

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF GEORGIA,

PASSED IN

ATLANTA, GEORGIA,

AT THE

CALLED SESSION,

Beginning July 4, and ending October 6, 1868.



*Macon, Georgia:*

J. W. BURKE & CO., PRINTERS, STATIONERS AND BINDERS.

1868

To set apart a Homestead of realty and personalty.

thereof shall be entered upon any Solicitor's bills hereafter to be passed.

SEC. II. Repeals conflicting laws.

Approved October 10th, 1868.

## TITLE IX.

### HOMESTEAD.

SECTION 1. Homestead of realty and personalty allowed—to whom—amount of.  
 2. Applicant for must make schedule.  
 3. Schedule filed—how to proceed.  
 4. Notice to be given creditors.  
 5. If no objections, Ordinary must endorse.  
 6. Creditor objecting—how to proceed.  
 7. Of town property—how laid off, etc.  
 8. Ministerial officer failing to respect order—penalty.

SECTION 9. Applicant must pay cost—Ordinary bound for—when.  
 10. Officer levying with notice—guilty of trespass—recovery.  
 11. Property—how encumbered.  
 12. Property set apart—vest in whom.  
 13. Husband refusing to apply—wife may.  
 14. May claim under Section 2013 of Code—instead.

(No. 27.)

*An Act to provide for setting apart a Homestead of realty and personalty, and for the valuation of said property, and for the full and complete protection and security of the same to the sole use and benefit of families, as required by Section first of Article seven of the Constitution, and for other purposes.*

SECTION I. *Be it enacted by the General Assembly of this State, etc.,* That each head of a family, or guardian, or trustee of a family of minor children, shall be entitled to a homestead of realty to the value of two thousand dollars in specie, and personal property to the value of one thousand dollars in specie, both to be valued at the time they are set apart; and no Court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart, including such improvements as may be made thereon from time to time, except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase money of the same, and for labor done thereon, or material furnished therefor, or removal of encumbrances thereon, provided the same shall have been set apart and valued as hereinafter provided.

SEC. II. Every person seeking the benefit of this act, and of said section of the Constitution, shall make out a schedule and description of the personal property claimed by him to be exempt under said section of the Constitution from levy and sale, and hand the same to the Ordinary of the county in which he resides; and shall apply to

Homestead exemption.

Ordinary to receive schedule and order Surveyor to lay off homestead.

the said Ordinary for an order to the County Surveyor, or if there be none, some other Surveyor to lay off his homestead allowed by said section of the Constitution, and to make a plat of the same, which order the Ordinary shall issue at once and give to the applicant.

SEC. III. When said schedule has been so filed, and said application has been made, the said Ordinary shall publish in the gazette in which Sheriff's sales for said county are published, not more than twice, a notice as follows: "A— B—, has applied for exemption of personalty, and setting apart and valuation of homestead, and I will pass upon the same at — o'clock, M., on the — day of —, 186—, at my office. C— D—, Ordinary;" filling said blanks so that all persons may know the time for action by the Ordinary on said petition.

SEC. IV. The time fixed by said notice shall not be less than ten, nor more than twenty days from the date of the order of the Ordinary to such Surveyor. The Surveyor to whom said order shall be delivered by the applicant, shall lay off the homestead on or out of the land claimed by the applicant, and make a plat of the same, and make an affidavit that the same is correctly platted and laid off, and that the same is, to the best of his knowledge and belief, not worth more than two thousand dollars in specie, and return the same to the Ordinary before the day appointed in the order for passing upon said application. Should any County Surveyor fail to comply with his duty as prescribed by this act, he shall be, by said Ordinary, punished for a contempt of Court.

SEC. V. If at the time and place appointed for passing upon said application, no objection shall be urged by any creditor of the applicant, the Ordinary shall endorse upon said schedule and upon said plat, "Approved, this the — day of — 186—;" filling the blanks, and shall sign the same officially, and hand the same to the Clerk of the Superior Court of his county, who shall record the same in a book to be kept for that purpose in his office.

SEC. VI. Should any creditor of the applicant desire to object to said schedule, for want of sufficiency and fullness, or for fraud of any kind, or to dispute the valuation of said personalty, or the propriety of the survey, or the value of the premises so platted as the homestead, he shall, at said time and place of meeting, specify the same in writing. Thereupon, unless the applicant shall so alter said schedule or plat, or both, as to remove said objections, said Ordinary shall appoint three disinterested appraisers to examine the property concerning which the objections are made, and to value the same, and on their return, (which shall be made under oath) if either be found to be too large, such alterations shall be made in said schedule, and in such plat, as the Ordinary may deem proper to bring the same within the limits of the value allowed by said section of the Constitution, and he shall then and there approve said schedule and said plat as required by the fifth section of this act, and hand the same to the Clerk of the Superior Court of his county, who shall record the same as required by section fifth of this act: *Provided*, that either party,

Notice of application by Ord<sup>y</sup>.

From ten to twenty days. Surveyor: his duty and liability.

Order: how granted and recorded.

Objections: how and when made

Appraisers.