

By: Senator(s) Pickering, Michel, Flowers,
Chaney, Williamson, Morgan, Harvey,
Albritton, Brown, Browning, Clarke, Dearing,
Gordon, Hewes, Hyde-Smith, Lee (47th),
Little, Ross, Thames, White

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2468

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. * * * The meaning of "home" or "homestead" is * * *
20 extended to 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Any dwelling house and the land on which it is located, or other land, which is not held under eligible title of ownership, but is being occupied under an agreement to buy, or under a conveyance or contract of conditional sale, or purchase or any similar contract, except as permitted by paragraph (i) of 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.