

By: Senator(s) Gordon

To: Finance

SENATE BILL NO. 3041

1 AN ACT TO CREATE THE MISSISSIPPI HISTORIC PRESERVATION TAX
2 CREDIT ACT OF 2005, TO AUTHORIZE AN INCOME TAX CREDIT FOR
3 TAXPAYERS WHO INCUR COSTS AND EXPENSES FOR THE REHABILITATION OF
4 ELIGIBLE PROPERTY WHICH IS A CERTIFIED HISTORIC STRUCTURE OR A
5 STRUCTURE IN A CERTIFIED HISTORIC DISTRICT IN AN AMOUNT EQUAL TO
6 25% OF THE TOTAL COSTS AND EXPENSES OF REHABILITATION INCURRED, IF
7 THE COSTS AND EXPENSES ASSOCIATED WITH REHABILITATION EXCEED 50%
8 OF THE TOTAL BASIS IN THE PROPERTY AND THE REHABILITATION IS
9 CONSISTENT WITH THE STANDARDS OF THE SECRETARY OF THE UNITED
10 STATES DEPARTMENT OF THE INTERIOR AS DETERMINED BY THE MISSISSIPPI
11 DEPARTMENT OF ARCHIVES AND HISTORY; TO PROVIDE THAT IF THE AMOUNT
12 OF THE TAX CREDIT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY FOR
13 THE YEAR IN WHICH THE REHABILITATED PROPERTY IS PLACED IN SERVICE,
14 THE AMOUNT THAT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY MAY
15 BE CARRIED BACK TO EACH OF THE THREE TAX YEARS PRECEDING THE TAX
16 YEAR IN WHICH THE ORIGINAL CREDIT IS CLAIMED AND CARRIED FORWARD
17 FOR THE TEN SUCCEEDING TAX YEARS; TO ALLOW THE TAXPAYER TO
18 TRANSFER, SELL OR ASSIGN SUCH CREDITS; TO PROVIDE THE MANNER IN
19 WHICH SUCH CREDIT MAY BE CLAIMED; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** This act shall be known, and may be cited as the
22 Mississippi Historic Preservation Tax Credit Act of 2005.

23 **SECTION 2.** (1) As used in this section:

24 (a) "Certified historic structure" means a property
25 located in Mississippi and listed individually on the National
26 Register of Historic Places.

27 (b) "Eligible property" means property located in
28 Mississippi and offered or used for residential or business
29 purposes.

30 (c) "Structure in a certified historic district" means
31 a structure (and its structural components) located in Mississippi
32 which is:

33 (i) Listed on the National Register of Historic
34 places;

35 (ii) Located in a registered historic district and
36 certified by the United States Secretary of Interior as being of
37 historic significance to the district; or

38 (iii) Certified by the Mississippi Department of
39 Archives and History as contributing to the historic significance
40 of a certified historic district listed on the National Register
41 of Historic Places or a local district that has been certified by
42 the United States Department of the Interior.

43 (2) Any taxpayer incurring costs and expenses for the
44 rehabilitation of eligible property, which is a certified historic
45 structure or a structure in a certified historic district, shall
46 be entitled to a credit against the taxes imposed pursuant to this
47 chapter in an amount equal to twenty-five percent (25%) of the
48 total costs and expenses of rehabilitation incurred after January
49 1, 2005, which shall include, but not be limited to, qualified
50 rehabilitation expenditures as defined under Section 47(c)(2)(A)
51 of the Internal Revenue Code of 1986, as amended, and the related
52 regulations thereunder, if the costs and expenses associated with
53 rehabilitation exceed fifty percent (50%) of the total basis in
54 the property and the rehabilitation is consistent with the
55 standards of the Secretary of the United States Department of the
56 Interior as determined by the Mississippi Department of Archives
57 and History.

58 (3) (a) If the amount of the tax credit established by this
59 section exceeds the total state income tax liability for the year
60 in which the rehabilitated property is placed in service, the
61 amount that exceeds the total state income tax liability may be
62 carried back to each of the three (3) tax years preceding the tax
63 year in which the original credit is claimed and carried forward
64 for the ten (10) succeeding tax years.

65 (b) Not-for-profit entities, including, but not limited
66 to, nonprofit corporations organized under Section 79-11-101
67 et seq., shall be ineligible for the credit authorized by this

68 section. Eligible taxpayers may transfer, sell or assign the
69 credits. Credits granted to a partnership, a limited liability
70 company taxed as a partnership or multiple owners of property
71 shall be passed through to the partners, members or owners on a
72 pro rata basis or pursuant to an executed agreement among the
73 partners, members or owners documenting an alternative
74 distribution method.

75 (c) The transferee, buyer or assignee of a tax credit
76 may use acquired credits to offset up to one hundred percent
77 (100%) of the taxes imposed pursuant to this chapter. In order to
78 transfer, sell or assign the credit authorized by this section,
79 the transferor, seller or assignor shall notify the Mississippi
80 Development Authority in writing within thirty (30) calendar days
81 following the effective date of the transfer, sale or assignment,
82 and shall provide any information as may be required by the
83 Mississippi Development Authority to carry out the provisions of
84 this section.

85 (4) To claim the credit authorized pursuant to this section,
86 the taxpayer shall apply to the Mississippi Development Authority
87 which shall determine the amount of eligible rehabilitation costs
88 and expenses and whether the rehabilitation is consistent with the
89 standards of the Secretary of the United States Department of the
90 Interior. After making a determination that the expenditure of
91 rehabilitation costs has a positive economic, fiscal or tax
92 impact, either direct or indirect, on the state or on local
93 governments, the Mississippi Development Authority shall issue a
94 certificate evidencing the eligible credit if the taxpayer is
95 found to be eligible for the tax credit. The taxpayer shall
96 attach the certificate to all income tax returns on which the
97 credit is claimed.

98 (5) This section shall be repealed from and after January 1,
99 2010.

100 **SECTION 3.** The provisions of Section 1 of this act shall be
101 codified in Chapter 7, Title 27, Mississippi Code of 1972.

102 **SECTION 4.** This act shall take effect and be in force from
103 and after January 1, 2005.