

EXEMPT PROPERTY

§§ 85-3-1 through 85-3-52

§ 85-3-1. Property exempt from seizure under execution or attachment

There shall be exempt from seizure under execution or attachment:

- (a) Tangible personal property of the following kinds selected by the debtor, not exceeding Ten Thousand Dollars (\$10,000.00) in cumulative value:
 - (i) Household goods, wearing apparel, books, animals or crops;
 - (ii) Motor vehicles;
 - (iii) Implements, professional books or tools of the trade;
 - (iv) Cash on hand;
 - (v) Professionally prescribed health aids;
 - (vi) Any items of tangible personal property worth less than Two Hundred Dollars (\$200.00) each.

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

- (b)
 - (i) The proceeds of insurance on property, real and personal, exempt from execution or attachment, and the proceeds of the sale of such property.
 - (ii) Income from disability insurance.
- (c) All property in this state, real, personal and mixed, for the satisfaction of a judgment or claim in favor of another state or political subdivision of another state for failure to pay that state's or that political subdivision's income tax on benefits received from a pension or other retirement plan. As used in this paragraph (c), "pension or other retirement plan" includes:
 - (i) An annuity, pension, or profit-sharing or stock bonus or similar plan established to provide retirement benefits for an officer or employee of a public or private employer or for a self-employed individual;
 - (ii) An annuity, pension, or military retirement pay plan or other retirement plan administered by the United States; and
 - (iii) An individual retirement account.
- (d) One (1) mobile home, trailer, manufactured housing, or similar type dwelling owned and occupied as the primary residence by the debtor, not exceeding a value of Thirty Thousand Dollars (\$30,000.00); in determining this value, existing encumbrances on the dwelling, including taxes and all other liens, shall first be deducted from the actual value of the dwelling. A debtor is not entitled to the exemption of a mobile home as personal property who claims a homestead exemption under Section 85-3-21, and the exemption shall not apply to collection of delinquent taxes under Sections 27-41-101 through 27-41-109.
- (e) Assets held in, or monies payable to the participant or beneficiary from, whether vested or not,
 - (i) a pension, profit-sharing, stock bonus or similar plan or contract established to provide retirement benefits for the participant or beneficiary and qualified under Section 401(a), 403(a), or 403(b) of the Internal Revenue Code (or corresponding provisions of any successor law), including a retirement plan for self-employed individuals qualified under one (1) of such enumerated sections,
 - (ii) an eligible deferred compensation plan described in Section 457(b) of the Internal

- Revenue Code (or corresponding provisions of any successor law), or
- (iii) an individual retirement account or an individual retirement annuity within the meaning of Section 408 of the Internal Revenue Code (or corresponding provisions of any successor law), including a simplified employee pension plan.
 - (f) Monies paid into or, to the extent payments out are applied to tuition or other qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code or corresponding provisions of any successor law, monies paid out of the assets of and the income from any validly existing qualified tuition program authorized under Section 529 of the Internal Revenue Code or corresponding provisions of any successor law, including, but not limited to, the Mississippi Prepaid Affordable College Tuition (MPACT) Program established under Sections 37-155-1 through 37-155-27 and the Mississippi Affordable College Savings (MACS) Program established under Sections 37-155-101 through 37-155-125.
 - (g) The assets of a health savings account, including any interest accrued thereon, established pursuant to a health savings account program as provided in the Health Savings Accounts Act (Sections 83-62-1 through 83-62-9).
 - (h) In addition to all other exemptions listed in this section, there shall be an additional exemption of property having a value of Fifty Thousand Dollars (\$50,000.00) of whatever type, whether real, personal or mixed, tangible or intangible, including deposits of money, available to any Mississippi resident who is seventy (70) years of age or older.
 - (i) An amount not to exceed Five Thousand Dollars (\$5,000.00) of earned income tax credit proceeds.
 - (j) An amount not to exceed Five Thousand Dollars (\$5,000.00) of federal tax refund proceeds.
 - (k) An amount not to exceed Five Thousand Dollars (\$5,000.00) of state tax refund proceeds.
 - (l) Subject to the provisions of Section 27-7-1003(2), the assets of a catastrophe savings account, including any interest accrued thereon, established under Sections 27-7-1001 through 27-7-1007.
 - (m) Nothing in this section shall in any way affect the rights or remedies of the holder or owner of a statutory lien or voluntary security interest.

Source: Codes, Hutchinson's 1848, ch. 62, art. 1 (23); 1857, ch. 61, art. 280; 1871, § 2131; 1880, § 1244; 1892, § 1963; 1906, § 2139; Hemingway's 1917, § 1812; 1930, § 1755; 1942, § 307; Laws, 1932, ch. 138; Laws, 1948, ch. 232, § 1; Laws, 1962, 1st Ex Sess. ch. 7; Laws, 1966, ch. 318, § 1; Laws, 1980, ch. 540, § 1; Laws, 1981, ch. 469, § 3; Laws, 1987, ch. 473; Laws, 1991, ch. 479, § 7; Laws, 1995, ch. 565, § 1; Laws, 2002, ch. 594, § 1; Laws, 2006, ch. 595, § 1; Laws, 2008, ch. 557, § 1, eff. 7/1/2008. History. Amended by Laws, 2015, ch. 457, HB 1134, 6, eff. 1/1/2015.

§ 85-3-2. Certain federal exemptions prohibited

In accordance with the provisions of Section 522(b) of the Bankruptcy Reform Act of 1978, as amended (11 U.S.C.S. 522(b)), residents of the State of Mississippi shall not be entitled to the federal exemptions provided in Section 522(d) of the Bankruptcy Reform Act of 1978, as amended (11 U.S.C.S. 522(d)). Nothing in this section shall affect the exemptions given to individuals of Mississippi by the Constitution and statutes of the State of Mississippi.

Source: Laws, 1991, ch. 614, § 1, eff. 7/1/1991.

§ 85-3-3. Execution or attachment of personal property; selection of exempt property

Where an officer shall be about to levy an execution or attachment on personal property, some of which shall be claimed as exempt, he shall demand of the defendant that he make selection of such property as is exempt to him and in reference to which he has the right of selection; and the defendant shall then and there make his selection, or, failing to do so, the officer shall make it for him, and any selection so made shall be conclusive on the defendant.

Source: Codes, 1892, § 1966; 1906, § 2142; Hemingway's 1917, § 1817; 1930, § 1761; 1942, § 313.

§ 85-3-4. Execution or attachment of wages, salaries or other compensation; limitations

- (1) The wages, salaries or other compensation of laborers or employees, residents of this state, shall be exempt from seizure under attachment, execution or garnishment for a period of thirty (30) days from the date of service of any writ of attachment, execution or garnishment.
- (2) After the passage of the period of thirty (30) days described in subsection (1) of this section, the maximum part of the aggregate disposable earnings (as defined by Section 1672(b) of Title 15, United States Code Annotated) of an individual that may be levied by attachment, execution or garnishment shall be:
 - (a) In the case of earnings for any workweek, the lesser amount of either,
 - (i) Twenty-five percent (25%) of his disposable earnings for that week, or
 - (ii) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage (prescribed by section 206 (a)(1) of Title 29, United States Code Annotated) in effect at the time the earnings are payable; or
 - (b) In the case of earnings for any period other than a week, the amount by which his disposable earnings exceed the following "multiple" of the federal minimum hourly wage which is equivalent in effect to that set forth in subparagraph (a)(ii) of this subsection (2): The number of workweeks, or fractions thereof multiplied by thirty (30) multiplied by the applicable federal minimum wage.
- (3) (a) The restrictions of subsection (1) and (2) of this section do not apply in the case of:
 - (i) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by state law, which affords substantial due process, and which is subject to judicial review.
 - (ii) Any debt due for any state or local tax.
- (b) Except as provided in subparagraph (b)(iii) of this subsection (3), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:
 - (i) Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and
 - (ii) Where such individual is not supporting such a spouse or dependent child described in subparagraph (b)(i) of this subsection (3), sixty percent (60%) of such individual's disposable earnings for that week;
 - (iii) With respect to the disposable earnings of any individual for that workweek, the fifty percent (50%) specified in subparagraph (b)(i) of this subsection (3) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subparagraph (b)(ii) of this subsection (3) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the period of twelve (12) weeks which ends with the beginning of such workweek.

Source: Laws, 1980, ch. 540, § 2; Laws, 1981, ch. 469, § 4, eff. 4/7/1981.

§ 85-3-5. Execution or attachment of personal property; plaintiff's indemnity bond; liability of officer

If any sheriff or other officer shall levy or be about to levy an execution or attachment on any personal property claimed as exempt, and a doubt shall arise as to the liability of the property to be sold, he may demand of the plaintiff a bond, with sufficient sureties, payable to such officer, in a sufficient penalty, conditioned to indemnify and save harmless the officer against all damages which he may sustain in consequence of the seizure or sale of the property, and to pay the defendant all damages which he may sustain in consequence of the seizure or sale; and if such bond be not given, after reasonable notice, in writing, from the officer to the plaintiff, his agent or attorney, that it is required, the officer may refuse to levy, or, having levied, may dismiss the levy; but if the required bond be given, the officer shall seize and sell or dispose of the property according

to the command of the process in his hands, and shall return the bond with the execution or attachment. If an officer shall seize personal property exempt from execution, he shall be liable to an action at the suit of the owner for all damages sustained thereby, unless he have taken an indemnifying bond.

Source: Codes, 1857, ch. 61, art. 280 (8); 1871, §§ 2132, 2134; 1880, §§ 1245, 1247; 1892, §§ 1967, 1969; 1906, §§ 2143, 2145; Hemingway's 1917, §§ 1818, 1820; 1930, §§ 1762, 1764; 1942, §§ 314, 316.

§ 85-3-7. Execution or attachment of personal property; defendant may sue on plaintiff's indemnity bond

After the execution of such bond, the defendant in the execution or attachment shall be barred of any claim against the officer so seizing or selling the property, unless the obligors in the bond be or become insolvent, or the bond be otherwise invalid; and the defendant in execution or attachment may sue on the bond in the name of the payee, for his use, and recover double damages for the loss he has sustained by the seizure or sale of the property.

Source: Codes, 1871, § 2133; 1880, § 1246; 1892, § 1968; 1906, § 2144; Hemingway's 1917, § 1819; 1930, § 1763; 1942, § 315.

§ 85-3-9. Execution or attachment of personal property; replevy by defendant

Any defendant whose exempt property is seized may replevy the same by giving bond with sureties, to be approved by the officer seizing it, in double the value of the property, payable to the plaintiff in the execution or attachment, and conditioned to have the property forthcoming, to abide the event of an issue to be made up at the return term of the process; and in such case the officer shall deliver the property to the defendant, and return the bond with the process; and at the return term an issue shall be made up under the direction of the court, and tried, as in case of the trial of the right of property levied upon and claimed by a third person, and if found for defendant he shall recover costs, damages, and a penalty of Twenty Dollars (\$20.00) of the plaintiff and his sureties on the bond of indemnity, if any have been given; but if found for plaintiff, he shall have judgment against the obligors in the replevy bond for the value of the property and costs of suit.

Source: Codes, 1857, ch. 61, art. 280 (8); 1871, § 2134; 1880, § 1247; 1892, § 1969; 1906, § 2145; Hemingway's 1917, § 1820; 1930, § 1764; 1942, § 316.

§ 85-3-11. Proceeds of life insurance policy; named beneficiaries; certain proceeds of policies exempt from liability for debts of person insured

- (1) Except as provided in subsection (2), all proceeds of a life insurance policy including cash surrender and loan values, shall inure to the party or parties named as the beneficiaries thereof, free from all liability for the debts of the person whose life was insured, even though such person paid the premium thereon. In addition, all proceeds, including cash surrender and loan values, of a policy of life insurance owned by or assigned to another, shall inure to the beneficiary or beneficiaries named therein, subject to terms of any assignment, free from all liability for debts of the person whose life was insured.
- (2)
 - (a) The exemption authorized in subsection (1) shall not apply to that portion of the cash surrender value or loan value of any life insurance policy which exceeds the sum of Fifty Thousand Dollars (\$50,000.00) as a result of premiums paid or premium deposits or other payments made within twelve (12) months of issuance of a writ of seizure, attachment, garnishment or other process or the filing of a voluntary or involuntary bankruptcy proceeding under the United States Code.
 - (b) The amount of any premiums for the insurance paid with intent to defraud creditors, with interest thereon, shall inure to the benefit of such creditors from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liabilities thereon by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have written notice, by or on behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors with specification of the amount claimed.
 - (c) Notwithstanding any other provision to the contrary, a creditor possessing a valid assignment from the policy owner may recover from either the cash surrender value or the proceeds of the life insurance policy the amount secured by the assignment with interest.

Source: Codes, 1880, § 1261; 1892, § 1964; 1906, § 2140; Hemingway's 1917, § 1813; 1930, § 1756; 1942, § 308; Laws, 1966, ch. 519, § 1;

§ 85-3-13. Proceeds of life insurance policy; payable to executor; limits

The proceeds of a life insurance policy not exceeding Fifty Thousand Dollars (\$50,000.00) payable to the executor, or administrator, of the insured, shall inure to the heirs or legatees, freed from all liability for the debts of the decedent, except premiums paid on the policy by any one other than the insured, for debts due for expenses of last illness and for burial; but if the life of the deceased be otherwise insured for the benefit of his heirs or legatees at the time of his death, and they shall collect the same, the sum collected shall be deducted from the Fifty Thousand Dollars (\$50,000.00) and the excess of the latter only shall be exempt. No fee shall be paid or allowed by the court to the executor or administrator for handling same.

Source: Codes, 1892, § 1965; 1906, § 2141; Hemingway's 1917, § 1814; 1930, § 1757; 1942, § 309; Laws, 1908, ch. 175; Laws, 1922, ch. 186; Laws, 1994, ch. 621, § 2, eff. 7/1/1994.

§ 85-3-15. Proceeds of life insurance policy; unassigned policies

The proceeds of all unassigned life insurance policies payable to the executor or administrator of the insured, upon the death of the insured, shall, whether exempt or not, be paid by such insurance company, to the executor or administrator of such insured deceased, and the receipt of such executor or administrator shall constitute a full and complete acquittance to such insurance company as against the claims of any and all persons claiming any rights under such policy of insurance.

Source: Codes, 1930, § 1758; 1942, § 310; Laws, 1922, ch. 186.

§ 85-3-17. Judgment for personal injury

The proceeds of any judgment not exceeding Ten Thousand Dollars (\$10,000.00) recovered by any person on account of personal injuries sustained, shall inure to the party or parties in whose favor such judgment may be rendered, free from all liabilities for the debts of the person injured.

Source: Codes, Hemingway's 1917, § 1815; 1930, § 1759; 1942, § 311; Laws, 1914, ch. 146.

§ 85-3-19. Beneficiaries of deceased plaintiff take damages free from debts

Whenever suit was begun in the name of the party injured, and such party shall die while said suit is pending in any court, and said suit shall be revived in the name of the administrator, any sum finally recovered in any such suit, if such deceased left surviving a husband or wife, or children or father or mother, to whom such judgment shall be distributed, as may be provided by law, such wife or children, or father or mother, or husband who may be entitled to recover or receive such moneys shall take same free from all liabilities for the debts of the deceased, and also free from all liabilities for the debts of the person or persons, as above entitled to receive them.

Source: Codes, Hemingway's 1917, § 1816; 1930, § 1760; 1942, § 312; Laws, 1914, ch. 146.

§ 85-3-21. Homestead exemption; land and buildings

Every citizen of this state, male or female, being a householder shall be entitled to hold exempt from seizure or sale, under execution or attachment, the land and buildings owned and occupied as a residence by him, or her, but the quantity of land shall not exceed one hundred sixty (160) acres, nor the value thereof, inclusive of improvements, save as hereinafter provided, the sum of Seventy-five Thousand Dollars (\$75,000.00); provided, however, that in determining this value, existing encumbrances on such land and buildings, including taxes and all other liens, shall first be deducted from the actual value of such land and buildings. But husband or wife, widower or widow, over sixty (60) years of age, who has been an exemptionist under this section, shall not be deprived of such exemption because of not residing therein.

Source: Codes, Hutchinson's 1848, ch. 62, art. 17(1); 1857, ch. 61, art. 281; 1871, § 2135; 1880, § 1248; 1892, § 1970; 1906, § 2146; Hemingway's 1917, § 1821; 1930, § 1765; 1942, § 317; Laws, 1938, ch. 125; Laws, 1950, ch. 360; Laws, 1970, ch. 323, § 1; Laws, 1979, ch. 447, § 1; Laws, 1991, ch. 479, § 1, eff. 7/1/1991.

§ 85-3-23. Homestead exemption; land and buildings; insurance proceeds; personal property

Every citizen of this state, male or female, being a householder shall be entitled to hold exempt from seizure or sale under execution or attachment the land and buildings owned and occupied as a residence by such person, also the proceeds of any insurance, fire or otherwise, on any such buildings destroyed or damaged by fire, tornado or otherwise, not to exceed in value, save as hereinafter provided, Seventy-five Thousand Dollars (\$75,000.00), and personal property to be selected by him or her not to exceed in value Two Hundred Fifty Dollars (\$250.00) or the articles specified as exempt to the head of a family; provided, however, that no sum or amount due, or to become due such person, nor any part thereof, for or on account of wages, salaries or commissions, shall in any proceedings be selected or claimed as exempt under this section. But husband or wife, widower or widow, over sixty (60) years of age, who has been an exemptionist under this section, shall not be deprived of such exemption because of not residing therein.

Source: Codes, 1871, § 2140; 1880, § 1249; 1892, § 1971; 1906, § 2147; Hemingway's 1917, § 1822; 1930, § 1766; 1942, § 318, Laws, 1926, ch. 159; Laws, 1931, ch. 18; Laws, 1970, ch. 323, § 2; Laws, 1979, ch. 447, § 2; Laws, 1991, ch. 479, § 2, eff. 7/1/1991.

§ 85-3-25. Homestead declaration; form; deposit with clerk of chancery court

Any citizen entitled to a homestead and desiring to select the same and obtain the advantages of such selection, may make a declaration thereof to the following effect, namely:

"The State of Mississippi, Homestead declaration.

County of

"I, John Doe [or Nancy Roe], a citizen of said state and county, do declare that I am entitled to a homestead in said county, and that I have selected the same as follows: [Here describe the land and premises. Append plat if desired.]

"Witness my signature, this day of, A. D. " "

The declaration shall be acknowledged or proved as a deed is required to be, and deposited in the office of the clerk of the chancery court for record, in a book to be kept for that purpose, and styled "Homestead Record."

Source: Codes, 1892, § 1972; 1906, § 2148; Hemingway's 1917, § 1823; 1930, § 1767; 1942, § 319.

§ 85-3-27. Homestead declaration; effect

The declaration, for not more than one hundred sixty (160) acres, and not exceeding in value Seventy-five Thousand Dollars (\$75,000.00); or, if the homestead be in a city, town or village, not exceeding in value Seventy-five Thousand Dollars (\$75,000.00) after being filed for record, shall be notice to all persons to be affected thereby; and shall bind the exemptionist, the spouse of the exemptionist if the exemptionist be married, and the creditors of the exemptionist until the exemptionist shall execute and file a new declaration which shall nullify the preceding one, and otherwise have like effect; and shall moreover entitle the exemptionist thereafter to hold the same as exempt to the extent of such value; but subject to contest and legal designation or allotment, if the exemptionist had declared for too much, or has insufficiently or improperly described the premises; and to contest by creditors on the ground that the exemptionist was not entitled to a homestead, and by the spouse of the exemptionist on the ground that it was intended to defraud or circumvent such spouse.

Source: Codes, 1892, § 1973; 1906, § 2149; Hemingway's 1917, § 1824; 1930, § 1768; 1942, § 320; Laws, 1966, ch. 622, § 1; Laws, 1970, ch. 323, § 3; Laws, 1979, ch. 447, § 3; Laws, 1991, ch. 479, § 3; eff. 7/1/1991.

§ 85-3-29. Homestead declaration; recording

The clerk shall file, certify, record, and alphabetically index the declaration, in the same manner as deeds are required to be, and with like effect in all respects, and under like penalties.

Source: Codes, 1892, § 1974; 1906, § 2150; Hemingway's 1917, § 1825; 1930, § 1769; 1942, § 321.

§ 85-3-31. Homestead designated by law when not selected

The homestead of every citizen entitled to such an exemption who shall not select or who has improperly selected his homestead by declaration, shall be, namely: A tract of land in the form of, first, a square, or second,

a parallelogram, if practicable, and composed, if practicable, of contiguous parcels, and including the dwelling house, and, if practicable, the other principal buildings, and not to exceed one hundred sixty (160) acres in area, nor Seventy-five Thousand Dollars (\$75,000.00) in value. And in all cases where the homestead may be composed of detached parcels of land, it shall be made up of those nearest the forty (40) acre or other less tract containing the dwelling house.

Source: Codes, 1892, § 1975; 1906, § 2151; Hemingway's 1917, § 1826; 1930, § 1770; 1942, § 322; Laws, 1970, ch. 323, § 4; Laws, 1979, ch. 447, § 4; Laws, 1991, ch. 479, § 4; eff. 7/1/1991.

§ 85-3-33. Heirs may designate homestead

In all cases where a deceased person has left a widow or husband, as the case may be, or other heirs at law, then such widow or husband or other heirs at law, or both, who may be entitled by law to inherit from the deceased person, shall be entitled to have the homestead exempt, whether selected, designated or declared for by said decedent in his lifetime or not, and such person or persons so entitled to inherit by law may select, designate or declare for such homestead on or any of the real property of which said decedent died seized and possessed, and have the same set apart to them, or either of them, as the homestead of the decedent.

Source: Codes, 1892, § 1975; 1906, § 2151; Hemingway's 1917, § 1826; 1930, § 1770; 1942, § 322; Laws, 1970, ch. 323, § 4, eff. 7/1/1970.

§ 85-3-35. Allotment of homestead; selection of householders or freeholders to set off portion of land

If the land on which the person claiming the exemption resides exceeds one hundred sixty (160) acres in quantity or Seventy-five Thousand Dollars (\$75,000.00) in value, inclusive of improvements, and a proper selection of a homestead has not been made and filed for record, the officer holding an execution against such persons, and not finding other property to satisfy the same, shall levy the execution on the whole land, and shall notify the defendant, if to be found, and the plaintiff or his attorney, if in his county, each to select one (1) householder or freeholder; and each party may select one (1), and inform the officer of his selection, and the officer shall select a third; or, if defendant or plaintiff or his attorney be absent from the county, or if he shall not make a selection, or if the person selected will not act, the officer shall select the three (3) householders or freeholders, who, on oath to be administered by him, shall set off to such person a portion of the land, embracing the dwelling house and outhouses and not exceeding one hundred sixty (160) acres in quantity nor Seventy-five Thousand Dollars (\$75,000.00) in value, and the allotment, distinctly indicated by metes and bounds or other sufficient description, shall be returned with the execution; and the levy of the execution shall be dismissed as to the part so allotted; and the officer may advertise and sell the remainder of the land. In making such allotment, the homestead shall be laid off as designated by law in case of the debtor's failure to select his homestead and file his declaration thereof for record.

Source: Codes, 1857, ch. 61, art. 282; 1871, § 2136; 1880, § 1251; 1892, § 1976; 1906, § 2152; Hemingway's 1917, § 1827; 1930, § 1771; 1942, § 323; Laws, 1970, ch. 323, § 5; Laws, 1979, ch. 447, § 5; Laws, 1991, ch. 479, § 5, eff. 7/1/1991.

§ 85-3-37. Allotment of homestead; premises not capable of division

If the premises be not capable of being so divided as to set off the debtor a part, including the dwelling house and not exceeding Seventy-five Thousand Dollars (\$75,000.00) in value, inclusive of improvements, or if the debtor has made a valid homestead declaration, and the homestead exceeds Seventy-five Thousand Dollars (\$75,000.00) in value, the householders or freeholders shall value the land, inclusive of the dwelling house and buildings; and if the surplus of the valuation, over and above the exempt value, shall, within sixty (60) days, be paid by the execution-debtor, the premises shall not be sold; but if the surplus be not paid within sixty (60) days after the valuation, the officer may advertise and sell the premises, if the same shall bring a greater sum than the exempt value; and out of the proceeds of the sale he shall pay to the execution-debtor the sum of Seventy-five Thousand Dollars (\$75,000.00).

Source: Codes, 1857, ch. 61, art. 283; 1871, § 2137; 1880, § 1252; 1892, § 1977; 1906, § 2153; Hemingway's 1917, § 1828; 1930, § 1772; 1942, § 324; Laws, 1970, ch. 323, § 6; Laws, 1979, ch. 447, § 6; Laws, 1991, ch. 479, § 6, eff. 7/1/1991.

§ 85-3-39. Allotment of homestead; how contested by plaintiff

If, before or after the return of the execution, the plaintiff shall file in the clerk's office from which the execution issued, or before the justice of the peace who issued it, as the case may be, an affidavit that he verily believes the allotment made to the debtor by the freeholders or householders to be incorrect, and the land so allotted by them, or some part of it, to be liable to sale under his execution, a summons shall be issued by the clerk or justice of the peace for the defendant, returnable to the next term of the court, requiring him to appear; and, on return of the summons executed, an issue shall be made up under the direction of the court and tried, as to whether the allotment were correctly and fairly made or not, and, if not, what part of the land ought to be sold under the execution; and, if it be found that any part of the land is subject to be sold, a venditioni exponas shall be issued for the sale of such part, and the plaintiff shall have judgment for costs; but if the issue be found for the defendant, he shall recover costs of the plaintiff.

Source: Codes, 1871, § 2138; 1880, § 1253; 1892, § 1978; 1906, § 2154; Hemingway's 1917, § 1829; 1930, § 1773; 1942, § 325.

§ 85-3-41. Allotment of homestead; how contested by defendant

If a defendant be dissatisfied with the allotment, he may make affidavit before the sale, which affidavit may be made before the officer having the execution, that he verily believes it to be incorrect, specifying wherein he believes it so, and the officer shall suspend the sale of so much as the defendant so claims, and return the affidavit with the execution to the court to which it is returnable; and a summons shall issue for plaintiff, or, if he be a non-resident of this state, for his attorney of record in the case, if he have one; and if he be non-resident, and have no attorney in this state, publication may be made as in other cases; and when the process shall have been returned executed, or publication made, an issue shall be made up, and like proceeding had as when the plaintiff had filed an affidavit of dissatisfaction; and if the issue, in whole or in part, be found in favor of defendant, judgment shall be entered accordingly, and execution may go according to the judgment.

Source: Codes, 1871, § 2139; 1880, § 1254; 1892, § 1979; 1906, § 2155; Hemingway's 1917, § 1830; 1930, § 1774; 1942, § 326.

§ 85-3-43. Homestead liable to debts when debtor ceases to reside thereon

Whenever the debtor shall cease to reside on his homestead, it shall be liable to his debts, unless his removal be temporary, by reason of some casualty or necessity, and with the purpose of speedily reoccupying it as soon as the cause of his absence can be removed.

Source: Codes, 1871, § 2144; 1880, § 1256; 1892, § 1981; 1906, § 2157; Hemingway's 1917, § 1832; 1930, § 1776; 1942, § 328.

§ 85-3-45. Repealed

History. Repealed by Laws, 1979, ch. 447, § 7, eff. 7/1/1979.

§ 85-3-47. Property not exempt from execution

Property shall not be exempt from execution when the purchase-money thereof forms, in whole or in part, the debt on which the judgment is founded; but if the judgment be not in whole for purchase-money, and the execution be levied on property exempt but for the provisions hereof, and the exemptionist pay or tender the amount of purchase-money included in the judgment before sale, the property shall be released; nor shall any property be exempt from sale for nonpayment of taxes or assessments, or for any labor done thereon, or materials furnished therefor, or when the judgment is for labor performed or upon a forfeited recognizance or bail bond.

Source: Codes, 1857, ch. 61, art. 284; 1871, § 2142; 1880, § 1255; 1892, § 1980; 1906, § 2156; Hemingway's 1917, § 1831; 1930, § 1775; 1942, § 327.

§ 85-3-49. Exempt property may be disposed of

The exempt property, real or personal, disposed of by the owner, shall not by disposal become liable to the debts of the owner; and any debtor leaving this state may take with him his personal property which is exempt from execution.

Source: Codes, 1871, § 2143; 1880, § 1257; 1892, § 1982; 1906, § 2158; Hemingway's 1917, § 1833; 1930, § 1777; 1942, § 329.

§ 85-3-51. Exemptions allowed to residents only

The exemptions in this chapter shall be allowed in favor of residents of this state only.

Source: Codes, 1892, § 1986; 1906, § 2162; Hemingway's 1917, § 1838; 1930, § 1781; 1942, § 333.

§ 85-3-52. Judgment or claim of another state or political subdivision for failure to pay income tax on pension or retirement benefits

- (1) A judgment or claim in favor of another state or political subdivision of another state for failure to pay that state's or that political subdivision's income tax on benefits received from a pension or other retirement plan shall not be a lien on any property in this state, real, personal or mixed, that is owned by a resident of this state.
- (2) As used in this section, "pension or other retirement plan" includes:
 - (a) An annuity, pension, or profit-sharing or stock bonus or similar plan established to provide retirement benefits for an officer or employee of a public or private employer or for a self-employed individual;
 - (b) An annuity, pension, or military retirement pay plan or other retirement plan administered by the United States; and
 - (c) An individual retirement account.

Source: Laws, 1995, ch. 565, § 2, eff. 7/1/1995.

REFUSING OR FAILING TO POINT OUT PROPERTY

§ 97-9-71

§ 97-9-71. Property subject to seizure; refusing or failing to point out to officers

If any person shall have in his possession or under his control personal property of any kind subject to seizure by virtue of any legal process in the hands of any state or federal law enforcement officer, as the property of another or as subject to such process, and shall refuse or omit to point out such property to such officer on his demanding it, and to permit him to take possession of it, he shall, upon conviction, be subject to a fine of not less than the value of such property, nor more than double such value, or to imprisonment in the county jail not less than one (1) month nor more than six (6) months, or to both such fine and imprisonment.

Source: Codes, 1880, § 2981; 1892, § 1223; 1906, § 1299; Hemingway's 1917, § 1032; 1930, § 1063; 1942, § 2295; Laws, 1993, ch. 547, § 3, eff. 4/15/1993.

RESISTING SERVICE OF PROCESS

§ 97-9-75

§ 97-9-75. Resisting service of process

Any person who knowingly and wilfully opposes or resists any officer or other authorized person in serving or attempting to serve or execute any legal writ or process, shall be guilty of a misdemeanor.

Source: Codes, 1880, § 2975; 1892, § 1221; 1906, § 1297; Hemingway's 1917, § 1030; 1930, § 1061; 1942, § 2293.