

By: Senator(s) Kirby

To: Judiciary, Division B

SENATE BILL NO. 2963
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT HEALTH SAVINGS ACCOUNTS FROM SEIZURE UNDER EXECUTION OR
3 ATTACHMENT AND TO CREATE AN ADDITIONAL EXEMPTION IN FAVOR OF
4 CERTAIN RESIDENT SENIOR CITIZENS; AND FOR 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 items 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 said
40 court; expressly excepted herefrom are such orders or judgments
41 for the payment of alimony, separate maintenance and child support
42 actions.

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

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

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

57 (iii) An individual retirement account.

58 (e) One (1) mobile home, trailer, manufactured housing,
59 or similar type dwelling owned and occupied as the primary
60 residence by the debtor, not exceeding a value of Twenty Thousand
61 Dollars (\$20,000.00); in determining this value, existing

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

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

82 (g) The assets of a health savings account, including
83 any interest accrued thereon, established pursuant to a health
84 savings account program as provided in the Health Savings Accounts
85 Act, Section 83-62-1 et seq.

86 (h) In addition to all other exemptions listed in this
87 section, there shall be an additional exemption of Fifty Thousand
88 Dollars (\$50,000.00) of whatever type, whether real, personal or
89 mixed, available to any Mississippi resident who is seventy (70)
90 years of age or older.

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

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