

By: Representative Fleming

To: Municipalities; Ways and Means

HOUSE BILL NO. 1029

1 AN ACT TO AMEND SECTIONS 17-21-5 AND 17-21-7, MISSISSIPPI
 2 CODE OF 1972, TO REVISE EXEMPTIONS FROM MUNICIPAL AD VALOREM TAX
 3 FOR CENTRAL BUSINESS DISTRICTS, HISTORIC PRESERVATION DISTRICTS,
 4 BUSINESS IMPROVEMENT DISTRICTS, URBAN RENEWAL DISTRICTS,
 5 REDEVELOPMENT DISTRICTS OR HISTORIC LANDMARKS; TO CODIFY SECTION
 6 17-21-9, MISSISSIPPI CODE OF 1972, TO PROVIDE AN EXEMPTION FROM
 7 SCHOOL DISTRICT TAXES FOR STRUCTURES IN SUCH DISTRICTS; TO AMEND
 8 SECTION 21-45-3, MISSISSIPPI CODE OF 1972, TO REVISE THE
 9 DEFINITION OF REDEVELOPMENT PROJECT; TO AMEND SECTION 21-45-7,
 10 MISSISSIPPI CODE OF 1972, TO CONFORM THE DIVISION OF AD VALOREM
 11 TAXES FOR THE PURPOSES OF THIS ACT; TO AMEND SECTION 27-31-31,
 12 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO PROVIDE FOR CERTIFIED
 13 HISTORIC DISTRICTS; TO DEFINE CERTAIN TERMS; TO PROVIDE TAX
 14 CREDITS FOR QUALIFYING PERSONS OR ENTITIES; TO PROVIDE FOR THE
 15 DISTRIBUTION OF CREDITS EXCEEDING TAX LIABILITY; TO PROVIDE THE
 16 PROCEDURE FOR CLAIMING THE TAX CREDIT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 17-21-5, Mississippi Code of 1972, is
 19 amended as follows:

20 17-21-5. (1) The governing authorities of any municipality
 21 of this state may, in their discretion, exempt from any or all
 22 municipal ad valorem taxes, excluding ad valorem taxes for school
 23 district purposes, for a period of not more than ten (10) years,
 24 any privately owned new structures and any new renovations of and
 25 improvements to existing structures lying within a designated
 26 central business district or historic preservation district or on
 27 a historic landmark site, as determined by the municipality, but
 28 only in the event such structures shall have been constructed,
 29 renovated or improved pursuant to the requirements of an approved
 30 project of the municipality for the development of the central
 31 business district and/or the preservation and revitalization of
 32 historic landmark sites or historic preservation districts. The
 33 tax exemption authorized herein may be granted only after written
 34 application has been made to the governing authorities of the

35 municipality by any person, firm or corporation claiming the
36 exemption, and an order passed by the governing authorities of
37 such municipality finding that the construction, renovation or
38 improvement of said property is for the promotion of business,
39 commerce or industry in the designated central business district,
40 for the promotion of residential density in the municipality's
41 redevelopment areas or for the promotion of historic preservation.

42 (2) The governing authorities of any municipality of this
43 state with a population of twenty-five thousand (25,000) or more
44 according to the latest federal decennial census, may, in their
45 discretion, exempt from any or all municipal ad valorem taxes,
46 excluding ad valorem taxes for school district purposes, for a
47 period of not more than ten (10) years, any privately owned new
48 structures and any new renovations of and improvements to existing
49 structures lying within a designated business improvement
50 district, urban renewal district or redevelopment district, as
51 determined by the municipality, but only in the event such
52 structures shall have been constructed, renovated or improved
53 pursuant to the requirements of an approved project of the
54 municipality for the development of the business improvement
55 district, urban renewal district or redevelopment district. The
56 tax exemption authorized herein may be granted only after written
57 application has been made to the governing authorities of the
58 municipality by any person, firm or corporation claiming the
59 exemption, and an order passed by the governing authorities of
60 such municipality finding that the construction, renovation or
61 improvement of said property is for the promotion of business,
62 commerce or industry or for the promotion of residential density
63 in the municipality's redevelopment areas in the designated
64 business improvement district, urban renewal district or
65 redevelopment district.

66 **SECTION 2.** Section 17-21-7, Mississippi Code of 1972, is
67 amended as follows:

68 17-21-7. The board of supervisors of any county wherein
69 there is located a municipality described in Section 17-21-5 may,
70 in its discretion, exempt from any or all county ad valorem
71 taxes, * * * for a period of not more than ten (10) years, any
72 privately owned new structures and any new renovations of and
73 improvements to existing structures where an exemption has been
74 granted by the municipality in accordance with the provisions of
75 Section 17-21-5. The exemption from county ad valorem taxes may
76 be granted only upon written application to the board of
77 supervisors of the county by any person, firm or corporation
78 claiming the exemption. A copy of the order of the governing
79 authority of the municipality granting an exemption from municipal
80 ad valorem taxes shall be attached to the application as an
81 exhibit thereto.

82 **SECTION 3.** The following shall be codified as Section
83 17-21-9, Mississippi Code of 1972:

84 17-21-9. The board of any school district of any
85 jurisdiction wherein there is located a municipality described in
86 Section 17-21-5 may, in its discretion, exempt from any or all
87 school district ad valorem taxes for a period of not more than ten
88 (10) years, any privately owned new structures and any new
89 renovations of and improvements to existing structures where an
90 exemption has been granted by the municipality in accordance with
91 the provisions of Section 17-21-5. The exemption from school
92 district ad valorem taxes may be granted only upon written
93 application to the district board by any person, firm or
94 corporation claiming the exemption. A copy of the order of the
95 governing authority of the municipality granting an exemption from
96 municipal ad valorem taxes shall be attached to the application as
97 an exhibit thereto.

98 **SECTION 4.** Section 21-45-3, Mississippi Code of 1972, is
99 amended as follows:

100 21-45-3. For the purposes of this chapter, the following
101 terms shall have the meanings given them in this section unless a
102 different meaning is clearly indicated by the context:

103 (a) "Project area" includes:

104 (i) Areas in which there is a significant amount
105 of buildings or improvements which, by reason of dilapidation,
106 deterioration, age, obsolescence, inadequate provision for
107 ventilation, light, air, sanitation or open spaces, high density
108 of population and overcrowding or the existence of conditions
109 which endanger life or property by fire and other causes, or any
110 combination of such factors, are conducive to ill health,
111 transmission of disease, infant mortality, juvenile delinquency or
112 crime and are detrimental to the public health, safety, morals or
113 welfare;

114 (ii) Areas in which are located a building or
115 buildings that are of important value for purposes of historical
116 preservation, as designated by the Department of Archives and
117 History;

118 (iii) Areas which by reason of a significant
119 amount of defective or inadequate street layout, faulty lot layout
120 in relation to size, adequacy, accessibility or usefulness,
121 unsanitary or unsafe conditions, deterioration of site
122 improvements, diversity of ownership, tax delinquency, defective
123 or unusual conditions of title, improper subdivision or obsolete
124 platting or the existence of conditions which endanger life or
125 property by fire or other causes, or any combination of such
126 factors, substantially impair or arrest the sound growth of the
127 community, retard the provision of housing accommodations or
128 constitute an economic or social liability and are a menace to the
129 public health, safety, morals or welfare in their present
130 condition and use;

131 (iv) Areas in which the construction, renovation,
132 repair or rehabilitation of property for residential, commercial
133 or other uses is in the public interest; or

134 (v) A project for which a certificate of public
135 convenience and necessity has been obtained by the municipality
136 pursuant to the Regional Economic Development Act.

137 (b) A "redevelopment project" may include any work or
138 undertaking by a municipality:

139 (i) To acquire project areas or portions thereof,
140 including lands, structures or improvements the acquisition of
141 which is necessary or incidental to the proper clearance,
142 development or redevelopment of such areas or to the prevention of
143 the spread or recurrence of slum conditions or conditions of
144 blight;

145 (ii) To clear any project areas by demolition or
146 removal of existing buildings, structures, streets, utilities or
147 other improvements thereon and to install, construct or
148 reconstruct streets, utilities, bulkheads, boat docks and site
149 improvements essential to the preparation of sites for uses in
150 accordance with the redevelopment plan and public improvements to
151 encourage private redevelopment in accordance with the
152 redevelopment plan; or

153 (iii) To sell or lease property acquired by a
154 municipality as part of a redevelopment project for not less than
155 its fair value for uses in accordance with such redevelopment plan
156 to retain property or public improvements for public use in
157 accordance with the redevelopment plan.

158 (iv) To subsidize or create incentives for
159 catalytic, privately owned construction that will serve to
160 increase the municipality's future tax revenues, create employment
161 opportunities or lead to residential growth for central business
162 districts, historic preservation districts, business improvement

163 districts, urban renewal districts, redevelopment districts or
164 historic landmarks.

165 "Redevelopment project" may also include the preparation of a
166 redevelopment plan, the planning, survey and other work incident
167 to a redevelopment project and the preparation of all plans and
168 arrangements for carrying out a redevelopment project, relocation
169 of businesses and families required under applicable law, and upon
170 a determination, by resolution of the governing body of the
171 municipality in which such land is located, that the acquisition
172 and development of additional real property not within a project
173 area is essential to the proper clearance or redevelopment of a
174 project area or a necessary part of the general slum clearance
175 program of the municipality, the acquisition, planning,
176 preparation for development or disposal of such land shall
177 constitute a redevelopment project.

178 (c) "Redevelopment plan" means a plan for the
179 acquisition, clearance, reconstruction, rehabilitation or future
180 use of a redevelopment project area which shall be sufficiently
181 complete:

182 (i) To indicate its relationship to definite local
183 objectives as to appropriate land uses and improved traffic,
184 public transportation, public utilities, recreational,
185 residential, commercial and community facilities and other public
186 improvements; and

187 (ii) To indicate proposed land uses, waterfront
188 uses, if any, and building requirements in the area.

189 A redevelopment plan may include interlocal cooperation
190 agreements between a municipality and a county whereby both agree
191 to pledge revenues payable to them to fund the debt of service of
192 any indebtedness incurred pursuant to this chapter.

193 (d) "Governing body" means the governing body of any
194 municipality or the board of supervisors of any county.

195 (e) "Developer" means any person, firm, corporation,
196 partnership or other entity which enters into an agreement with a
197 municipality whereby the developer agrees to construct, operate
198 and maintain or procure the construction, operation and
199 maintenance of buildings or other facilities or improvements upon
200 land or waterfront being a part of a redevelopment project.

201 (f) "Municipality" means any city or town incorporated
202 under the laws of the State of Mississippi or any county.

203 (g) "Clerk" means the municipal clerk or chancery
204 clerk, as the case may be.

205 **SECTION 5.** Section 21-45-7, Mississippi Code of 1972, is
206 amended as follows:

207 21-45-7. (1) Any redevelopment project may contain a
208 provision that municipal and county ad valorem taxes, if any,
209 levied upon taxable property in a redevelopment project or
210 municipal sales taxes collected within the area, or both, shall be
211 divided according to a tax increment financing plan.

212 (2) For central business districts, historic preservation
213 districts, business improvement districts, urban renewal
214 districts, redevelopment districts or historic landmarks, school
215 district taxes shall also be divided according to the plan.

216 **SECTION 6.** Section 27-31-31, Mississippi Code of 1972, is
217 amended as follows:

218 27-31-31. * * * The governing authorities of any municipality
219 are authorized, in their discretion, to grant exemptions from ad
220 valorem taxation, * * * for new structures or improvements to or
221 renovations of existing structures located in the designated
222 central business district of the municipality, for a period of not
223 more than ten (10) years from the date of the completion of the
224 new structure or the improvement to or renovation of the existing
225 structure for which the exemption is granted.

226 * * *

227 **SECTION 7.** As used in Sections 7 through 10 of this act, the
228 following terms mean, unless the context requires otherwise:

229 (a) "Certified historic structure," a property located
230 in Mississippi and listed individually on the Nation Register of
231 Historic Places;

232 (b) "Eligible property," property located in
233 Mississippi and offered or used for residential or business
234 purposes;

235 (c) "Structure in a certified historic district," a
236 structure located in Mississippi which is certified by the
237 department of natural resources as contributing to the historic
238 significance of a certified historic district listed on the
239 National Register of Historic Places, or a local district that has
240 been certified by the United States Department of the Interior.

241 **SECTION 8.** Any person, firm, partnership, trust, estate or
242 corporation incurring costs and expenses for the rehabilitation of
243 eligible property, which is a certified historic structure or
244 structure in a certified historic district, shall be entitled to a
245 credit against the taxes imposed on that person or entity in an
246 amount equal to twenty-five percent (25%) of the total costs and
247 expenses of rehabilitation incurred after January 1, 2005, which
248 shall include, but not be limited to, qualified rehabilitation
249 expenditures as defined under Section 47(c)(2)(A) of the Internal
250 Revenue Code of 1986, as amended, and the related regulations
251 thereunder, provided the rehabilitation costs associated with
252 rehabilitation and the expenses exceed fifty percent (50%) of the
253 total basis in the property and the rehabilitation meets standards
254 consistent with the standards of the Secretary of the United
255 States Department of the Interior for rehabilitation as determined
256 by the state historic preservation officer of the Department of
257 Environmental Quality.

258 **SECTION 9.** (1) If the amount of such credit exceeds the
259 total tax liability for the year in which the rehabilitated

260 property is placed in service, the amount that exceeds the state
261 tax liability may be carried back to any of the three (3)
262 preceding years and carried forward for credit against the taxes
263 imposed for the succeeding ten (10) years, or until the full
264 credit is used, whichever occurs first. Not-for-profit entities,
265 including, but not limited to, corporations organized as
266 not-for-profit corporations, shall be ineligible for the tax
267 credits authorized under Sections 7 through 10 of this act. Tax
268 payers eligible for such tax credits may transfer, sell or assign
269 the credits. Credits granted to a partnership, a limited
270 liability company taxed as a partnership or multiple owners of
271 property shall be passed through to the partners, members or
272 owners respectively pro rata or pursuant to an executed agreement
273 among the partners, members or owners documenting an alternate
274 distribution method.

275 (2) The assignee of the tax credits, hereinafter the
276 assignee for purposes of this subsection, may use acquired credits
277 to offset up to one hundred percent (100%) of the tax liabilities
278 otherwise imposed. The assignor shall perfect such transfer by
279 notifying the Mississippi Development Authority in writing within
280 thirty (30) calendar days following the effective date of the
281 transfer and shall provide any information as may be required by
282 the Mississippi Development Authority to administer and carry out
283 the provisions of this section.

284 **SECTION 10.** (1) To claim the credit authorized pursuant to
285 Sections 7 through 10 of this act, the taxpayer shall apply to the
286 Mississippi Development Authority which, in consultation with the
287 Department of Environmental Quality, shall determine the amount of
288 eligible rehabilitation costs and expenses and whether the
289 rehabilitation meets the standards of the Secretary of the United
290 States Department of the Interior for rehabilitation as determined
291 by the Department of Environmental Quality. For financial
292 institutions credits authorized pursuant to Sections 7 through 10

293 of this act shall be deemed to be "economic development credits."
294 The issuing of certificates of eligible credits to taxpayers shall
295 be performed by the Mississippi Development Authority. The
296 taxpayer shall attach the certificate to all Mississippi income
297 tax returns on which the credit is claimed.

298 (2) The Mississippi Development Authority shall determine,
299 on an annual basis, the overall economic impact to the state from
300 the rehabilitation of eligible property.

301 **SECTION 11.** This act shall take effect and be in force from
302 and after July 1, 2004.