

By: Representative Gunn

To: Judiciary A

HOUSE BILL NO. 1055

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO  
2 EXEMPT CERTAIN PAYMENTS INTO AND OUT OF COLLEGE TUITION SAVINGS  
3 PROGRAMS FROM SEIZURE UNDER EXECUTION OR ATTACHMENT; AND FOR  
4 RELATED 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 Household goods, as used in this paragraph (a), means  
23 clothing, furniture, appliances, one (1) radio and one (1)  
24 television, one (1) firearm, one (1) lawnmower, linens, china,  
25 crockery, kitchenware, and personal effects (including wedding  
26 rings) of the debtor and his dependents; however, works of art,  
27 electronic entertainment equipment (except one (1) television and  
28 one (1) radio), jewelry (other than wedding rings), and items

29 acquired as antiques are not included within the scope of the term  
30 "household goods." This paragraph (a) shall not apply to distress  
31 warrants issued for collection of taxes due the state or to wages  
32 described in Section 85-3-4.

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

36 (ii) Income from disability insurance.

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

43 (d) Monies paid into or, to the extent payments out are  
44 applied to tuition or other qualified higher education expenses at  
45 eligible educational institutions (as defined in Section 529 of  
46 the Internal Revenue Code (or corresponding provisions of any  
47 successor law)), monies paid out of, the assets of and the income  
48 from any validly existing qualified tuition program authorized  
49 under Section 529 of the Internal Revenue Code (or corresponding  
50 provisions of any successor law), including, but not limited to,  
51 the Mississippi Prepaid Affordable College Tuition (MPACT) Program  
52 established under Sections 37-155-1 through 37-155-27 and the  
53 Mississippi Affordable College Savings (MACS) Program established  
54 under Sections 37-155-101 through 37-155-125.

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

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

66 (ii) An annuity, pension, or military retirement  
67 pay plan or other retirement plan administered by the United  
68 States; and

69 (iii) An individual retirement account.

70 (f) One (1) mobile home, trailer, manufactured housing,  
71 or similar type dwelling owned and occupied as the primary  
72 residence by the debtor, not exceeding a value of Twenty Thousand  
73 Dollars (\$20,000.00); in determining this value, existing  
74 encumbrances on the dwelling, including taxes and all other liens,  
75 shall first be deducted from the actual value of the dwelling. A  
76 debtor is not entitled to the exemption of a mobile home as  
77 personal property who claims a homestead exemption under Section  
78 85-3-21, and the exemption shall not apply to collection of  
79 delinquent taxes under Sections 27-41-101 through 27-41-109.

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

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

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