

By: Senator(s) Pickering, Michel, Flowers,  
Chaney, Williamson, Morgan, Harvey

To: Finance

SENATE BILL NO. 2468

1 AN ACT TO AMEND SECTION 27-33-19, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE WITHIN THE DEFINITION OF "HOME" OR "HOMESTEAD", THE  
3 UPPER FLOORS OF A BUILDING WHEREIN A BUSINESS ACTIVITY IS BEING  
4 CONDUCTED ON THE LOWER FLOOR OF THE BUILDING, IF THE UPPER FLOORS  
5 OF THE BUILDING ARE BEING UTILIZED AS THE BONA FIDE HOME OF A  
6 FAMILY GROUP AND THE BUILDING IS OWNED BY THE HEAD OF THE FAMILY;  
7 TO AMEND SECTION 27-33-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
8 THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 27-33-19, Mississippi Code of 1972, is  
11 amended as follows:

12 27-33-19. The word "home" or "homestead" whenever used in  
13 this article shall mean the dwelling, the essential outbuildings  
14 and improvements, and the eligible land assessed on the land roll  
15 actually occupied as the primary home of a family group, eligible  
16 title to which is owned by the head of the family, a bona fide  
17 resident of this state, and when the dwelling is separately  
18 assessed on the land roll for the year in which the application is  
19 made, subject to the limitations and conditions contained in this  
20 article. And the meaning of the word is hereby extended to  
21 specifically include:

22 (a) One or more separate, bona fide dwellings and the  
23 land on which they are located, each occupied under eligible  
24 ownership rights by the widow or the widower, or the children of a  
25 deceased parent, each separate home being property or a portion of  
26 property owned by a deceased person whose estate has not been  
27 distributed or divided or vested in a person or persons for life.  
28 But in each case the property for which exemption is sought may  
29 not be more than the applicant's inherited portion, and must be  
30 accurately described on the application and the conditions

31 explained in writing. But the heirs may elect to accept one (1)  
32 homestead for the estate. The home occupied by the surviving  
33 spouse as provided by the laws of this state shall be preferred  
34 over the homes claimed by the children, and the exemption to any  
35 other heir shall not exceed the remaining amount obtained by  
36 deducting the assessed value of the surviving spouse's portion  
37 from the assessed value of the whole, divided by the number of  
38 heirs other than the surviving spouse. Each heir claiming  
39 exemption shall meet the requirements as to occupancy, residence  
40 and head of a family, and no part of the undivided inherited lands  
41 shall be combined with other lands and included in a homestead  
42 exemption under this article except in the case of the surviving  
43 spouse.

44 (b) One or more separated dwellings and eligible land,  
45 not apartments, occupied each by a family group as a bona fide  
46 home, eligible title to which entire property is held jointly by  
47 purchase or otherwise by the heads of the families, and each joint  
48 owner shall be allowed exemption on the proportion of the total  
49 assessed value of all the property, equal to his fractional  
50 interest (except as otherwise provided in paragraph (r) of this  
51 section), provided no part of the jointly owned property shall be  
52 exempted to a joint owner who has been allowed an exemption on  
53 another home in the state.

54 (c) A dwelling and eligible lands owned jointly or  
55 severally by a husband and wife, if they are actually and legally  
56 living together. But if husband and wife are living apart, not  
57 divorced, as provided by subparagraphs (c) and (d) of Section  
58 27-33-13, jointly owned land shall not be included except that the  
59 dwelling occupied as a home at the time of separation shall be  
60 eligible if owned jointly or severally.

61 (d) The dwelling and eligible land on which it is  
62 located, owned and actually occupied as a home by a minister of  
63 the gospel or by a licensed school teacher actively engaged whose

64 duties as such require them to be away from the home for the major  
65 part of each year, including January 1, provided it was eligible  
66 before such absence, and no income is derived therefrom, and no  
67 part of the dwelling claimed as a home is rented, leased or  
68 occupied by another family group, and when the home is eligible  
69 except for the temporary absence of the owner.

70 (e) The dwelling and the eligible land on which it is  
71 located, consisting of not more than four (4) apartments; provided  
72 (1) if one (1) apartment is actually occupied as a home by the  
73 owner the exemption shall be limited to one-fourth (1/4) the  
74 exemption granted pursuant to this article, or (2) if the dwelling  
75 and land is owned by four (4) persons and the four (4) owners each  
76 occupy one (1) apartment as a home, the exemption shall be granted  
77 equally to each owner; provided revenue is not derived from any  
78 part of the property except as permitted by subparagraphs (g) and  
79 (h) of this section. If the dwelling and the eligible land on  
80 which it is located consists of not more than three (3)  
81 apartments, and one (1) apartment is actually occupied as a home  
82 by the owner, the exemption shall be limited to one-third (1/3)  
83 the exemption granted pursuant to this article, or if the dwelling  
84 and land is owned by three (3) persons and the three (3) owners  
85 each occupy one (1) apartment as a home, the exemption shall be  
86 granted equally to each owner; provided revenue is not derived  
87 from any part of the property except as permitted by subparagraphs  
88 (g) and (h) of this section. If the dwelling and the eligible  
89 land on which it is located consists of not more than two (2)  
90 apartments and one (1) apartment is actually occupied as a home by  
91 the owner, the exemption shall be limited to one-half (1/2) the  
92 exemption granted pursuant to this article, or if the dwelling and  
93 land is owned by two (2) persons and the two (2) owners each  
94 occupy one (1) apartment as a home, the exemption shall be granted  
95 equally to each owner; provided revenue is not derived from any

96 part of the property except as permitted by subparagraphs (g) and  
97 (h) of this section.

98 (f) The dwelling and eligible land on which it is  
99 located, actually occupied as the bona fide home of a family group  
100 owned by the head of the family whereof five (5) and not more than  
101 six (6) rooms are rented to tenants or boarders, and where there  
102 are rented rooms and an apartment, the apartment shall be counted  
103 as three (3) rooms; provided the exemption shall be limited to  
104 one-half (1/2) the exemption granted pursuant to this article.

105 (g) The dwelling and eligible land being the bona fide  
106 home of a family group owned by the head of the family used partly  
107 as a boarding house, or for the entertainment of paying guests, if  
108 the number of boarders or paying guests does not exceed eight (8).

109 (h) The dwelling and eligible land being the bona fide  
110 home of a family group owned by the head of the family wherein  
111 activity of a business nature is carried on, but where the  
112 assessed value of the property associated with the business  
113 activity is less than one-fifth (1/5) of the total assessed value  
114 of the bona fide home; provided, however, that when the owner's  
115 full-time business is located in the bona fide home of the head of  
116 the family, such owner shall be limited to one-half (1/2) of the  
117 exemption granted pursuant to this article.

118 (i) The dwelling and the eligible land on which it is  
119 located and other eligible land even though ownership of and title  
120 to the dwelling and the land on which it is located has been  
121 conveyed to a housing authority for the purpose of obtaining the  
122 benefits of the Housing Authorities Law as authorized by Sections  
123 43-33-1 through 43-33-53 or related laws.

124 (j) A dwelling and the eligible land on which it is  
125 located owned by a person who is physically or mentally unable to  
126 care for himself and confined in an institution for treatment  
127 shall be eligible notwithstanding the absence of the owner unless  
128 the home is excluded under other provisions of this article. The

129 exemption is available for a period of five (5) years from the day  
130 of confinement.

131 (k) The dwelling and the eligible land on which it is  
132 located owned by two (2) or more persons of a group, as defined in  
133 paragraph (f) of Section 27-33-13, when two (2) or more of the  
134 group have eligible title, or if the group holds a life estate, a  
135 joint estate or an estate in common; provided the title of the  
136 several owners shall be of the same class.

137 (l) A dwelling and the eligible land on which it is  
138 located under a lease of sixty (60) years by the Pearl River  
139 Valley Water Supply District at the reservoir known as the "Ross  
140 Barnett Reservoir" actually occupied as the home or homestead of a  
141 family or person as defined heretofore in this article. However,  
142 no such family group or any other person heretofore qualified and  
143 defined in this article shall be allowed to establish more than  
144 one (1) home or homestead for the purpose and intent of this  
145 article.

146 (m) Units of a condominium constructed in accordance  
147 with Section 89-9-1 et seq., Mississippi Code of 1972, known as  
148 the "Mississippi Condominium Law," and actually occupied as the  
149 home or homestead of a family or person as defined heretofore in  
150 this article. However, no such family group or any other person  
151 heretofore qualified and defined in this article shall be allowed  
152 to establish more than one (1) home or homestead for the purpose  
153 and intent of this article.

154 (n) A dwelling and the eligible land on which it is  
155 located held under a lease of ten (10) years or more or for life,  
156 from a fraternal or benevolent organization and actually occupied  
157 as the home or homestead of a family or person as defined  
158 heretofore in this article. No such family group or any other  
159 person heretofore qualified and defined in this article shall be  
160 allowed to establish more than one (1) home or homestead for the  
161 purpose and intent of this article.

162           (o) A dwelling being the bona fide home of a family  
163 group owned by the head of the family and located on land owned by  
164 a corporation incorporated more than fifty (50) years ago and in  
165 which the homeowner is a shareholder, and which corporation owns  
166 no land outside Monroe and Itawamba Counties. No family group or  
167 any other person heretofore qualified and defined in this article  
168 shall be allowed to establish more than one (1) home or homestead  
169 for the purpose and intent of this article.

170           (p) A dwelling and the eligible land on which it is  
171 located under a lease of five (5) years or more by the  
172 Mississippi-Yazoo Delta Levee Board actually occupied as the home  
173 or homestead of a family or person as defined pursuant to this  
174 article. However, no such family group or any other person  
175 qualified and defined pursuant to this article shall be allowed to  
176 establish more than one (1) home or homestead for the purpose and  
177 intent of this article. The definition shall include all leases  
178 in existence that were entered into prior to July 1, 1992.

179           (q) A dwelling and the eligible land on which the  
180 spouse of a testator is granted the use of such dwelling for life  
181 or until the occurrence of certain contingencies and the children  
182 of such testator are granted a remainder interest in the dwelling  
183 and eligible land. Such dwelling and eligible land will only  
184 qualify as a home or homestead if (i) the spouse of the testator  
185 would otherwise qualify as head of a family if the interest were a  
186 tenancy for life (life estate) and (ii) the dwelling and eligible  
187 land is actually occupied as the home of the spouse of the  
188 testator. The children of the testator shall be allowed to  
189 establish an additional homestead for purposes of this article.

190           (r) A dwelling and the eligible land actually occupied  
191 as the bona fide home of a family group. If a person has been  
192 granted use and possession of a home in a divorce decree, that  
193 individual is eligible for full exemption, regardless of whether  
194 the property is jointly owned.

195           (s) A dwelling being the bona fide home of a family  
196 group located on land owned by a corporation incorporated more  
197 than forty (40) years ago and in which the head of the family  
198 group is a shareholder, and which corporation owns no land outside  
199 Lee County, Mississippi. No family group or any other person  
200 qualified and defined in this article shall be allowed to  
201 establish more than one (1) home or homestead for the purpose and  
202 intent of this article.

203           (t) The upper floor or floors of a building wherein  
204 business activity is being conducted on the lower floor of the  
205 building, if the upper floor or floors of the building are being  
206 utilized as the bona fide home of a family group and the building  
207 is owned by the head of the family.

208           **SECTION 2.** Section 27-33-21, Mississippi Code of 1972, is  
209 amended as follows:

210           27-33-21. There is excluded from the definition of a home  
211 and from homestead exemption the property enumerated in this  
212 section.

213           (a) Any building and land on which it is located, any  
214 part of which is used or intended to be used, by the owner or by  
215 anyone else, for business purposes; or from which revenue is  
216 derived or intended to be derived, except as permitted in  
217 paragraphs (f), (g), (h) and (t) of Section 27-33-19 of this  
218 article; or which is rented or is available for rent, for business  
219 purposes; or any building and the land on which it is located used  
220 as a hotel, tourist court, apartment building except as provided  
221 in paragraph (e) of Section 27-33-19 of this article; or a  
222 dwelling whereof more than six (6) rooms are rented; and where  
223 there is one (1) apartment and rented rooms the apartment shall be  
224 counted as three (3) rooms; less than three (3) rooms rented and  
225 used for housekeeping shall be counted as rented rooms. A  
226 proportionate share of agricultural products, produced on the  
227 land, received for the use of the land and a tenant house, where

228 the use of the tenant house is merely incidental to the use of the  
229 land (where no money is paid and no consideration is paid other  
230 than a proportionate share of agricultural products produced on  
231 the land), shall not be considered as rent or income from the  
232 property so as to exclude it from the definition of a home.

233 (b) Any buildings or structures and the land on which  
234 located used as gins, sawmills, stores, gasoline stations, repair  
235 shops, and the like; and any buildings and the land on which  
236 located used for the conduct of any business or private  
237 manufacture or processing, all whether used in connection with  
238 farming operations or not.

239 (c) Any dwelling house and the land on which it is  
240 located, or other land, which is owned by any person or family  
241 group to whom an exemption has been allowed on another home in  
242 this state except in cases defined in paragraphs (c) and (d) of  
243 Section 27-33-13; or any dwelling and the land on which it is  
244 located in which any person or family group owns a joint estate,  
245 an estate in common, a life estate or other estate defined in  
246 paragraph (a) of Section 27-33-17 of this article to whom an  
247 exemption has been allowed on another home in this state to the  
248 extent of such person's interest; provided, this exclusion shall  
249 not apply in the case of husband, or wife, allowed an exemption on  
250 the home owned and occupied by them, and when either is a part  
251 owner, either as a joint tenant or tenant in common, of another  
252 home which is occupied by father, mother, brother, or sister as a  
253 bona fide home, eligible for exemption under paragraph (a) of  
254 Section 27-33-19 of this article.

255 (d) Any dwelling house and the land on which it is  
256 located, or other land, which is not held under eligible title of  
257 ownership, but is being occupied under an agreement to buy, or  
258 under a conveyance or contract of conditional sale, or purchase or  
259 any similar contract, except as permitted by paragraph (i) of  
260 Section 27-33-19 of this article.



261           (e) Any jointly owned land or jointly owned dwelling  
262 combined with individually owned land on which exemption has been  
263 claimed and allowed, except as provided in paragraphs (a) and (c)  
264 of Section 27-33-19 of this article; and no homestead shall  
265 consist of individually owned lands combined with lands held for  
266 life.

267           (f) Any dwelling and the land on which it is located  
268 acquired, other than by a bona fide gift or by inheritance, since  
269 July 1, 1938, for which one-fourth (1/4) of the full purchase  
270 price has not been actually paid by the purchaser, unless the deed  
271 or instrument by which title is acquired provides, bona fide, for  
272 annual payment of interest at the normal rate, and for substantial  
273 and regular payments on the principal debt at intervals of one (1)  
274 year or less.

275           (g) Any building of any kind and the land on which it  
276 is located, whether inside or outside a municipality, if any part  
277 thereof is rented out or held available to be rented out, except  
278 as provided in Section 27-33-19, paragraphs (e) and (f), and  
279 except rental of farm property for a proportionate share of the  
280 crop.

281           (h) Any land, whether inside or outside a municipality  
282 unless it is situated and described as provided in Sections  
283 27-33-23 and 27-33-25 of this article.

284           **SECTION 3.** This act shall take effect and be in force from  
285 and after January 1, 2005.