

By: Representative Denny

To: Ways and Means

HOUSE BILL NO. 161

1 AN ACT TO AMEND SECTION 27-33-13, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF THE TERM "HEAD OF A FAMILY" FOR
3 PURPOSES OF THE HOMESTEAD EXEMPTION LAW; TO AMEND SECTION
4 27-33-19, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF
5 THE TERM "HOME" OR "HOMESTEAD" FOR PURPOSES OF THE HOMESTEAD
6 EXEMPTION LAW; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-33-13, Mississippi Code of 1972, is
9 amended as follows:

10 27-33-13. The words "head of a family" when used in this
11 article shall mean a natural person, and be limited to the
12 following:

13 (a) A married person living with husband or wife.

14 (b) A person who is unmarried but who permanently
15 maintains a home occupied by himself or herself.

16 (c) A husband living apart from his wife, but not
17 divorced, having legal custody of one or more of their children
18 and occupying and maintaining a home for them; but if the husband
19 does not have legal custody of one or more children he shall be
20 considered the head of a family if he occupies the home eligible
21 for exemption at the time of separation.

22 (d) A wife living apart from her husband, but not
23 divorced, having legal custody of one or more of their children
24 and occupying and maintaining a home for them; but if the wife
25 does not have legal custody of one or more children she shall be
26 considered the head of a family if she occupies the home eligible
27 for exemption at the time of separation.

28 (e) A person who is unmarried, a resident of the state,
29 and permanently maintains a bona fide home for the benefit of one

30 or more persons who are legally, morally, through blood relation
31 or by assumed responsibility, dependent upon him for support even
32 though the said unmarried person, from necessity, does not
33 regularly reside in the home so maintained; but only one (1) home
34 may be so exempted to one (1) person or for the same group.

35 (f) Any one (1) of a group of two (2) or more persons
36 related within the third degree, computed according to the rule of
37 the civil law, when the members of the group hold collectively
38 eligible title, and the group occupies and maintains a home as
39 defined in this article.

40 (g) A minor child who holds eligible title to and
41 occupies a home when residing with parent(s) or other legal
42 guardian.

43 (h) The child of a testator who is responsible for the
44 payment of taxes on a dwelling and the eligible land on which it
45 is located in which he holds a remainder interest in the dwelling
46 and eligible land (as defined in Section 27-33-17(h)).

47 (i) A husband living apart from his wife, but not
48 divorced, occupying and maintaining a home, provided the husband
49 submits satisfactory evidence that he has not filed a combined
50 return with his wife during any year for which homestead exemption
51 is sought by him.

52 (j) A wife living apart from her husband, but not
53 divorced, occupying and maintaining a home, provided the wife
54 submits satisfactory evidence that she has not filed a combined
55 return with her husband during any year for which homestead
56 exemption is sought by her.

57 (k) A person sixty-five (65) years of age or older who
58 maintains a home as a widow or widower even though the person
59 remarries and such person's spouse also is eligible to qualify as
60 head of a family under this section.

61 **SECTION 2.** Section 27-33-19, Mississippi Code of 1972, is
62 amended as follows:

63 27-33-19. The word "home" or "homestead" whenever used in
64 this article shall mean the dwelling, the essential outbuildings
65 and improvements, and the eligible land assessed on the land roll
66 actually occupied as the primary home of a family group, eligible
67 title to which is owned by the head of the family, a bona fide
68 resident of this state, and when the dwelling is separately
69 assessed on the land roll for the year in which the application is
70 made, subject to the limitations and conditions contained in this
71 article. And the meaning of the word is hereby extended to
72 specifically include:

73 (a) One or more separate, bona fide dwellings and the
74 land on which they are located, each occupied under eligible
75 ownership rights by the widow or the widower, or the children of a
76 deceased parent, each separate home being property or a portion of
77 property owned by a deceased person whose estate has not been
78 distributed or divided or vested in a person or persons for life.
79 But in each case the property for which exemption is sought may
80 not be more than the applicant's inherited portion, and must be
81 accurately described on the application and the conditions
82 explained in writing. But the heirs may elect to accept one (1)
83 homestead for the estate. The home occupied by the surviving
84 spouse as provided by the laws of this state shall be preferred
85 over the homes claimed by the children, and the exemption to any
86 other heir shall not exceed the remaining amount obtained by
87 deducting the assessed value of the surviving spouse's portion
88 from the assessed value of the whole, divided by the number of
89 heirs other than the surviving spouse. Each heir claiming
90 exemption shall meet the requirements as to occupancy, residence
91 and head of a family, and no part of the undivided inherited lands
92 shall be combined with other lands and included in a homestead
93 exemption under this article except in the case of the surviving
94 spouse.

95 (b) One or more separated dwellings and eligible land,
96 not apartments, occupied each by a family group as a bona fide
97 home, eligible title to which entire property is held jointly by
98 purchase or otherwise by the heads of the families, and each joint
99 owner shall be allowed exemption on the proportion of the total
100 assessed value of all the property, equal to his fractional
101 interest (except as otherwise provided in paragraph (r) of this
102 section), provided no part of the jointly owned property shall be
103 exempted to a joint owner who has been allowed an exemption on
104 another home in the state.

105 (c) A dwelling and eligible lands owned jointly or
106 severally by a husband and wife, if they are actually and legally
107 living together. But if husband and wife are living apart, not
108 divorced, as provided by subparagraphs (c) and (d) of Section
109 27-33-13, jointly owned land shall not be included except that the
110 dwelling occupied as a home at the time of separation shall be
111 eligible if owned jointly or severally.

112 (d) The dwelling and eligible land on which it is
113 located, owned and actually occupied as a home by a minister of
114 the gospel or by a licensed school teacher actively engaged whose
115 duties as such require them to be away from the home for the major
116 part of each year, including January 1, provided it was eligible
117 before such absence, and no income is derived therefrom, and no
118 part of the dwelling claimed as a home is rented, leased or
119 occupied by another family group, and when the home is eligible
120 except for the temporary absence of the owner.

121 (e) The dwelling and the eligible land on which it is
122 located, consisting of not more than four (4) apartments; provided
123 (1) if one (1) apartment is actually occupied as a home by the
124 owner the exemption shall be limited to one-fourth (1/4) the
125 exemption granted pursuant to this article, or (2) if the dwelling
126 and land is owned by four (4) persons and the four (4) owners each
127 occupy one (1) apartment as a home, the exemption shall be granted

128 equally to each owner; provided revenue is not derived from any
129 part of the property except as permitted by subparagraphs (g) and
130 (h) of this section. If the dwelling and the eligible land on
131 which it is located consists of not more than three (3)
132 apartments, and one (1) apartment is actually occupied as a home
133 by the owner, the exemption shall be limited to one-third (1/3)
134 the exemption granted pursuant to this article, or if the dwelling
135 and land is owned by three (3) persons and the three (3) owners
136 each occupy one (1) apartment as a home, the exemption shall be
137 granted equally to each owner; provided revenue is not derived
138 from any part of the property except as permitted by subparagraphs
139 (g) and (h) of this section. If the dwelling and the eligible
140 land on which it is located consists of not more than two (2)
141 apartments and one (1) apartment is actually occupied as a home by
142 the owner, the exemption shall be limited to one-half (1/2) the
143 exemption granted pursuant to this article, or if the dwelling and
144 land is owned by two (2) persons and the two (2) owners each
145 occupy one (1) apartment as a home, the exemption shall be granted
146 equally to each owner; provided revenue is not derived from any
147 part of the property except as permitted by subparagraphs (g) and
148 (h) of this section.

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

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

160 (h) The dwelling and eligible land being the bona fide
161 home of a family group owned by the head of the family wherein
162 activity of a business nature is carried on, but where the
163 assessed value of the property associated with the business
164 activity is less than one-fifth (1/5) of the total assessed value
165 of the bona fide home; provided, however, that when the owner's
166 full-time business is located in the bona fide home of the head of
167 the family, such owner shall be limited to one-half (1/2) of the
168 exemption granted pursuant to this article.

169 (i) The dwelling and the eligible land on which it is
170 located and other eligible land even though ownership of and title
171 to the dwelling and the land on which it is located has been
172 conveyed to a housing authority for the purpose of obtaining the
173 benefits of the Housing Authorities Law as authorized by Sections
174 43-33-1 through 43-33-53 or related laws.

175 (j) A dwelling and the eligible land on which it is
176 located owned by a person who is physically or mentally unable to
177 care for himself and confined in an institution for treatment
178 shall be eligible notwithstanding the absence of the owner unless
179 the home is excluded under other provisions of this article. The
180 exemption is available for a period of five (5) years from the day
181 of confinement.

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

188 (l) A dwelling and the eligible land on which it is
189 located under a lease of sixty (60) years by the Pearl River
190 Valley Water Supply District at the reservoir known as the "Ross
191 Barnett Reservoir" actually occupied as the home or homestead of a
192 family or person as defined heretofore in this article. However,

193 no such family group or any other person heretofore qualified and
194 defined in this article shall be allowed to establish more than
195 one (1) home or homestead for the purpose and intent of this
196 article.

197 (m) Units of a condominium constructed in accordance
198 with Section 89-9-1 et seq., Mississippi Code of 1972, known as
199 the "Mississippi Condominium Law," and actually occupied as the
200 home or homestead of a family or person as defined heretofore in
201 this article. However, no such family group or any other person
202 heretofore qualified and defined in this article shall be allowed
203 to establish more than one (1) home or homestead for the purpose
204 and intent of this article.

205 (n) A dwelling and the eligible land on which it is
206 located held under a lease of ten (10) years or more or for life,
207 from a fraternal or benevolent organization and actually occupied
208 as the home or homestead of a family or person as defined
209 heretofore in this article. No such family group or any other
210 person heretofore qualified and defined in this article shall be
211 allowed to establish more than one (1) home or homestead for the
212 purpose and intent of this article.

213 (o) A dwelling being the bona fide home of a family
214 group owned by the head of the family and located on land owned by
215 a corporation incorporated more than fifty (50) years ago and in
216 which the homeowner is a shareholder, and which corporation owns
217 no land outside Monroe and Itawamba Counties. No family group or
218 any other person heretofore qualified and defined in this article
219 shall be allowed to establish more than one (1) home or homestead
220 for the purpose and intent of this article.

221 (p) A dwelling and the eligible land on which it is
222 located under a lease of five (5) years or more by the
223 Mississippi-Yazoo Delta Levee Board actually occupied as the home
224 or homestead of a family or person as defined pursuant to this
225 article. However, no such family group or any other person

226 qualified and defined pursuant to this article shall be allowed to
227 establish more than one (1) home or homestead for the purpose and
228 intent of this article. The definition shall include all leases
229 in existence that were entered into prior to July 1, 1992.

230 (q) A dwelling and the eligible land on which the
231 spouse of a testator is granted the use of such dwelling for life
232 or until the occurrence of certain contingencies and the children
233 of such testator are granted a remainder interest in the dwelling
234 and eligible land. Such dwelling and eligible land will only
235 qualify as a home or homestead if (i) the spouse of the testator
236 would otherwise qualify as head of a family if the interest were a
237 tenancy for life (life estate) and (ii) the dwelling and eligible
238 land is actually occupied as the home of the spouse of the
239 testator. The children of the testator shall be allowed to
240 establish an additional homestead for purposes of this article.

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

246 (s) A dwelling being the bona fide home of a family
247 group located on land owned by a corporation incorporated more
248 than forty (40) years ago and in which the head of the family
249 group is a shareholder, and which corporation owns no land outside
250 Lee County, Mississippi. No family group or any other person
251 qualified and defined in this article shall be allowed to
252 establish more than one (1) home or homestead for the purpose and
253 intent of this article.

254 (t) The floor or floors of a building used solely for
255 the residence of a family group when the building is owned by the
256 head of the family and another floor or floors of the building are
257 used for business activity. This paragraph (t) shall stand
258 repealed from and after January 1, 2007.

259 (u) A dwelling being the bona fide home of a family
260 group located on land owned by an incorporated club and in which
261 the head of the family group is a shareholder, and which
262 incorporated club owns no land outside Union County, Mississippi;
263 provided, the incorporated club pays all ad valorem taxes levied
264 on the land upon which the dwelling is located. No family group
265 or any other person qualified and defined in this article shall be
266 allowed to establish more than one (1) home or homestead for the
267 purpose and intent of this article.

268 (v) A dwelling and the eligible land on which it is
269 located owned by a person sixty-five (65) years of age or older
270 who maintains a home as a widow or widower even though the person
271 remarries and such person's spouse also is eligible to qualify as
272 head of a family under Section 27-33-13.

273 **SECTION 3.** Nothing in this act shall affect or defeat any
274 claim, assessment, appeal, suit, right or cause of action for
275 taxes due or accrued under the ad valorem tax laws before the date
276 on which this act becomes effective, whether such claims,
277 assessments, appeals, suits or actions have been begun before the
278 date on which this act becomes effective or are begun thereafter;
279 and the provisions of the ad valorem tax laws are expressly
280 continued in full force, effect and operation for the purpose of
281 the assessment, collection and enrollment of liens for any taxes
282 due or accrued and the execution of any warrant under such laws
283 before the date on which this act becomes effective, and for the
284 imposition of any penalties, forfeitures or claims for failure to
285 comply with such laws.

286 **SECTION 4.** This act shall take effect and be in force from
287 and after January 1, 2006.