

By: Horne

To: Ways and Means

HOUSE BILL NO. 1196

1 AN ACT TO AMEND SECTIONS 21-45-9, 21-45-11 AND 21-45-21,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MUNICIPALITIES AND
3 COUNTIES MAY NOT APPROVE TAX INCREMENT FINANCING PLANS AND
4 REDEVELOPMENT PLANS AFTER A CERTAIN DATE; TO PROVIDE THAT
5 MUNICIPALITIES AND COUNTIES MAY NOT ISSUE TAX INCREMENT BONDS
6 AFTER A CERTAIN DATE; AND FOR RELATED PURPOSES.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 21-45-9, Mississippi Code of 1972, is
10 amended as follows:

11 21-45-9. Except as otherwise provided in this paragraph, any
12 governing body may issue tax increment bonds, the final maturity
13 of which shall not extend beyond thirty (30) years, for the
14 purpose of financing all or a portion of the cost of a
15 redevelopment project within the boundaries of the municipality,
16 funding any reserve which the governing body may deem advisable in
17 connection with the retirement of the proposed indebtedness and
18 funding any other incidental expenses involved in incurring such
19 indebtedness. A municipality may not issue tax increment bonds
20 after the effective date of House Bill No. _____, 2000 Regular
21 Session. The debt service of indebtedness incurred pursuant to
22 this section shall be provided from the added increments of
23 municipal and county ad valorem tax revenues or any portion of the
24 sales taxes, or both, to result from any such redevelopment
25 project and shall never constitute an indebtedness of the
26 municipality within the meaning of any state constitutional
27 provision or statutory limitation and shall never constitute nor
28 give rise to a pecuniary liability of the municipality or a charge
29 against its general credit or taxing powers.

30 Said bonds may be authorized by resolution or resolutions of
31 the governing body, and may be issued in one or more series, may
32 bear such date or dates, mature at such time or times, bear
33 interest at such rate or rates, payable at such times, be in such
34 denominations, be in such form, be registered, be executed in such
35 manner, be payable in such medium of payment, at such place or
36 places, be subject to such terms of redemption, with or without
37 premium, carry such conversion or registration privileges and be
38 declared or become due before the maturity date thereof, as such
39 resolution or resolutions may provide; however, such bonds shall
40 not bear a greater interest rate to maturity than that allowed
41 under Section 75-17-101. Said bonds shall be sold for not less
42 than par value plus accrued interest at public sale in the manner
43 provided by Section 31-19-25 or at private sale, in the discretion
44 of the governing body. The lowest interest rate specified for any
45 bonds issued shall not be less than seventy percent (70%) of the
46 highest interest rate specified for the same bond issue. Said
47 bonds may be repurchased by the municipality out of any available
48 funds at a price not to exceed the principal amount thereof and
49 accrued interest, and all bonds so repurchased shall be cancelled.
50 In connection with the issuance of said bonds, the municipality
51 shall have the power to enter into contracts for rating of the
52 bonds by national rating agencies; obtaining bond insurance or
53 guarantees for such bonds and complying with the terms and
54 conditions of such insurance or guarantees; make provision for
55 payment in advance of maturity at the option of the owner or
56 holder of the bonds; covenant for the security and better
57 marketability of the bonds, including without limitation the
58 establishment of a debt service reserve fund and sinking funds to
59 secure or pay such bonds; and make any other provisions deemed
60 desirable by the municipality in connection with the issuance of
61 said bonds.

62 In connection with the issuance of said bonds, the

63 municipality may arrange for lines of credit with any bank, firm
64 or person for the purpose of providing an additional source of
65 repayment for such bonds and amounts drawn on such lines of credit
66 may be evidenced by bonds, notes or other evidences of
67 indebtedness containing such terms and conditions as the
68 municipality may determine; provided, however, that such bonds,
69 notes or evidences of indebtedness shall be secured by and payable
70 from the same sources as are pledged to the payment of said bonds
71 which are additionally secured by such line of credit, and that
72 said bonds, notes or other evidences of indebtedness shall be
73 deemed to be bonds for all purposes of this chapter. Pending the
74 preparation or execution of definitive bonds, interim receipts or
75 certificates, or temporary bonds may be delivered to the purchaser
76 or purchasers of said bonds. Any provision of law to the contrary
77 notwithstanding, any bonds, if any, issued pursuant to this
78 chapter shall possess all of the qualities of negotiable
79 instruments.

80 The municipality may also issue refunding bonds for the
81 purpose of paying any of its bonds at or prior to maturity or upon
82 acceleration or redemption. Refunding bonds may be issued at such
83 time prior to the maturity or redemption of the refunded bonds as
84 the municipality may determine. The refunding bonds may be issued
85 in sufficient amounts to pay or provide the principal of the bonds
86 being refunded, together with any redemption premium thereon, any
87 interest accrued or to accrue to the date of payment of such
88 bonds, the expenses of issuing the refunding bonds, the expenses
89 of redeeming the bonds being refunded, and such reserves for debt
90 service or other capital or current expenses from the proceeds of
91 such refunding bonds as may be required by any of the
92 municipality's resolutions, trust indenture or other security
93 instruments. The issuance of refunding bonds, the maturities and
94 other details thereof, the security therefor, the rights of the
95 holders and the rights, duties and obligations of the municipality

96 in respect of the same shall be governed by the provisions of this
97 chapter relating to the issuance of bonds other than refunding
98 bonds, insofar as the same may be applicable.

99 Before incurring any debt pertaining to a redevelopment
100 project incorporating a tax increment financing plan the governing
101 body may, but shall not be required to, secure an agreement from
102 one or more developers obligating such developer or developers:

103 (a) To effect the completion of all or any portion of
104 the buildings or other facilities or improvements, as described in
105 the redevelopment project, at no cost to the municipality;

106 (b) To pay all or any portion of the real property
107 taxes due on the project in a timely manner; and

108 (c) To maintain and operate all or any portion of the
109 buildings or other facilities or improvements of the project in
110 such a manner as to preserve property values.

111 No breach of any such agreement shall impose any pecuniary
112 liability upon a municipality or any charge upon its general
113 credit or against its taxing powers.

114 Additionally, the municipality may enter into an agreement
115 with the developer under which the developer may construct all or
116 any part of the redevelopment project with private funds in
117 advance of issuance of the bonds and may be reimbursed by the
118 municipality for actual costs incurred by the developer upon
119 issuance and delivery of the bonds and receipt of the proceeds,
120 conditioned upon dedication of redevelopment project by the
121 developer to the municipality to assure public use and access.

122 SECTION 2. Section 21-45-11, Mississippi Code of 1972, is
123 amended as follows:

124 21-45-11. Any tax increment financing plan, at a minimum,
125 shall contain:

126 (a) A statement of the objectives of a municipality
127 with regard to the plan;

128 (b) A statement indicating the need and proposed use of

129 the tax increment financing plan in relationship to the
130 redevelopment plan;

131 (c) A statement containing the cost estimates of the
132 redevelopment project and the projected sources of revenue (ad
133 valorem taxes, sales taxes, and the proceeds of any other
134 financial assistance) to be used to meet the costs including
135 estimates of tax increments and the total amount of indebtedness
136 to be incurred;

137 (d) A list of all real property to be included in the
138 tax increment financing plan;

139 (e) The duration of the tax increment financing plan's
140 existence;

141 (f) A statement of the estimated impact of the tax
142 increment financing plan upon the revenues of all taxing
143 jurisdictions in which a redevelopment project is located; and

144 (g) A statement requiring that a separate fund be
145 established to receive ad valorem taxes and the proceeds of any
146 other financial assistance.

147 Before approving any tax increment financing plan, the
148 governing body shall hold a public hearing thereon after published
149 notice in a newspaper in which the municipality is authorized to
150 publish legal notices at least once and not less than ten (10)
151 days and not more than twenty (20) days prior to the hearing. A
152 governing body may not approve a tax increment financing plan
153 after the effective date of House Bill No. _____, 2000 Regular
154 Session.

155 SECTION 3. Section 21-45-21, Mississippi Code of 1972, is
156 amended as follows:

157 21-45-21. (1) After adoption of a redevelopment plan
158 containing a tax increment financing plan the clerk shall certify
159 the assessed value of the real property, including personal
160 property located thereon, described in the tax increment financing
161 plan. Property taxable at the time of the certification shall be

162 included in the assessed value at its most recently determined
163 valuation.

164 Property exempt from taxation at the time of the request
165 shall be included at zero unless it was taxable when the tax
166 increment financing plan was approved, in which case its most
167 recently determined assessed valuation before it became exempt
168 shall be included. These assessed values shall be, and will be
169 referred to as, the "original assessed value."

170 (2) Each year thereafter, the clerk and the State Tax
171 Commission, if applicable, shall certify the amount by which the
172 assessed value of real property, including personal property
173 located thereon, described in the tax increment financing plan has
174 increased or decreased from the original assessed value. These
175 assessed values shall be, and will be referred to as, the "current
176 assessed value."

177 (3) Any amount by which the current assessed value of the
178 real property, including personal property located thereon,
179 described in the redevelopment plan exceeds the original assessed
180 value shall be referred to as the "captured assessed value." The
181 clerk shall certify the amount of the captured assessed value to
182 the municipality each year for the duration of the tax increment
183 financing plan. A municipality may choose to retain all or a
184 portion of the captured assessed value for purposes of tax
185 increment financing if the plan provides that all or a portion of
186 the captured assessed value is necessary to finance the
187 redevelopment project, including the cost of establishing
188 necessary reserves to insure payment of revenue bonds.

189 If the tax increment financing plan provides that only a
190 portion of the captured assessed value is necessary to finance the
191 redevelopment program, only that portion shall be set aside and
192 the remainder shall be apportioned to the various municipal tax
193 levy funds and the various county tax levy funds.

194 The amount of captured assessed value that a municipality

195 intends to use for purposes of tax increment financing must be
196 clearly stated in the tax increment financing plan.

197 (4) After adoption of a redevelopment plan containing a tax
198 increment financing plan which includes a portion of the
199 municipality sales tax diversion, the State Tax Commission shall
200 certify the amount of sales tax collected by the state within the
201 boundaries of the redevelopment area and diverted to the
202 municipality in the twelve-month period ending on the last day of
203 the month before the effective date of approval of the plan. Any
204 increase in the amount collected within the boundaries shall be
205 set aside by the municipality in the fund created by the tax
206 increment financing plan.

207 Except as otherwise provided herein, each redevelopment plan
208 shall be approved in the same manner and at the same times
209 provided in Section 43-35-13 for the approval of urban renewal
210 plans. A governing body may not approve a redevelopment plan
211 after the effective date of House Bill No. _____, 2000 Regular
212 Session. Any tax increment financing plan shall become effective
213 on the same date as the redevelopment plan is approved.

214 SECTION 4. This act shall take effect and be in force from
215 and after its passage.