

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

## 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 AS THE BONA FIDE HOME 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 as the bona  
203 fide home of a family group when the building is owned by the head  
204 of the family and another floor or floors of the building are used  
205 for business activity.

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

208           27-33-21. There is excluded from the definition of a home  
209 and from homestead exemption the property enumerated in this  
210 section.

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

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

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

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

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



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

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

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

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

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