

By: Snowden

To: Judiciary A

HOUSE BILL NO. 1131  
(As Passed the House)

1 AN ACT TO AMEND SECTION 89-1-29, MISSISSIPPI CODE 1972, TO  
2 AUTHORIZE A LIMITED POWER OF ATTORNEY IN CONVEYANCE OF HOMESTEAD;  
3 AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 89-1-29, Mississippi Code of 1972, is  
6 amended as follows:[HS1]

7 89-1-29. A conveyance, mortgage, deed of trust or other  
8 incumbrance upon a homestead exempted from execution shall not be  
9 valid or binding unless signed by the spouse of the owner if the  
10 owner be married and living with the spouse or by an attorney in  
11 fact for the spouse. But where the spouse of the owner of the  
12 homestead exempted from execution is insane and a writ of inquiry  
13 of lunacy of the spouse has been sued out and the lunacy of the  
14 spouse has been adjudged under the writ, then the owner of the  
15 homestead, may file a petition in the chancery court and allege  
16 therein the insanity of the spouse and the adjudication of  
17 insanity of the spouse under the writ of inquiry of lunacy and the  
18 facts of the case. The summons for the spouse, the insane person,  
19 shall be issued and be served in the same manner as process is  
20 served in other cases on insane persons, and the court shall hear  
21 the case in vacation or in termtime as in other cases, and if the  
22 court finds the spouse to be insane and the owner entitled to  
23 relief, the court by decree shall authorize and empower the owner,  
24 to execute a conveyance, mortgage, deed of trust or other  
25 incumbrance upon the homestead without the signature of the  
26 spouse. However, no mortgage or deed of trust executed in favor

27 of the Farmers Home Administration at the time of the purchase of  
28 real estate to secure the payment of the money used to purchase  
29 the real estate shall be invalid because it is not signed by the  
30 spouse of the owner. All powers of attorney authorizing any  
31 conveyance, mortgage, deed of trust or other incumbrance upon a  
32 homestead (a) shall designate an attorney in fact other than the  
33 spouse; (b) shall comply with the provisions of Chapter 3 of Title  
34 87, Mississippi Code of 1972; (c) shall clearly indicate in  
35 conspicuous and bold print or type appearing on the face of the  
36 letter, document or other instrument establishing the power of  
37 attorney that the principal, by execution of such instrument,  
38 authorizes the attorney in fact to convey to another any and all  
39 right, title and interest that the principal has or may claim in  
40 such property, including any right to claim the homestead as  
41 exempt from seizure or sale under execution or attachment; and (d)  
42 shall not be valid or binding for more than thirty (30) days after  
43 the date of the execution of such power of attorney.

44 SECTION 2. This act shall take effect and be in force from  
45 and after its passage.