

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 1308

1 AN ACT TO AMEND SECTION 89-1-29, MISSISSIPPI CODE OF 1972, TO  
 2 PROVIDE THAT A MILITARY DEPLOYMENT-CONTINGENT POWER OF ATTORNEY  
 3 PREPARED IN ACCORDANCE WITH 10 USC 1044(B) WHICH DESIGNATES THE  
 4 SPOUSE AS THE ATTORNEY SHALL BE AN EXCEPTION TO THE GENERAL  
 5 PROHIBITION AGAINST DESIGNATING THE SPOUSE AS THE ATTORNEY IN FACT  
 6 WHEN AUTHORIZING THE CONVEYANCE, MORTGAGE, DEED OF TRUST OR OTHER  
 7 ENCUMBRANCE UPON A HOMESTEAD; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 89-1-29, Mississippi Code of 1972, is  
 10 amended as follows:

11 89-1-29. A conveyance, mortgage, deed of trust or  
 12 other \* \* \* encumbrance upon a homestead exempted from execution  
 13 shall not be valid or binding unless signed by the spouse of the  
 14 owner if the owner is married and living with the spouse or by an  
 15 attorney in fact for the spouse. But where the spouse of the  
 16 owner of the homestead exempted from execution has been  
 17 adjudicated incompetent, then the owner of the homestead may file  
 18 a petition in the chancery court and allege in the petition the  
 19 incompetence of the spouse and the adjudication of incompetency of  
 20 the spouse and the facts of the case. The summons for the spouse



21 who has been adjudicated incompetent shall be issued and be served  
22 in the same manner as process is served in other cases on persons  
23 who are incompetent. The court shall hear the case in vacation or  
24 in termtime as in other cases, and if the court finds the spouse  
25 to be incompetent and the owner entitled to relief, the court by  
26 decree shall authorize and empower the owner to execute a  
27 conveyance, mortgage, deed of trust or other \* \* \* encumbrance  
28 upon the homestead without the signature of the spouse. However,  
29 no mortgage or deed of trust executed in favor of the Farmers Home  
30 Administration at the time of the purchase of real estate to  
31 secure the payment of the money used to purchase the real estate  
32 shall be invalid because it is not signed by the spouse of the  
33 owner. All powers of attorney authorizing any conveyance,  
34 mortgage, deed of trust or other \* \* \* encumbrance upon a  
35 homestead shall designate an attorney in fact other than the  
36 spouse and shall comply with the provisions of Chapter 3 of Title  
37 87, except a military deployment-contingent power of attorney  
38 prepared in accordance with 10 USC 1044(b) which designates the  
39 spouse as the attorney in fact for the purpose of authorizing the  
40 conveyance, mortgage, deed of trust or other encumbrance upon a  
41 homestead is effective for such purpose.

42       **SECTION 2.** This act shall take effect and be in force from  
43 and after July 1, 2018.

