

By: Representatives Janus, Upshaw, Aldridge, Bentz, Bondurant, Davis, Ellington, Fillingane, Formby, Gunn, Hamilton (109th), Howell, Moore, Rotenberry, Simpson, Snowden, Ward, Zuber, Reynolds To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1796

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 FLOOR OR FLOORS OF A BUILDING USED SOLELY AS THE RESIDENCE OF A
4 FAMILY GROUP WHEN THE BUILDING IS OWNED BY THE HEAD OF THE FAMILY
5 AND ANOTHER FLOOR OR FLOORS OF THE BUILDING ARE USED FOR BUSINESS
6 ACTIVITY; TO AMEND SECTION 27-33-21, MISSISSIPPI CODE OF 1972, IN
7 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

11 27-33-19. The word "home" or "homestead" whenever used in
12 this article shall mean the dwelling, the essential outbuildings
13 and improvements, and the eligible land assessed on the land roll
14 actually occupied as the primary home of a family group, eligible
15 title to which is owned by the head of the family, a bona fide
16 resident of this state, and when the dwelling is separately
17 assessed on the land roll for the year in which the application is
18 made, subject to the limitations and conditions contained in this
19 article. And the meaning of the word is hereby extended to
20 specifically include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

202 (t) The floor or floors of a building used solely for
203 the residence of a family group when the building is owned by the
204 head of the family and another floor or floors of the building are
205 used for business activity. This paragraph (t) shall repealed
206 from and after January 1, 2007.

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

209 27-33-21. There is excluded from the definition of a home
210 and from homestead exemption the property enumerated in this
211 section.

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

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

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

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

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

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

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

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

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

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