

By: Representative Fleming

To: Judiciary A

HOUSE BILL NO. 35

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT FEDERAL EARNED INCOME TAX CREDITS AND CHECKING ACCOUNTS
3 FROM SEIZURE UNDER EXECUTION OR ATTACHMENT; AND FOR RELATED
4 PURPOSES.

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

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

8 85-3-1. There shall be exempt from seizure under execution
9 or attachment:

10 (a) Tangible personal property of the following kinds
11 selected by the debtor, not exceeding Ten Thousand Dollars
12 (\$10,000.00) in cumulative value:

13 (i) Household goods, wearing apparel, books,
14 animals or crops;

15 (ii) Motor vehicles;

16 (iii) Implements, professional books or tools of
17 the trade;

18 (iv) Cash on hand;

19 (v) Professionally prescribed health aids;

20 (vi) Any item of tangible personal property worth
21 less than Two Hundred Dollars (\$200.00);

22 (vii) Checking account.

23 Household goods, as used in this paragraph (a), means
24 clothing, furniture, appliances, one (1) radio and one (1)
25 television, one (1) firearm, one (1) lawnmower, linens, china,
26 crockery, kitchenware, and personal effects (including wedding
27 rings) of the debtor and his dependents; however, works of art,
28 electronic entertainment equipment (except one (1) television and

29 one (1) radio), jewelry (other than wedding rings), and items
30 acquired as antiques are not included within the scope of the term
31 "household goods." This paragraph (a) shall not apply to distress
32 warrants issued for collection of taxes due the state or to wages
33 described in Section 85-3-4.

34 (b) (i) The proceeds of insurance on property, real
35 and personal, exempt from execution or attachment, and the
36 proceeds of the sale of such property.

37 (ii) Income from disability insurance.

38 (c) All property, real, personal and mixed, for the
39 collection or enforcement of any order or judgment, in whole or in
40 part, issued by any court for civil or criminal contempt of said
41 court; expressly excepted herefrom are such orders or judgments
42 for the payment of alimony, separate maintenance and child support
43 actions.

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

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

55 (ii) An annuity, pension, or military retirement
56 pay plan or other retirement plan administered by the United
57 States; and

58 (iii) An individual retirement account.

59 (e) One (1) mobile home, trailer, manufactured housing,
60 or similar type dwelling owned and occupied as the primary
61 residence by the debtor, not exceeding a value of Twenty Thousand

62 Dollars (\$20,000.00); in determining this value, existing
63 encumbrances on said dwelling, including taxes and all other
64 liens, shall first be deducted from the actual value of said
65 dwelling. A debtor is not entitled to the exemption of a mobile
66 home as personal property who claims a homestead exemption under
67 Section 85-3-21, and the exemption shall not apply to collection
68 of delinquent taxes under Sections 27-41-101 through 27-41-109.

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

83 (g) Federal earned income tax credits.

84 (h) Nothing in this section shall in any way affect the
85 rights or remedies of the holder or owner of a statutory lien or
86 voluntary security interest.

87 **SECTION 2.** This act shall take effect and be in force from
88 and after July 1, 2006.