

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1401

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE TRANSFER, SALE OR ASSIGNMENT OF INCOME TAX  
3 CREDITS RECEIVED FOR THE REHABILITATION OF CERTAIN HISTORIC  
4 STRUCTURES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-7-22.31, Mississippi Code of 1972, is  
7 amended as follows:

8 27-7-22.31. (1) As used in this section:

9 (a) "Certified historic structure" means a property  
10 located in Mississippi and listed individually on the National  
11 Register of Historic Places or property that has been designated a  
12 Mississippi Landmark by the Department of Archives and History  
13 pursuant to Section 39-7-3 et seq.

14 (b) "Eligible property" means property located in  
15 Mississippi and offered or used for residential or business  
16 purposes.

17 (c) "Structure in a certified historic district" means  
18 a structure (and its structural components) located in Mississippi  
19 which is:

20 (i) Is listed in the National Register of Historic  
21 Places; or

22 (ii) Is located in a registered historic district  
23 listed on the National Register of Historic Places and is  
24 certified by the Secretary of the United States Department of the  
25 Interior as being of historic significance to the district; or

26 (iii) Certified by the Mississippi Department of  
27 Archives and History as contributing to the historic significance  
28 of a certified historic district listed on the National Register

29 of Historic Places or a local district that has been certified by  
30 the United States Department of the Interior.

31 (d) "Department" means the Department of Archives and  
32 History.

33 (2) Any taxpayer incurring costs and expenses for the  
34 rehabilitation of eligible property, which is a certified historic  
35 structure or a structure in a certified historic district, shall  
36 be entitled to a credit against the taxes imposed pursuant to this  
37 chapter in an amount equal to twenty-five percent (25%) of the  
38 total costs and expenses of rehabilitation incurred after January  
39 1, 2006, which shall include, but not be limited to, qualified  
40 rehabilitation expenditures as defined under Section 47(c)(2)(A)  
41 of the Internal Revenue Code of 1986, as amended, and the related  
42 regulations thereunder:

43 (a) If the costs and expenses associated with  
44 rehabilitation exceed:

45 (i) Five Thousand Dollars (\$5,000.00) in the case  
46 of an owner-occupied dwelling; or

47 (ii) Fifty percent (50%) of the total basis in the  
48 property in the case of all other properties; and

49 (b) The rehabilitation is consistent with the standards  
50 of the Secretary of the United States Department of the Interior  
51 as determined by the department.

52 (3) (a) If the amount of the tax credit established by this  
53 section exceeds the total state income tax liability for the year  
54 in which the rehabilitated property is placed in service, the  
55 amount that exceeds the total state income tax liability may be  
56 carried forward for the ten (10) succeeding tax years.

57 (b) Not-for-profit entities, including, but not limited  
58 to, nonprofit corporations organized under Section 79-11-101 et  
59 seq. shall be ineligible for the credit authorized by this  
60 section. Credits granted to a partnership, a limited liability  
61 company taxed as a partnership or multiple owners of property

62 shall be passed through to the partners, members or owners on a  
63 pro rata basis or pursuant to an executed agreement among the  
64 partners, members or owners documenting an alternative  
65 distribution method.

66 (4) To claim the credit authorized pursuant to this section,  
67 the taxpayer shall apply to the department which shall determine  
68 the amount of eligible rehabilitation costs and expenses and  
69 whether the rehabilitation is consistent with the standards of the  
70 Secretary of the United States Department of the Interior. The  
71 department shall issue a certificate evidencing the eligible  
72 credit if the taxpayer is found to be eligible for the tax credit.  
73 The taxpayer shall attach the certificate to all income tax  
74 returns on which the credit is claimed.

75 (5) Taxpayers who receive the credit may transfer, sell or  
76 assign the credit. The transferee, buyer or assignee of a tax  
77 credit may use credits that they acquire to offset up to one  
78 hundred percent (100%) of the taxes imposed pursuant to this  
79 chapter in the same manner and to the same extent as the  
80 transferor, seller or assignor or the credit. In order to  
81 transfer, sell or assign the credit authorized by this section,  
82 the transferor, seller or assignor shall notify the department and  
83 the State Tax Commission in writing within thirty (30) calendar  
84 days following the effective date of the transfer, sale or  
85 assignment, and shall provide any information as may be required  
86 by the State Tax Commission to carry out the provisions of this  
87 subsection.

88 (6) (a) The board of trustees of the department shall  
89 establish fees to be charged for the services performed by the  
90 department under this section and shall publish the fee schedule.  
91 The fees contained in the schedule shall be in amounts reasonably  
92 calculated to recover the costs incurred by the department for the  
93 administration of this section. Any taxpayer desiring to  
94 participate in the tax credits authorized by this section shall

95 pay the appropriate fee as contained in the fee schedule to the  
96 department, which shall be used by the department, without  
97 appropriation, to offset the administrative costs of the  
98 department associated with its duties under this section.

99 (b) There is hereby created within the State Treasury a  
100 special fund into which shall be deposited all the fees collected  
101 by the department pursuant to this section. Money deposited into  
102 the fund shall not lapse at the end of any fiscal year and  
103 investment earnings on the proceeds in such special fund shall be  
104 deposited into such fund. Money from the fund shall be disbursed  
105 upon warrants issued by the State Fiscal Officer upon requisitions  
106 signed by the executive director of the department to assist the  
107 department in carrying out its duties under this section.

108 (7) This section shall stand repealed on December 31, 2011.

109 **SECTION 2.** This act shall take effect and be in force from  
110 and after July 1, 2007.