

By: Senator(s) Tollison

To: Judiciary, Division A

SENATE BILL NO. 2875

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT CERTAIN INTANGIBLE ITEMS MAY BE SELECTED BY A DEBTOR
3 FOR EXEMPTION FROM EXECUTION ON THE SAME BASIS AS CASH, SUBJECT TO
4 THE CUMULATIVE VALUE LIMITATION; TO AMEND SECTION 85-3-17,
5 MISSISSIPPI CODE OF 1972, TO CLARIFY THE EXISTING EXEMPTION FROM
6 EXECUTION OF PROCEEDS STEMMING FROM A CLAIM BASED ON PERSONAL
7 INJURY; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 85-3-1, Mississippi Code of 1972, is
10 amended as follows:

11 85-3-1. There shall be exempt from seizure under execution
12 or attachment:

13 (a) Tangible or intangible personal property of the
14 following kinds selected by the debtor, not exceeding Ten Thousand
15 Dollars (\$10,000.00) in cumulative value:

16 (i) Household goods, wearing apparel, books,
17 animals or crops;

18 (ii) Motor vehicles;

19 (iii) Implements, professional books or tools of
20 the trade;

21 (iv) Cash on hand;

22 (v) Intangible property involving the right to
23 receive money or credit, including, but not limited to, bank and
24 other accounts, stocks and bonds, earned income credits, child
25 care credits, child credits, or tax refunds;

26 (vi) Professionally prescribed health aids;

27 (vii) Any item of tangible personal property worth
28 less than Two Hundred Dollars (\$200.00).

29 Household goods, as used in this paragraph (a), means
30 clothing, furniture, appliances, one (1) radio and one (1)
31 television, one (1) firearm, one (1) lawnmower, linens, china,
32 crockery, kitchenware, and personal effects (including wedding
33 rings) of the debtor and his dependents; however, works of art,
34 electronic entertainment equipment (except one (1) television and
35 one (1) radio), jewelry (other than wedding rings), and items
36 acquired as antiques are not included within the scope of the term
37 "household goods." This paragraph (a) shall not apply to distress
38 warrants issued for collection of taxes due the state or to wages
39 described in Section 85-3-4.

40 (b) (i) The proceeds of insurance on property, real
41 and personal, exempt from execution or attachment, and the
42 proceeds of the sale of such property.

43 (ii) Income from disability insurance.

44 (c) All property, real, personal and mixed, for the
45 collection or enforcement of any order or judgment, in whole or in
46 part, issued by any court for civil or criminal contempt of said
47 court; expressly excepted herefrom are such orders or judgments
48 for the payment of alimony, separate maintenance and child support
49 actions.

50 (d) All property in this state, real, personal and
51 mixed, for the satisfaction of a judgment or claim in favor of
52 another state or political subdivision of another state for
53 failure to pay that state's or that political subdivision's income
54 tax on benefits received from a pension or other retirement plan.
55 As used in this paragraph (d), "pension or other retirement plan"
56 includes:

57 (i) An annuity, pension, or profit-sharing or
58 stock bonus or similar plan established to provide retirement
59 benefits for an officer or employee of a public or private
60 employer or for a self-employed individual;

61 (ii) An annuity, pension, or military retirement
62 pay plan or other retirement plan administered by the United
63 States; and

64 (iii) An individual retirement account.

65 (e) One (1) mobile home, trailer, manufactured housing,
66 or similar type dwelling owned and occupied as the primary
67 residence by the debtor, not exceeding a value of Twenty Thousand
68 Dollars (\$20,000.00); in determining this value, existing
69 encumbrances on said dwelling, including taxes and all other
70 liens, shall first be deducted from the actual value of said
71 dwelling. A debtor is not entitled to the exemption of a mobile
72 home as personal property who claims a homestead exemption under
73 Section 85-3-21, and the exemption shall not apply to collection
74 of delinquent taxes under Sections 27-41-101 through 27-41-109.

75 (f) Assets held in, or monies payable to the
76 participant or beneficiary from, whether vested or not, (i) a
77 pension, profit-sharing, stock bonus or similar plan or contract
78 established to provide retirement benefits for the participant or
79 beneficiary and qualified under Section 401(a), 403(a), or 403(b)
80 of the Internal Revenue Code (or corresponding provisions of any
81 successor law), including a retirement plan for self-employed
82 individuals qualified under one of such enumerated sections, (ii)
83 an eligible deferred compensation plan described in Section 457(b)
84 of the Internal Revenue Code (or corresponding provisions of any
85 successor law), or (iii) an individual retirement account or an
86 individual retirement annuity within the meaning of Section 408 of
87 the Internal Revenue Code (or corresponding provisions of any
88 successor law), including a simplified employee pension plan.

89 (g) Nothing in this section shall in any way affect the
90 rights or remedies of the holder or owner of a statutory lien or
91 voluntary security interest.

92 **SECTION 2.** Section 85-3-17, Mississippi Code of 1972, is
93 amended as follows:

94 85-3-17. (1) The proceeds of any judgment or settlement not
95 exceeding Ten Thousand Dollars (\$10,000.00) recovered by any
96 person on account of personal injuries sustained, shall inure to
97 the party or parties in whose favor such judgment may be rendered
98 or settlement made, free from all liabilities for the debts of the
99 person injured.

100 (2) Proceeds not exceeding Ten Thousand Dollars (\$10,000.00)
101 accruing to any chose in action based on personal injuries
102 sustained shall inure to the party or parties in whose favor an
103 eventual judgment may be rendered or settlement made, free from
104 all liabilities for the debts of the person injured.

105 **SECTION 3.** This act shall take effect and be in force from
106 and after July 1, 2005.