

By: Representative Fillingane

To: Judiciary A

HOUSE BILL NO. 869

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTAIN TAX CREDITS AS PROPERTY EXEMPT FROM SEIZURE UNDER
3 EXECUTION OR ATTACHMENT; AND FOR RELATED PURPOSES.

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

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

7 85-3-1. There shall be exempt from seizure under execution
8 or attachment:

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

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

14 (ii) Motor vehicles;

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

17 (iv) Cash on hand;

18 (v) Professionally prescribed health aids;

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

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

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

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

35 (ii) Income from disability insurance.

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

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

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

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

56 (iii) An individual retirement account.

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

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

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

81 (g) Any portion of a tax return attributable to earned
82 income credit, child care credit or child tax credit.

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

86 **SECTION 2.** This act shall take effect and be in force from
87 and after July 1, 2005.