

By: Representative Fleming

To: Municipalities; Ways and
Means

HOUSE BILL NO. 190

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 AMEND SECTION
 6 21-45-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF
 7 REDEVELOPMENT PROJECT; TO AMEND SECTION 21-45-7, MISSISSIPPI CODE
 8 OF 1972, TO CONFORM THE DIVISION OF AD VALOREM TAXES UNDER A TAX
 9 INCREMENT FINANCING PLAN FOR THE PURPOSES OF THIS ACT; TO AMEND
 10 SECTION 27-31-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
 11 PROVISIONS OF THIS ACT; TO AUTHORIZE AN INCOME TAX CREDIT FOR
 12 TAXPAYERS WHO INCUR COSTS AND EXPENSES FOR THE REHABILITATION OF
 13 ELIGIBLE PROPERTY WHICH IS A CERTIFIED HISTORIC STRUCTURE OR A
 14 STRUCTURE IN A CERTIFIED HISTORIC DISTRICT IN AN AMOUNT EQUAL TO
 15 25% OF THE TOTAL COSTS AND EXPENSES OF REHABILITATION INCURRED, IF
 16 THE COSTS AND EXPENSES ASSOCIATED WITH REHABILITATION EXCEED 50%
 17 OF THE TOTAL BASIS IN THE PROPERTY AND THE REHABILITATION IS
 18 CONSISTENT WITH THE STANDARDS OF THE SECRETARY OF THE UNITED
 19 STATES DEPARTMENT OF THE INTERIOR AS DETERMINED BY THE MISSISSIPPI
 20 DEPARTMENT OF ARCHIVES AND HISTORY; TO PROVIDE THAT IF THE AMOUNT
 21 OF THE TAX CREDIT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY FOR
 22 THE YEAR IN WHICH THE REHABILITATED PROPERTY IS PLACED IN SERVICE,
 23 THE AMOUNT THAT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY MAY
 24 BE CARRIED BACK TO EACH OF THE THREE TAX YEARS PRECEDING THE TAX
 25 YEAR IN WHICH THE ORIGINAL CREDIT IS CLAIMED AND CARRIED FORWARD
 26 FOR THE TEN SUCCEEDING TAX YEARS; TO ALLOW THE TAXPAYER TO
 27 TRANSFER, SELL OR ASSIGN SUCH CREDITS; TO PROVIDE THE MANNER IN
 28 WHICH SUCH CREDIT MAY BE CLAIMED; AND FOR RELATED PURPOSES.

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

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

32 17-21-5. (1) The governing authorities of any municipality
 33 of this state may, in their discretion, exempt from any or all
 34 municipal ad valorem taxes * * * for a period of not more than ten
 35 (10) years, any privately owned new structures and any new
 36 renovations of and improvements to existing structures lying
 37 within a designated central business district or historic
 38 preservation district or on a historic landmark site, as
 39 determined by the municipality, but only in the event such
 40 structures shall have been constructed, renovated or improved

41 pursuant to the requirements of an approved project of the
42 municipality for the development of the central business district
43 and/or the preservation and revitalization of historic landmark
44 sites or historic preservation districts. The tax exemption
45 authorized herein may be granted only after written application
46 has been made to the governing authorities of the municipality by
47 any person, firm or corporation claiming the exemption, and an
48 order passed by the governing authorities of such municipality
49 finding that the construction, renovation or improvement of said
50 property is for the promotion of business, commerce or industry in
51 the designated central business district, for the promotion of
52 residential density in the municipality's redevelopment areas or
53 for the promotion of historic preservation.

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

74 density in the municipality's redevelopment areas in the
75 designated business improvement district, urban renewal district
76 or redevelopment district.

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

79 17-21-7. The board of supervisors of any county wherein
80 there is located a municipality described in Section 17-21-5 may,
81 in its discretion, exempt from any or all county ad valorem
82 taxes * * * for a period of not more than ten (10) years, any
83 privately owned new structures and any new renovations of and
84 improvements to existing structures where an exemption has been
85 granted by the municipality in accordance with the provisions of
86 Section 17-21-5. The exemption from county ad valorem taxes may
87 be granted only upon written application to the board of
88 supervisors of the county by any person, firm or corporation
89 claiming the exemption. A copy of the order of the governing
90 authority of the municipality granting an exemption from municipal
91 ad valorem taxes shall be attached to the application as an
92 exhibit thereto.

93 **SECTION 3.** Section 21-45-3, Mississippi Code of 1972, is
94 amended as follows:

95 21-45-3. For the purposes of this chapter, the following
96 terms shall have the meanings given them in this section unless a
97 different meaning is clearly indicated by the context:

98 (a) "Project area" includes:

99 (i) Areas in which there is a significant amount
100 of buildings or improvements which, by reason of dilapidation,
101 deterioration, age, obsolescence, inadequate provision for
102 ventilation, light, air, sanitation or open spaces, high density
103 of population and overcrowding or the existence of conditions
104 which endanger life or property by fire and other causes, or any
105 combination of such factors, are conducive to ill health,
106 transmission of disease, infant mortality, juvenile delinquency or

107 crime and are detrimental to the public health, safety, morals or
108 welfare;

109 (ii) Areas in which are located a building or
110 buildings that are of important value for purposes of historical
111 preservation, as designated by the Department of Archives and
112 History;

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

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

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

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

134 (i) To acquire project areas or portions thereof,
135 including lands, structures or improvements the acquisition of
136 which is necessary or incidental to the proper clearance,
137 development or redevelopment of such areas or to the prevention of
138 the spread or recurrence of slum conditions or conditions of
139 blight;

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

148 (iii) To sell or lease property acquired by a
149 municipality as part of a redevelopment project for not less than
150 its fair value for uses in accordance with such redevelopment plan
151 to retain property or public improvements for public use in
152 accordance with the redevelopment plan; or

153 (iv) To subsidize or create incentives for
154 catalytic, privately owned construction that will serve to
155 increase the municipality's future tax revenues, create employment
156 opportunities or lead to residential growth for central business
157 districts, historic preservation districts, business improvement
158 districts, urban renewal districts, redevelopment districts or
159 historic landmarks.

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

173 (c) "Redevelopment plan" means a plan for the
174 acquisition, clearance, reconstruction, rehabilitation or future
175 use of a redevelopment project area which shall be sufficiently
176 complete:

177 (i) To indicate its relationship to definite local
178 objectives as to appropriate land uses and improved traffic,
179 public transportation, public utilities, recreational,
180 residential, commercial and community facilities and other public
181 improvements; and

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

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

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

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

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

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

200 **SECTION 4.** Section 21-45-7, Mississippi Code of 1972, is
201 amended as follows:

202 21-45-7. (1) Any redevelopment project may contain a
203 provision that municipal and county ad valorem taxes, if any,
204 levied upon taxable property in a redevelopment project or

205 municipal sales taxes collected within the area, or both, shall be
206 divided according to a tax increment financing plan.

207 (2) For central business districts, historic preservation
208 districts, business improvement districts, urban renewal
209 districts, redevelopment districts or historic landmarks, school
210 district taxes shall also be divided according to the plan.

211 **SECTION 5.** Section 27-31-31, Mississippi Code of 1972, is
212 amended as follows:

213 27-31-31. * * * The governing authorities of any
214 municipality are authorized, in their discretion, to grant
215 exemptions from ad valorem taxation * * * for new structures or
216 improvements to or renovations of existing structures located in
217 the designated central business district of the municipality, for
218 a period of not more than ten (10) years from the date of the
219 completion of the new structure or the improvement to or
220 renovation of the existing structure for which the exemption is
221 granted.

222 * * *

223 **SECTION 6.** (1) As used in this section, the following terms
224 mean, unless the context requires otherwise:

225 (a) "Certified historic structure," a property located
226 in Mississippi and listed individually on the Nation Register of
227 Historic Places;

228 (b) "Eligible property," property located in
229 Mississippi and offered or used for residential or business
230 purposes;

231 (c) "Structure in a certified historic district," a
232 structure located in Mississippi which is certified by the
233 Mississippi Department of Archives and History as contributing to
234 the historic significance of a certified historic district listed
235 on the National Register of Historic Places, or a local district
236 that has been certified by the United States Department of the
237 Interior.

238 (2) Any person, firm, partnership, trust, estate or
239 corporation incurring costs and expenses for the rehabilitation of
240 eligible property, which is a certified historic structure or
241 structure in a certified historic district, shall be entitled to a
242 credit against the taxes imposed under this chapter in an amount
243 equal to twenty-five percent (25%) of the total costs and expenses
244 of rehabilitation incurred after January 1, 2006, which shall
245 include, but not be limited to, qualified rehabilitation
246 expenditures as defined under Section 47(c)(2)(A) of the Internal
247 Revenue Code of 1986, as amended, and the related regulations
248 thereunder, provided the rehabilitation costs associated with
249 rehabilitation and the expenses exceed fifty percent (50%) of the
250 total basis in the property and the rehabilitation meets standards
251 consistent with the standards of the Secretary of the United
252 States Department of the Interior for rehabilitation as determined
253 by the Mississippi Department of Archives and History.

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

270 (b) The transferee, buyer or assignee of a tax credit
271 may use acquired credits to offset up to one hundred percent
272 (100%) of the tax liabilities imposed under this chapter. The
273 assignor shall perfect such transfer by notifying the Mississippi
274 Development Authority in writing within thirty (30) calendar days
275 following the effective date of the transfer and shall provide any
276 information as may be required by the Mississippi Development
277 Authority to administer and carry out the provisions of this
278 section.

279 (4) (a) To claim the credit authorized pursuant to this
280 section, the taxpayer shall apply to the Mississippi Development
281 Authority which, in consultation with the Mississippi Department
282 of Archives and History, shall determine the amount of eligible
283 rehabilitation costs and expenses and whether the rehabilitation
284 meets the standards of the Secretary of the United States
285 Department of the Interior for rehabilitation as determined by the
286 Mississippi Department of Archives and History. For financial
287 institutions credits authorized pursuant to this section shall be
288 deemed to be "economic development credits." The issuing of
289 certificates of eligible credits to taxpayers shall be performed
290 by the Mississippi Development Authority. The taxpayer shall
291 attach the certificate to all Mississippi income tax returns on
292 which the credit is claimed.

293 (b) The Mississippi Development Authority shall
294 determine, on an annual basis, the overall economic impact to the
295 state from the rehabilitation of eligible property.

296 **SECTION 7.** This act shall take effect and be in force from
297 and after July 1, 2005.