. Alaska's homestead exemption is not extraterritorial. "An individual is entitled to an exemption as a homestead of the individual's interest in property in this state used as the principal residence of the individual or the dependents of the individual . . .. " Alaska Stat § 09.38.010.

[16] Alaska has not opted out.

[17] See note 13.

[18] Arizona's exemptions are limited to residents. "Nothing in this section affects the exemptions provided to residents of this state by the constitution or statutes of this state." Ariz. Rev. Stat. Ann. § 33-1133(B).

[19] See note 11.

[20] Arizona's opt-out is limited to residents. "[R]esidents of this state are not entitled to the federal exemptions provided in 11 U.S.C. 522 (d)." Ariz. Rev. Stat. Ann. § 33-1133(B).

[21] See note 13.

[22] Arkansas' exemptions are limited to residents. "Residents of this state having the right to claim exemptions in a bankruptcy proceeding pursuant to 11 U.S.C. § 522 shall have the right to elect either: (i) The property exemptions provided by the Constitution and the laws of the State of Arkansas; or (ii) The property exemptions provided by 11 U.S.C. § 522(d)." Ark. Code Ann. § 16-66-217. The homestead exemption is limited to "any resident of this state" (Ark. Code Ann. § 16-66-210) and "[a]ll moneys paid or payable to any resident of this state as the insured or beneficiary designated under any insurance policy or policies providing for the payment of life, sick, accident, or disability benefits" are exempt. Ark. Code Ann. § 16-66-209. Also, some of Arkansas' statutory exemptions have been ruled unconstitutional. In re Holt, 894 F.2d 1005 (8th Cir. 1990).

[23] See note 11.

[24] Arkansas has not opted out. See note 22.

[25] See note 13.

[26] California's exemptions are not limited to domiciliaries or residents.

[27] California's homestead exemption and probably its personal property exemptions are extraterritorial. In re Arrol, 207 B.R. 662 (Bankr.N.D.Cal.1997).

[28] California's opt-out is not limited to domiciliaries or residents. "[T]he exemptions set forth in subsection (d) of Section 522 of Title 11 of the United States Code (Bankruptcy) are not authorized in this state." Cal. Civ. Proc. Code § 703.130.

[29] Colorado's exemptions are limited to residents. "Exemptions authorized to be claimed by residents of this state shall be limited to those exemptions expressly provided by the statutes of this state." Colo. Rev. Stat. § 13-54-107.

[30] See note 11. Colorado's homestead exemption is limited to property "in the state of Colorado." Colo. Rev. Stat. § § 38-41-201.

[31] Colorado's opt-out is limited to residents. "The exemptions provided in section 522 (d) of the federal bankruptcy code of 1978 (Title 11 of the United States Code), as amended, are denied to residents of this state." Colo. Rev. Stat. § 13-54-107.

[32] See note 13.

[33] Connecticut's exemptions are not limited to domiciliaries or residents.

[34] "Unknown" in this column means that nothing was found on this issue for this state in readily available secondary sources. Unfortunately, the courts are divided on what should be the "default" conclusion in the absence of explicit authority regarding a given state. See, e.g., In re Woodruff, 2005 WL 1139891 (Bankr.W.D.Mo.2005) (nothing in the Missouri homestead exemption statute limits its applicability to Missouri real estate); In re Drenttel, 309 B.R. 320 (B.A.P. 8th Cir.2004) (plain language of the statute does not require the dwelling to be located in the State of Minnesota); In re Ginther, 282 B.R. 16 (D.Kan.2002) (court quotes Kansas Supreme Court stating "the fact that the provision does not expressly say that the constitution is made for Kansas is not a good basis for an inference that the framers were attempting to regulate and protect the municipalities of other states"); In re Weza, 248 B.R. 470 (Bankr.D.N.H.2000) (New Hampshire exemption may be used outside New Hampshire because the language of the homestead exemption statute does not limit the homestead exemption to property located in New Hampshire); In re Stratton, 269 B.R. 716 (D.Ore.2001) (state homestead exemption is silent and Arrol decision is persuasive); In re Arrol, 207 B.R. 662 (Bankr.N.D.Cal.1997), subsequently aff'd, 170 F.3d 934 (9th Cir. 1999) (nothing in the statute, legislative history, or case law limited the exemption to property located within the state); In re Sipka, 149 B.R. 181 (D.Kan.1992) (court believes the majority rule is correct and Kansas would not recognize an exemption in this case). Additional decisions on this issue may be found in the notes to individual entries in this column.

[35] Connecticut has not opted out.

[36] Delaware's exemptions are limited to domiciliaries. "In any bankruptcy proceeding, an individual debtor domiciled in Delaware . . . may exempt only that property from the estate as set forth in subsection (b) of this section." Del. Code Ann. Tit. § 4914(a). "In any federal bankruptcy or state insolvency proceeding, an individual debtor domiciled in Delaware shall be authorized to exempt . . .." Del. Code Ann. Tit. § 4914(b). "In any federal bankruptcy or state insolvency proceeding, an individual debtor and/or such individual's spouse domiciled in Delaware shall be authorized to exempt . . .." Del. Code Ann. Tit. § 4914(c).

[37] See note 11.

[38] Delaware's opt-out is limited to domiciliaries. "In any bankruptcy proceeding, an individual debtor domiciled in Delaware is not authorized or entitled to elect the federal exemptions as set forth in § 522(d) of the Bankruptcy Reform Act of 1978 (11 U.S.C. § 522(d))." Del. Code Ann. Tit. § 4914(a).

[39] See note 13.

[40] Most nonresident debtors will not qualify for the District of Columbia's exemptions. "The following property of the head of a family or householder residing in the District of Columbia, or of a person who earns the major portion of his livelihood in the District of Columbia, being the head of a family or householder, regardless of his place of residence, is free and exempt . . .." D.C. Code § 15-501(a).

[41] See note 11. For those few nonresident debtors who are able to use the exemptions, they appear to include an exemption on real property located outside the district. D.C. Code Ann. § 15-501(a)(14).

[42] The District of Columbia has not opted out.

[43] See note 13.

[44] Florida's exemptions are limited to residents. "Nothing herein shall affect the exemptions given to residents of this state by the State Constitution and the Florida Statutes." Fla. Stat. § 222.20.

[45] See note 11. The Florida homestead exemption is not extraterritorial. In re Sanders, 72 B.R. 124 (Bankr.M.D.Fla.1987).

[46] Florida's opt-out is limited to residents. "[R]esidents of this state shall not be entitled to the federal exemptions provided in § 522(d) of the Bankruptcy Code . . .." Fla. Stat. § 222.20.

[47] See note 13.

[48] Georgia's exemptions are limited to debtors 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." Ga. Code Ann. § 44-13-100(b). Few nonresident debtors will be eligible.

[49] See note 11.

[50] Georgia's opt-out applies to debtors who have been domiciled 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." Ga. Code Ann. § 44-13-100(b). Few nonresident debtors will be subject to it.

[51] See note 13. If Georgia's opt-out happens to apply to a nonresident debtor, that debtor will qualify for the state exemptions. See notes 48 and 50.

[52] Hawaii's exemptions are not limited to domiciliaries or residents. "The following described personal property of an individual up to the value set forth shall be exempt . . .." Haw. Rev. Stat. § 651-121.

[53] Hawaii's homestead exemption is not extraterritorial. "Real property shall be exempt from attachment or execution as follows: (1) An interest in one parcel of real property in the State of Hawaii." Haw. Rev. Stat. § 651-92.

[54] Hawaii has not opted out.

[55] Nonresident debtors are likely to choose the federal exemptions because not all the state exemptions may be available to them.

[56] Idaho's exemptions are limited to residents. " Residents of this state are entitled to the exemptions provided by this act. Nonresidents are entitled to the exemptions provided by the law of the jurisdiction of their residence. (2) The term 'resident' means an individual who intends to maintain his home in this state." Idaho Code Ann. § 11-602.

[57] See note 11. Idaho's homestead exemption is not extraterritorial. In re Halpin, 1994 WL 594199 (Bankr.D.Idaho1994).

[58] Idaho's opt-out is not limited to domiciliaries or residents. "In any federal bankruptcy proceeding, an individual debtor may exempt from property of the estate only such property as is specified under the laws of this state." Idaho Code Ann. § 11-609.

[59] Nonresidents will use the federal exemptions under the saving provision in 11 USC § 522(b), which states, "If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d)." In re West, 352 B.R. 905 (Bankr.M.D.Fla.2006) (because debtor was not resident of Indiana and its exemptions were limited to residents, its exemptions were not available to her and debtor was eligible for the federal exemptions under the saving provision); In re Jewell, 2006 WL 2258363 (Bankr.W.D.N.Y.2006) (debtors, who were not residents of Colorado on date of filing were not eligible for its exemptions because its exemptions were limited to residents but debtors were eligible for federal exemptions under the saving provision); In re Crandall, 2006 WL 2051367 (Bankr.M.D.Fla.2006) (because debtor was not domiciled in New York on the date of filing, and its exemptions were limited to domiciliaries, debtor was eligible for federal exemptions under the saving provision); In re Underwood, 342 B.R. 358 (Bankr.N.D.Fla.2006) (savings provision would entitle debtor to federal exemptions if Colorado's opt-out applied to her); In re Robedee, 2007 WL 1576139 (S.D.Fla. 2007) (if applicable state provides no exemptions to nonresidents, they may use the federal exemptions under the saving clause).

[60] Illinois' exemptions are not limited to domiciliaries or residents. "The following personal property, owned by the debtor, is exempt . . .." 735 ILCS 5/12-1001.

[61] See note 34.

[62] Illinois' opt-out is limited to residents. "[R]esidents of this State shall be prohibited from using the federal exemptions provided in Section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)), except as may otherwise be permitted under the laws of Illinois." 735 I.L.C.S. 5/12-1201.

[63] Nonresident debtors are eligible for the federal exemptions because the opt-out does not apply to them. In re Chandler, 2007 WL 643319 (Bankr.N.D.W.Va.2007) (because Georgia had not opted out for nonresidents, debtor was eligible for federal exemptions); In re Battle, 2006 WL 3702734 (Bankr.W.D.Tex.2006) (Florida's opt-out, which was limited to residents, did not bar debtor from claiming federal exemptions); In re Underwood, 342 B.R. 358 (Bankr.N.D.Fla.2006) (because debtor was not a resident of Colorado on date of filing and Colorado's opt-out was limited to residents, debtor was eligible for federal exemptions); In re Schulz, 101 B.R. 301 (Bankr.N.D.Fla.1989) (because debtor was not resident of Florida on date of filing and Florida's opt-out was limited to residents, debtor was entitled to federal exemptions); In re Volk, 26 B.R. 457 (Bankr.D.S.D.1983)

(debtors were eligible for federal exemptions because South Dakota's opt-out was limited to residents); In re Walley, 9 B.R. 55 (Bankr.S.D.Ala.1981) (because Alabama's opt-out was limited to residents and debtor was not a resident of Alabama on date of filing, debtor could use the federal exemptions).

[64] Indiana's exemptions are limited to domiciliaries. "The following property of a debtor domiciled in Indiana is exempt . . .." Ind. Code Ann. § 34-55-10-2(c).

[65] See note 11.

[66] Indiana's opt-out is limited to domiciliaries. "[A]n individual debtor domiciled in Indiana is not entitled to the federal exemptions as provided by Section 522(d) of the Bankruptcy Code of 1978." Ind. Code Ann. § 34-55-10-1.

[67] See note 13.

[68] Iowa's personal property exemptions are limited to residents. "A debtor who is a resident of this state may hold exempt from execution the following property . . .." Iowa Code § 627.6; In re Williams, --- B.R. ---, 2007 WL 1520998 (Bankr.W.D.Ark. 2007). Iowa's definition of "resident" may require domicile. "Any person coming into this state with the intention of remaining shall be considered a resident." Iowa Code § 627.2. Iowa's homestead exemption is not limited to residents. Iowa Code § 561.16; In re Williams, --- B.R. ---, 2007 WL 1520998 (Bankr.W.D.Ark. 2007).

[69] Iowa's homestead exemption is extraterritorial. In re Williams, --- B.R. ---, 2007 WL 1520998 (Bankr.W.D.Ark. 2007).

[70] Iowa's opt-out is not limited to domiciliaries or residents. "A debtor to whom the law of this state applies on the date of filing of a petition in bankruptcy is not entitled to elect to exempt from property of the bankruptcy estate the property that is specified in 11 U.S.C. § 522(d) (1979)." Iowa Code Ann. § 627.10. In re Williams, --- B.R. ---, 2007 WL 1520998 (Bankr.W.D.Ark. 2007).

[71] Nonresident debtors can use the state homestead exemption but not the personal property exemptions. So, they will probably prefer to use the federal exemptions under the savings clause. See note 59.

[72] Nearly all of Kansas' personal property exemptions are limited to residents. "Every person residing in this state shall have exempt from seizure and sale upon any attachment, execution or other process issued from any court in this state, the following articles of personal property . . .." Kan. Stat. Ann. § 60-2304.

[73] Kansas' exemptions are not extraterritorial. In re Ginther, 282 B.R. 16 (Bankr.D.Kan.2002); In re Sipka 149 B.R. 181 (D.Kan.1992).

[74] Kansas' opt-out is not limited to domiciliaries or residents. "Except as provided in subsection (b), no person, as an individual debtor under the federal bankruptcy reform act of 1978 (11 U.S.C. §101 et seq.), may elect exemptions pursuant to subsection (b)(1) of section 522 of such federal act." Kan. Stat. Ann. § 60-2312(a). "An individual debtor under the federal bankruptcy reform act of 1978 may exempt, in addition to any other exemptions allowed under state law, any property listed in subsection (d)(10) of section 522 of such federal act." Kan. Stat. Ann. § 60-2312(b).

[75] Nonresident debtors are likely to choose the federal exemptions, using the saving clause, because few of the state exemptions are available to them. See note 59.

[76] Most of Kentucky's personal property exemptions are limited to residents. "The following personal property of an individual debtor resident in this state is exempt from execution, attachment, garnishment, distress or fee-bill" Ky. Rev. Stat. Ann. § 427.010.

[77] Kentucky's homestead exemption is not extraterritorial. "Real or personal property that such debtor or a dependent of such debtor uses as a permanent residence in this state" KY. Rev. Stat. Ann § 427.060.

[78] Kentucky has not opted out. "An individual debtor domiciled in this state is authorized to exempt from property of said debtor's estate the property specified under 11 U.S.C. sec. 522(d)." Ky. Rev. Stat. Ann § 427.170.

[79] Nonresident debtors are likely to choose the federal exemptions because few of the state exemptions are available to them.

[80] Louisiana's exemptions are not limited to domiciliaries or residents.

[81] See note 34.

[82] Louisiana's opt-out is not limited to domiciliaries or residents. "[I]n bankruptcy cases there shall be exempt from the property of the estate of an individual debtor only that property and income which is exempt under the laws of the state of Louisiana and under federal laws other than Subsection (d) of Section 522 of [the Bankruptcy Code]." La. Rev. Stat. Ann. § 13:3881(B)(1).

[83] Maine's exemptions are not limited to domiciliaries or residents.

[84] See note 34.

[85] Maine's opt-out is not limited to domiciliaries or residents. "[A] debtor may exempt from property of the debtor's estate under United States Code, Title 11, only that property exempt under the United States Code, Title 11, Section 522(b)(2)(A) and (B), except that any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph B, may exempt the amount allowed in that paragraph." Me. Rev. Stat. Ann. Tit. 14, § 4426.

[86] Maryland's exemptions are limited to domiciliaries. "In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled 'Bankruptcy', any individual debtor domiciled in this State may exempt the debtor's aggregate interest, not to exceed $5,000 in value, in real property or personal property." Md. Cts. & Jud. Proc. Code Ann. § 11-504(f).

[87] See note 11. Maryland's homestead exemption is extraterritorial. In re Grimes, 18 B.R. 132 (Bankr.D.Md.1982).

[88] Maryland's opt-out is not limited to domiciliaries or residents. "In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code." Md. Cts. & Jud. Proc. Code Ann. § 11-504(g).

[89] See note 59.

[90] Massachusetts' exemptions are not limited to domiciliaries or residents.

[91] See note 34.

[92] Massachusetts has not opted out.

[93] Michigan's exemptions are not limited to domiciliaries or residents. "The following property of the debtor and the debtor's dependents shall be exempt from levy and sale under any execution . . .." Mich. Comp. Laws § 600.6023.

[94] Michigan's homestead exemption and probably its other exemptions are not extraterritorial. In re Nelms, 2005 WL 318802 (Bankr.E.D.Mich.2004).

[95] Michigan has not opted out.

[96] Debtor may choose the state exemptions even if they are not all available.

[97] Minnesota's exemptions are not limited to domiciliaries or residents. "The property mentioned in this section is not liable to attachment, garnishment, or sale on any final process, issued from any court . . .." Minn. Stat. § 550.37.

[98] Minnesota's homestead exemption and probably its other exemptions are extraterritorial. In re Drenttel. 403 F.3d 611 (8th Cir. 2005).

[99] Minnesota has not opted out. "Except as provided in this section, the exemptions set forth in subsection (d) of section 522 of the Bankruptcy Act, United States Code, title 11, section 522(d), shall be available to residents of this state." Minn. Stat. § 550.371(1).

[100] Mississippi's exemptions are limited to residents. "The exemptions in this chapter shall be allowed in favor of residents of this state only." Miss. Code Ann. § 85-3-51.

[101] See note 11.

[102] Mississippi's opt-out is limited to residents. "[R]esidents of the State of Mississippi shall not be entitled to the federal exemptions provided in Section 522(d) of the Bankruptcy Reform Act of 1978." Miss. Code Ann. § 85-3-2.

[103] See note 13.

[104] Missouri's exemptions are not limited to domiciliaries or residents. "Every person by or against whom an order is sought for relief under Title 11, United States Code, shall be permitted to exempt from property of the estate any property that is exempt from attachment and execution under the law of the state of Missouri or under federal law, other than Title 11, United States Code, Section 522(d) . . .." Mo. Rev. State § 513.427.

[105] Missouri's homestead exemption and probably its other exemptions are extraterritorial. In re Woodruff, 2005 WL 113989 (Bankr.W.D.Mo.2005).

[106] Missouri's opt-out is not limited to domiciliaries or residents. "[N]o . . . [person by or against whom an order is sought for relief under Title 11] . . . is authorized to claim as exempt the property that is specified under Title 11, United States Code, Section 522(d)." Mo. Rev. State § 513.427.

[107] Montana's exemptions are limited to residents. "A resident of this state is entitled to the exemptions provided in this part." Mont. Code Ann. § 25-13-606.

[108] See note 11.

[109] Montana's opt-out is not limited to domiciliaries or residents. "An individual may not exempt from the property of the estate in any bankruptcy proceeding the property specified in 11 U.S.C. 522(d)." Mont. Code Ann. § 31-2-106.

[110] See note 59.

[111] Nebraska's exemptions are not limited to domiciliaries or residents. Nebraska's exemptions "apply to any bankruptcy petition filed in Nebraska after April 17, 1980." Neb. Rev. Stat. § 25-15,105. This will not prevent Nebraska's law from being applicable in cases filed in other states. See note 1.

[112] See note 34.

[113] Nebraska's opt-out is not limited to domiciliaries or residents. "The federal exemptions provided in 11 U.S.C. 522, subsection (d), are hereby rejected by the State of Nebraska." Neb. Rev. Stat. § 25-15,105.

[114] Nevada's exemptions are not limited to domiciliaries or residents.

[115] See note 34.

[116] Nevada's opt-out is limited to residents. "Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2." Nev. Rev. Stat. § 21.090 1.

[117] See note 63.

[118] New Hampshire's exemptions are not limited to domiciliaries or residents.

[119] New Hampshire's homestead exemption and probably its other exemptions are extraterritorial. In re Weza, 248 B.R. 479 (Bankr.D.N.H.2000).

[120] New Hampshire has not opted out.

[121] New Jersey's exemptions are not limited to domiciliaries or residents.

[122] See note 34.

[123] New Jersey has not opted out.

[124] Some of New Mexico's exemptions are limited to residents. "The cash surrender value of any life insurance policy, the withdrawal value of any optional settlement, annuity contract or deposit with any life insurance company, all weekly, monthly, quarterly, semiannual or annual annuities, indemnities or payments of every kind from any life, accident or health insurance policy, annuity contract or deposit heretofore or hereafter issued upon the life of a citizen or resident of the state of New Mexico . . .." N.M. Stat. § 42-10-3. "Any resident of this state who does not own a homestead shall in addition to other exemptions hold exempt real or personal property in the amount of two thousand dollars ($2,000) in lieu of the homestead exemption." N.M. Stat. § 42-10-10(A).

[125] See note 34.

[126] New Mexico has not opted out.

[127] Nonresident debtors will very likely choose the federal exemptions because few of the state exemptions are available to them.

[128] New York's exemptions are limited to domiciliaries. "Under section five hundred twenty-two of title eleven of the United States Code, entitled 'Bankruptcy', an individual debtor domiciled in this state may exempt from the property of the estate, to the extent permitted by subsection (b) thereof, only (i) personal and real property exempt from application to the satisfaction of money judgments under sections fifty-two hundred five and fifty-two hundred six of the civil practice law and rules, (ii) insurance policies and annuity contracts and the proceeds and avails thereof as provided in section three thousand two hundred twelve of the insurance law and (iii) the following property." N.Y. Debt. & Cred. Law § 282.

[129] See note 11.

[130] New York's opt-out is limited to domiciliaries. "In accordance with the provisions of section five hundred twenty-two (b) of title eleven of the United States Code, debtors domiciled in this state are not authorized to exempt from the estate property that is specified under subsection (d) of such section." N.Y. Debt. & Cred. Law § 284.

[131] See note 13.

[132] North Carolina's exemptions are limited to residents. "Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of creditors . . .." N.C. Gen. Stat. § 1C-1601(f).

[133] See note 11. The homestead exemption is not extraterritorial. In re Owings, 140 F. 739 (E.D.N.C. 1905).

[134] North Carolina's opt-out is limited to residents. "The exemptions provided in The Bankruptcy Code, 11 U.S.C. § 522(d), are not applicable to residents of this State." N.C. Gen. Stat. § 1C-1601(f).

[135] See note 13.

[136] Some of North Dakota's exemptions are limited to residents. "In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select . . .." N.D. Cent. Code § 28-22-03.1.

[137] See note 34.

[138] North Dakota's opt-out is limited to residents. "[R]esidents of this state are not entitled to the federal exemptions provided in section 522(d) of the Bankruptcy Reform Act of 1978." N.D. Cent Code § 28-22-17.

[139] Nonresident debtors are likely choose the federal exemptions because few of the state exemptions are available to them. See note 13.

[140] Ohio's exemptions are limited to domiciliaries. "Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows: . . .." Ohio Rev. Code § 2329.66(A).

[141] See note 11.

[142] Ohio's opt-out is limited to domiciliaries. "[T]his state specifically does not authorize debtors who are domiciled in this state to exempt the property specified in the 'Bankruptcy Reform Act of 1978,' 92 Stat. 2549, 11 U.S.C. 522(d)." Ohio Rev. Code § 2329.662.

[143] See note 13.

[144] Oklahoma's exemptions are limited to residents. "Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:" Okla. Stat. § 31-1(A).

[145] See note 11.

[146] Oklahoma's opt-out is limited to residents. "No natural person residing in this state may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978, Public Law 95-598, 11 U.S.C.A. 101 et seq., except as may otherwise be expressly permitted under this title or other statutes of this state." Okla. Stat. Ann. Tit. 31, § 1(B).

[147] See note 13.

[148] Oregon's exemptions are limited to residents. "Nothing in this section shall affect the exemptions given to residents of this state by the Constitution of the State of Oregon and the Oregon Revised Statutes. " Or. Rev. Stat. § 18.300.

[149] See note 11. Oregon's homestead exemption is extraterritorial. In re Stratton, 269 B.R. 716 (Bankr.D.Or.2001).

[150] Oregon's opt-out is limited to residents. "[R]esidents of this state shall not be entitled to the federal exemptions provided in Section 522 (d) of the Bankruptcy Code of 1978 (11 U.S.C. 522 (d))." Or. Rev. Stat. § 18.300.

[151] See note 13.

[152] Pennsylvania's exemptions are not limited to domiciliaries or residents.

[153] See note 34.

[154] Pennsylvania has not opted out.

[155] Puerto Rico's exemptions are not limited to domiciliaries or residents.

[156] See note 34.

[157] Puerto Rico has not opted out.

[158] Rhode Island's exemptions are not limited to domiciliaries or residents.

[159] Apparently, Rhode Island's homestead exemption is extraterritorial. In re Franklino, 329 B.R. 363 (Bankr.D.R.I.2005).

[160] Rhode Island has not opted out.

[161] South Carolina's exemptions are limited to domiciliaries. "The following real and personal property of a debtor domiciled in this State is exempt from attachment, levy, and sale . . .." S.C. Code Ann. § 15-41-30.

[162] See note 11.

[163] South Carolina's opt-out is not limited to domiciliaries or residents. "No individual may exempt from the property of the estate in any bankruptcy proceeding the property specified in 11 U.S.C. Section 522(d) except as may be expressly permitted by this chapter or by other provisions of law of this State." S.C. Code Ann. § 15-41-35.

[164] See note 59.

[165] Most of South Dakota's exemptions are limited to residents. "The homestead of every family, resident in this state . . .." S.D.C.L. § 43-31-1. "Except those made absolute, the exemptions provided by this chapter do not apply to the following persons: (1) To a nonresident . . .." S.D.C.L. § 43-45-7. In re Volk, 26 B.R. 457 (D.S.D.1983).

[166] See note 34.

[167] South Dakota's opt-out is limited to residents. "[R]esidents of this state are not entitled to the federal exemptions provided in § 522(d) of the Bankruptcy Code of 1978 . . .." S.D.C.L. § 43-45-13.

[168] Nonresident debtors are likely to choose the federal exemptions because few of the state exemptions are available to them. They are entitled to the federal exemptions because South Dakota's opt-out does not apply to them. See note 63.

[169] Most, if not all, of Tennessee's exemptions are limited to "citizens" "permanently residing" in Tennessee. "Personal property to the aggregate value of four thousand dollars ($4,000) debtor's equity interest shall be exempt from execution, seizure or attachment in the hands or possession of any person who is a bona fide citizen permanently residing in Tennessee . . .." Tenn. Code Ann. § 26-2-103. "In addition to the exemption set out in § 26-2-105, there shall be further exempt to every resident debtor the following specific articles of personalty . . .." Tenn. Code Ann. § 26-2-104. "In addition to the property exempt under § 26-2-103, the following shall be exempt from execution, seizure or attachment in the hands or possession of any person who is a bona fide citizen permanently residing in Tennessee . . .." Tenn. Code Ann. § 26-2-111. "The personal property exemptions as provided for in this part, and the other exemptions as provided in other sections of the Tennessee Code Annotated for the citizens of Tennessee, are hereby declared adequate . . .." Tenn. Code. Ann. § 26-2-112. "Should a bona fide citizen permanently residing in Tennessee become a judgment debtor, such debtor must exercise the exemption as provided in § 26-2-103 by filing a list of all the items owned . . .." Tenn. Code Ann. § 26-2-114.

[170] See note 11.

[171] Tennessee's opt-out is limited to "citizens" of Tennessee, which requires Tennessee residency. See note 169. "[T]he citizens of Tennessee . . . are not authorized to claim as exempt the property described in . . . 11 USC 522 (d)." Tenn. Code Ann. § 26-2-112.

[172] See note 13.

[173] Texas' exemptions are not limited to domiciliaries or residents.

[174] Texas' homestead exemption is not extraterritorial. "The definition of a homestead as provided in this section applies to all homesteads in this state whenever created." Tex. Prop. Code Ann. § 41.002(d). In re Peters, 91 B.R. 401 (Bankr.W.D.Tx.1988).

[175] Texas has not opted out.

[176] Nonresident debtors are likely to choose the federal exemptions because not all the state exemptions may be available to them.

[177] Utah's exemptions are not limited to domiciliaries or residents.

[178] Utah's homestead exemption is not extraterritorial. "An individual is entitled to a homestead exemption consisting of property in this state . . .." Utah Code Ann. § 78-23-3(2)(a).

[179] Utah's opt-out is not limited to domiciliaries or residents. "No individual may exempt from the property of the estate in any bankruptcy proceeding the property specified in Subsection (d) of Section 522 of the Bankruptcy Reform Act (Public Law 95-598), except as may otherwise be expressly permitted under this chapter." Utah Code Ann. § 78-23-15.

[180] Although Utah's opt-out includes nonresidents, they should be able to use the federal exemptions under the saving clause if the state homestead exemption is unavailable to them. See note 59.

[181] Vermont's exemptions are not limited to domiciliaries or residents.

[182] In re Oliver, 182 B.R. 699 (Bankr.D.Vt.1995) suggests Vermont's exemptions are extraterritorial.

[183] Vermont has not opted out.

[184] Virgin Islands' exemptions are not limited to domiciliaries or residents.

[185] See note 34.

[186] Virgin Islands has not opted out.

[187] Virginia's exemptions are limited to residents. "Every householder shall be entitled, in addition to the property or estate exempt under §§ 23-38.81, 34-26, 34-27, 34-29, and 64.1-151.3, to hold exempt from creditor process arising out of a debt, real and personal property, or either, to be selected by the householder, including money and debts due the householder not exceeding $5,000 in value." Va. Code § 34-4. '"Householder" means any resident of Virginia.' Va. Code § 34-1.

[188] See note 11. Virginia's homestead exemption appears to be extraterritorial. In re McWilliams, 296 B.R. 424 (Bankr.E.D.Va.2002).

[189] Virginia's opt-out is not limited to domiciliaries or residents. "No individual may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of § 522 of the Bankruptcy Reform Act (Public Law 95-598), except as may otherwise be expressly permitted under this title." Va. Code Ann. § 34-3.1.

[190] In re Hawkins, 15 B.R. 618 (Bankr.E.D.Va.1981) (debtor, not a resident of Virginia, was not eligible for Virginia state exemptions because they were limited to residents, had not followed Virginia procedure for claiming homestead, and was subject to Virginia's opt-out because it was not limited to residents. Because the Virginia exemptions stated that they are no longer applicable to the debtor upon her removal from the state and Congress intended that debtor have exemptions to enable a fresh start, debtor is entitled to federal exemptions under "the alternative provisions of 11 USC § 422(b)"). The saving provision now gives the nonresident debtor a stronger basis upon which to obtain the federal exemptions in this type of case. See note 59.

[191] Washington's exemptions are not limited to domiciliaries or residents.

[192] See note 34.

[193] Washington has not opted out.

[194] West Virginia's exemptions are not limited to domiciliaries or residents. "Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property . . .." W. Va. Code § 38-10-4.

[195] See note 34.

[196] West Virginia's opt-out is limited to domiciliaries. "Pursuant to the provisions of 11 U.S.C. §522(b)(1), this state specifically does not authorize debtors who are domiciled in this state to exempt the property specified under the provisions of 11 U.S.C. §522(d)." W. Va. Code § 38-10-4.

[197] See note 63.

[198] Wisconsin's exemptions are limited to residents. "A resident is entitled to the exemptions provided by this section. A nonresident is entitled to the exemptions provided by the law of the jurisdiction of his or her residence." Wis. State. § 815.18(5).

[199] See note 11.

[200] Wisconsin has not opted out.

[201] See note 13.

[202] Wyoming's exemptions are limited to residents. "Any person claiming these exemptions shall be a bona fide resident of this state." Wyo. Stat. Ann. § 1-20-108(b). "Every resident of the state is entitled to a homestead . . .." Wyo. Stat. Ann. § 1-20-101.

[203] See note 11.

[204] Wyoming's opt-out applies to debtors who have been domiciled in Wyoming "for the one hundred eighty (180) days immediately preceding the date of the filing of the petition or for a longer portion of the one hundred eighty (180) day period than in any other place." Wyo. Stat. Ann. § 1-20-109. Few nonresident debtors will be subject to it.

[205] Wyoming's opt-out will not apply to most nonresident debtors. Therefore, they may use the federal exemptions. See note 13. Nonresident debtors to whom Wyoming's opt-out does apply will use the federal exemptions under the saving provision. See note 59.

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