

By: Senator(s) White, Williamson

To: Judiciary, Division A

SENATE BILL NO. 2096

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE EXEMPTION FROM SEIZURE UNDER EXECUTION OR
3 ATTACHMENT OF CERTAIN PAYMENTS MADE ON ACCOUNT OF ILLNESS,
4 DISABILITY, DEATH, AGE OR LENGTH OF SERVICE SHALL NOT PRECLUDE THE
5 ISSUANCE AGAINST SUCH PAYMENTS OF ORDERS OR JUDGMENTS FOR THE
6 PAYMENT OF ALIMONY, SEPARATE MAINTENANCE OR CHILD SUPPORT; AND FOR
7 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 personal property of the following kinds
14 selected by the debtor, not exceeding Ten Thousand Dollars
15 (\$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) Professionally prescribed health aids;

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

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

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

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

39 (ii) Income from disability insurance.

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

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

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

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

60 (iii) An individual retirement account.

61 (e) One (1) mobile home, trailer, manufactured housing,
62 or similar type dwelling owned and occupied as the primary

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

71 (f) (i) Assets held in, or monies payable to the
72 participant or beneficiary from, whether vested or not, 1. a
73 pension, profit-sharing, stock bonus or similar plan or contract
74 established to provide retirement benefits for the participant or
75 beneficiary and qualified under Section 401(a), 403(a), or 403(b)
76 of the Internal Revenue Code (or corresponding provisions of any
77 successor law), including a retirement plan for self-employed
78 individuals qualified under one of such enumerated sections, 2. an
79 eligible deferred compensation plan described in Section 457(b) of
80 the Internal Revenue Code (or corresponding provisions of any
81 successor law) or 3. an individual retirement account or an
82 individual retirement annuity within the meaning of Section 408 of
83 the Internal Revenue Code (or corresponding provisions of any
84 successor law), including a simplified employee pension plan.

85 (ii) This paragraph (f) shall not be construed to
86 preclude issuance of orders or judgments for the payment of
87 alimony, separate maintenance or child support against any
88 payments covered under this paragraph (f).

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.** This act shall take effect and be in force from
93 and after July 1, 2005.