

By: Senator(s) Burton

To: Judiciary, Division A

SENATE BILL NO. 2977

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT CERTAIN INTANGIBLE ITEMS MAY BE SELECTED BY A DEBTOR
3 FOR EXEMPTION FROM EXECUTION ON THE SAME BASIS AS CASH, SUBJECT TO
4 THE CUMULATIVE VALUE LIMITATION; 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 or intangible personal property of the
11 following kinds selected by the debtor, not exceeding Ten Thousand
12 Dollars (\$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) Intangible property involving the right to
20 receive money or credit, including, but not limited to:

21 1. Bank and other accounts;

22 2. Stocks and bonds;

23 3. Federal earned income tax credits, except
24 for seizure by the Department of Revenue or arrears in child
25 support payments;

26 4. Child care credits, child credits or tax
27 refunds.

28 (vi) Professionally prescribed health aids;

29 (vii) Any item of tangible personal property worth
30 less than Two Hundred Dollars (\$200.00).

31 Household goods, as used in this paragraph (a), means
32 clothing, furniture, appliances, one (1) radio and one (1)
33 television, one (1) firearm, one (1) lawnmower, linens, china,
34 crockery, kitchenware, and personal effects (including wedding
35 rings) of the debtor and his dependents; however, works of art,
36 electronic entertainment equipment (except one (1) television and
37 one (1) radio), jewelry (other than wedding rings), and items
38 acquired as antiques are not included within the scope of the term
39 "household goods." This paragraph (a) shall not apply to distress
40 warrants issued for collection of taxes due the state or to wages
41 described in Section 85-3-4.

42 (b) (i) The proceeds of insurance on property, real
43 and personal, exempt from execution or attachment, and the
44 proceeds of the sale of such property.

45 (ii) Income from disability insurance.

46 (c) All property, real, personal and mixed, for the
47 collection or enforcement of any order or judgment, in whole or in
48 part, issued by any court for civil or criminal contempt of said
49 court; expressly excepted herefrom are such orders or judgments
50 for the payment of alimony, separate maintenance and child support
51 actions.

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

59 (i) An annuity, pension, or profit-sharing or
60 stock bonus or similar plan established to provide retirement

61 benefits for an officer or employee of a public or private
62 employer or for a self-employed individual;

63 (ii) An annuity, pension, or military retirement
64 pay plan or other retirement plan administered by the United
65 States; and

66 (iii) An individual retirement account.

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

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

91 (g) 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, 2005.