

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
 (As Passed the House)

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 INCLUDE WITHIN THE DEFINITION OF "HOME" OR
 7 "HOMESTEAD" A MANUFACTURED OR MOBILE HOME OCCUPIED AS A PERSON'S
 8 PRIMARY HOME FOR AT LEAST FIVE YEARS AT THE SAME PHYSICAL
 9 LOCATION; TO AMEND SECTION 27-33-21, MISSISSIPPI CODE OF 1972, IN
 10 CONFORMITY THERETO; TO PROVIDE AN EXEMPTION FROM AD VALOREM TAXES
 11 FOR AN OWNER OF A MANUFACTURED HOME OR MOBILE HOME WHO OCCUPIES
 12 SUCH MANUFACTURED HOME OR MOBILE HOME AS HIS PRIMARY HOME AND HAS
 13 DONE SO AT THE SAME PHYSICAL LOCATION FOR AT LEAST FIVE
 14 CONSECUTIVE YEARS, REGARDLESS OF WHETHER SUCH PERSON OWNS THE LAND
 15 ON WHICH THE MANUFACTURED HOME OR MOBILE HOME IS LOCATED OR HOW
 16 THE MANUFACTURED HOME OR MOBILE HOME AND LAND ARE ASSESSED; TO
 17 PROVIDE THAT A PERSON MAY NOT CLAIM THE EXEMPTION PROVIDED IN THIS
 18 ACT IF THE PERSON CLAIMS ANY OTHER EXEMPTION UNDER STATE HOMESTEAD
 19 EXEMPTION LAW; AND FOR RELATED PURPOSES.

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

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

23 27-33-19. The word "home" or "homestead" whenever used in
 24 this article shall mean the dwelling, the essential outbuildings
 25 and improvements, and the eligible land assessed on the land roll
 26 actually occupied as the primary home of a family group, eligible
 27 title to which is owned by the head of the family, a bona fide
 28 resident of this state, and when the dwelling is separately
 29 assessed on the land roll for the year in which the application is
 30 made, subject to the limitations and conditions contained in this
 31 article. And the meaning of the word is hereby extended to
 32 specifically include:

33 (a) One or more separate, bona fide dwellings and the
 34 land on which they are located, each occupied under eligible
 35 ownership rights by the widow or the widower, or the children of a

36 deceased parent, each separate home being property or a portion of
37 property owned by a deceased person whose estate has not been
38 distributed or divided or vested in a person or persons for life.
39 But in each case the property for which exemption is sought may
40 not be more than the applicant's inherited portion, and must be
41 accurately described on the application and the conditions
42 explained in writing. But the heirs may elect to accept one (1)
43 homestead for the estate. The home occupied by the surviving
44 spouse as provided by the laws of this state shall be preferred
45 over the homes claimed by the children, and the exemption to any
46 other heir shall not exceed the remaining amount obtained by
47 deducting the assessed value of the surviving spouse's portion
48 from the assessed value of the whole, divided by the number of
49 heirs other than the surviving spouse. Each heir claiming
50 exemption shall meet the requirements as to occupancy, residence
51 and head of a family, and no part of the undivided inherited lands
52 shall be combined with other lands and included in a homestead
53 exemption under this article except in the case of the surviving
54 spouse.

55 (b) One or more separated dwellings and eligible land,
56 not apartments, occupied each by a family group as a bona fide
57 home, eligible title to which entire property is held jointly by
58 purchase or otherwise by the heads of the families, and each joint
59 owner shall be allowed exemption on the proportion of the total
60 assessed value of all the property, equal to his fractional
61 interest (except as otherwise provided in paragraph (r) of this
62 section), provided no part of the jointly owned property shall be
63 exempted to a joint owner who has been allowed an exemption on
64 another home in the state.

65 (c) A dwelling and eligible lands owned jointly or
66 severally by a husband and wife, if they are actually and legally
67 living together. But if husband and wife are living apart, not
68 divorced, as provided by subparagraphs (c) and (d) of Section

69 27-33-13, jointly owned land shall not be included except that the
70 dwelling occupied as a home at the time of separation shall be
71 eligible if owned jointly or severally.

72 (d) The dwelling and eligible land on which it is
73 located, owned and actually occupied as a home by a minister of
74 the gospel or by a licensed school teacher actively engaged whose
75 duties as such require them to be away from the home for the major
76 part of each year, including January 1, provided it was eligible
77 before such absence, and no income is derived therefrom, and no
78 part of the dwelling claimed as a home is rented, leased or
79 occupied by another family group, and when the home is eligible
80 except for the temporary absence of the owner.

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

102 the owner, the exemption shall be limited to one-half (1/2) the
103 exemption granted pursuant to this article, or if the dwelling and
104 land is owned by two (2) persons and the two (2) owners each
105 occupy one (1) apartment as a home, the exemption shall be granted
106 equally to each owner; provided revenue is not derived from any
107 part of the property except as permitted by subparagraphs (g) and
108 (h) of this section.

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

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

120 (h) The dwelling and eligible land being the bona fide
121 home of a family group owned by the head of the family wherein
122 activity of a business nature is carried on, but where the
123 assessed value of the property associated with the business
124 activity is less than one-fifth (1/5) of the total assessed value
125 of the bona fide home; provided, however, that when the owner's
126 full-time business is located in the bona fide home of the head of
127 the family, such owner shall be limited to one-half (1/2) of the
128 exemption granted pursuant to this article.

129 (i) The dwelling and the eligible land on which it is
130 located and other eligible land even though ownership of and title
131 to the dwelling and the land on which it is located has been
132 conveyed to a housing authority for the purpose of obtaining the
133 benefits of the Housing Authorities Law as authorized by Sections
134 43-33-1 through 43-33-53 or related laws.

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

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

148 (l) A dwelling and the eligible land on which it is
149 located under a lease of sixty (60) years by the Pearl River
150 Valley Water Supply District at the reservoir known as the "Ross
151 Barnett Reservoir" actually occupied as the home or homestead of a
152 family or person as defined heretofore in this article. However,
153 no such family group or any other person heretofore qualified and
154 defined in this article shall be allowed to establish more than
155 one (1) home or homestead for the purpose and intent of this
156 article.

157 (m) Units of a condominium constructed in accordance
158 with Section 89-9-1 et seq., Mississippi Code of 1972, known as
159 the "Mississippi Condominium Law," and actually occupied as the
160 home or homestead of a family or person as defined heretofore in
161 this article. However, no such family group or any other person
162 heretofore qualified and defined in this article shall be allowed
163 to establish more than one (1) home or homestead for the purpose
164 and intent of this article.

165 (n) A dwelling and the eligible land on which it is
166 located held under a lease of ten (10) years or more or for life,
167 from a fraternal or benevolent organization and actually occupied

168 as the home or homestead of a family or person as defined
169 heretofore in this article. No such family group or any other
170 person heretofore qualified and defined in this article shall be
171 allowed to establish more than one (1) home or homestead for the
172 purpose and intent of this article.

173 (o) A dwelling being the bona fide home of a family
174 group owned by the head of the family and located on land owned by
175 a corporation incorporated more than fifty (50) years ago and in
176 which the homeowner is a shareholder, and which corporation owns
177 no land outside Monroe and Itawamba Counties. No family group or
178 any other person heretofore qualified and defined in this article
179 shall be allowed to establish more than one (1) home or homestead
180 for the purpose and intent of this article.

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

190 (q) A dwelling and the eligible land on which the
191 spouse of a testator is granted the use of such dwelling for life
192 or until the occurrence of certain contingencies and the children
193 of such testator are granted a remainder interest in the dwelling
194 and eligible land. Such dwelling and eligible land will only
195 qualify as a home or homestead if (i) the spouse of the testator
196 would otherwise qualify as head of a family if the interest were a
197 tenancy for life (life estate) and (ii) the dwelling and eligible
198 land is actually occupied as the home of the spouse of the
199 testator. The children of the testator shall be allowed to
200 establish an additional homestead for purposes of this article.

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

206 (s) A dwelling being the bona fide home of a family
207 group located on land owned by a corporation incorporated more
208 than forty (40) years ago and in which the head of the family
209 group is a shareholder, and which corporation owns no land outside
210 Lee County, Mississippi. No family group or any other person
211 qualified and defined in this article shall be allowed to
212 establish more than one (1) home or homestead for the purpose and
213 intent of this article.

214 (t) The floor or floors of a building used solely for
215 the residence of a family group when the building is owned by the
216 head of the family and another floor or floors of the building are
217 used for business activity. This paragraph (t) shall repealed
218 from and after January 1, 2007.

219 (u) A dwelling that is a manufactured home or mobile
220 home as defined in Section 27-53-1, the owner of which occupies
221 the home as his primary home and has done so at the same physical
222 location for at least five (5) consecutive years.

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

225 27-33-21. There is excluded from the definition of a home
226 and from homestead exemption the property enumerated in this
227 section.

228 (a) Any building and land on which it is located, any
229 part of which is used or intended to be used, by the owner or by
230 anyone else, for business purposes; or from which revenue is
231 derived or intended to be derived, except as permitted in
232 paragraphs (f), (g), (h) and (t) of Section 27-33-19 of this
233 article; or which is rented or is available for rent, for business

234 purposes; or any building and the land on which it is located used
235 as a hotel, tourist court, apartment building except as provided
236 in paragraph (e) of Section 27-33-19 of this article; or a
237 dwelling whereof more than six (6) rooms are rented; and where
238 there is one (1) apartment and rented rooms the apartment shall be
239 counted as three (3) rooms; less than three (3) rooms rented and
240 used for housekeeping shall be counted as rented rooms. A
241 proportionate share of agricultural products, produced on the
242 land, received for the use of the land and a tenant house, where
243 the use of the tenant house is merely incidental to the use of the
244 land (where no money is paid and no consideration is paid other
245 than a proportionate share of agricultural products produced on
246 the land), shall not be considered as rent or income from the
247 property so as to exclude it from the definition of a home.

248 (b) Any buildings or structures and the land on which
249 located used as gins, sawmills, stores, gasoline stations, repair
250 shops, and the like; and any buildings and the land on which
251 located used for the conduct of any business or private
252 manufacture or processing, all whether used in connection with
253 farming operations or not.

254 (c) Any dwelling house and the land on which it is
255 located, or other land, which is owned by any person or family
256 group to whom an exemption has been allowed on another home in
257 this state except in cases defined in paragraphs (c) and (d) of
258 Section 27-33-13; or any dwelling and the land on which it is
259 located in which any person or family group owns a joint estate,
260 an estate in common, a life estate or other estate defined in
261 paragraph (a) of Section 27-33-17 of this article to whom an
262 exemption has been allowed on another home in this state to the
263 extent of such person's interest; provided, this exclusion shall
264 not apply in the case of husband, or wife, allowed an exemption on
265 the home owned and occupied by them, and when either is a part
266 owner, either as a joint tenant or tenant in common, of another

267 home which is occupied by father, mother, brother, or sister as a
268 bona fide home, eligible for exemption under paragraph (a) of
269 Section 27-33-19 of this article.

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

276 (e) Any jointly owned land or jointly owned dwelling
277 combined with individually owned land on which exemption has been
278 claimed and allowed, except as provided in paragraphs (a) and (c)
279 of Section 27-33-19 of this article; and no homestead shall
280 consist of individually owned lands combined with lands held for
281 life.

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

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

296 (h) Any land, whether inside or outside a municipality
297 unless it is situated and described as provided in Sections
298 27-33-23 and 27-33-25 of this article.

299 SECTION 3. (1) The qualified owner of a manufactured home
300 or mobile home who occupies the home as his primary home shall be
301 allowed an exemption from ad valorem taxes according to the
302 schedule set forth in Section 27-33-75, if he has done so at the
303 same physical location for at least five (5) consecutive years.

304 (2) (a) This section shall apply to exemptions claimed in
305 the 2005 calendar year for which reimbursement is made in the 2006
306 calendar year and to exemptions claimed for which reimbursement is
307 made in subsequent years.

308 (b) The person shall be entitled to the exemption
309 regardless of whether he owns the land on which the manufactured
310 home or mobile home is located or how the manufactured home or
311 mobile home and land are assessed. However, no person may claim
312 an exemption under this Section 3 if the person claims any other
313 exemption under state homestead exemption law.

314 (3) Any owner of a manufactured home or mobile home who is
315 sixty-five (65) years of age or older or who is totally disabled
316 shall be allowed an exemption from all ad valorem taxes on up to
317 Seven Thousand Five Hundred Dollars (\$7,500.00) of the assessed
318 value of the manufactured home or mobile home if he occupies the
319 manufactured home or mobile home as his primary home and has done
320 so at the same physical location for at least five (5) consecutive
321 years. The person shall be entitled to the exemption regardless
322 of whether he owns the land on which the manufactured home or
323 mobile home is located or how the manufactured home or mobile home
324 and land are assessed. However, no person may claim an exemption
325 under this subsection (3) if the person claims any other exemption
326 under state homestead exemption law.

327 (4) To qualify for the exemption provided for in subsection
328 (3) of this section because of disability, the manufactured home
329 owner or mobile home owner must present proper proof of any of the
330 following:

331 (a) Service-connected, total disability as an American
332 veteran who has been honorably discharged from military service.

333 (b) Classification as totally disabled under the
334 federal Social Security Act (42 USCS Section 416(i)), the Railroad
335 Retirement Act or any other federal act approved by the State Tax
336 Commission.

337 (i) If a person is eligible for classification as
338 totally disabled under the federal acts referred to in this
339 subsection (4)(b), but does not qualify to receive benefits
340 thereunder because his annual income exceeds an amount set as the
341 maximum allowed in qualifying to receive the benefits, then he is
342 eligible for the disability exemption specified in subsection (3)
343 of this section. Proper proof of such eligibility shall be
344 determined by the State Tax Commission.

345 (ii) If a person is eligible for classification as
346 totally disabled under the federal Social Security Act (42 USCS
347 Section 416(i)), but does not qualify to receive benefits
348 thereunder only because he has not made the necessary social
349 security contributions, then he is eligible for the disability
350 exemption specified in subsection (3) of this section. Proper
351 proof of such eligibility shall be determined by the State Tax
352 Commission.

353 (c) Classification as totally disabled under the
354 provisions of a retirement plan that is considered to be qualified
355 under the United States Internal Revenue Code. The determination
356 of whether or not a retirement plan is so qualified shall be made
357 by the State Tax Commission.

358 (d) Classification as totally disabled as determined by
359 the State Tax Commission pursuant to rules and regulations adopted
360 by the State Tax Commission.

361 Proper proof of classification as totally disabled under the
362 federal acts referred to in subsection (4)(b) or (4)(c) of this
363 section, including proof of the total disability and of

364 eligibility to qualify to receive benefits under the relevant
365 federal act or qualified retirement plan, shall be determined by
366 the State Tax Commission.

367 A manufactured home or mobile home owned jointly by husband
368 and wife and a manufactured home or mobile home owned in fee
369 simple by either spouse, if either spouse fulfills the age or
370 disability requirement, shall be eligible for the exemption
371 provided in subsection (3) of this section. On all other jointly
372 owned manufactured homes or mobile homes, the amount of the
373 allowable exemption shall be determined on the basis of each
374 individual joint owner's qualifications and pro rata share of the
375 property.

376 **SECTION 4.** A manufactured home or mobile home that qualifies
377 for a homestead ad valorem tax exemption under Section 3 of this
378 act shall be exempt from taxation as personal property under
379 Chapter 53, Title 27, Mississippi Code of 1972.

380 **SECTION 5.** Section 4 of this act shall be codified as a new
381 section in Chapter 53, Title 27, Mississippi Code of 1972.

382 **SECTION 6.** Nothing in this act shall affect or defeat any
383 claim, assessment, appeal, suit, right or cause of action for
384 taxes due or accrued under the ad valorem tax laws before the date
385 on which this act becomes effective, whether such claims,
386 assessments, appeals, suits or actions have been begun before the
387 date on which this act becomes effective or are begun thereafter;
388 and the provisions of the ad valorem tax laws are expressly
389 continued in full force, effect and operation for the purpose of
390 the assessment, collection and enrollment of liens for any taxes
391 due or accrued and the execution of any warrant under such laws
392 before the date on which this act becomes effective, and for the
393 imposition of any penalties, forfeitures or claims for failure to
394 comply with such laws.

395 **SECTION 7.** This act shall take effect and be in force from
396 and after January 1, 2005.