

By: Representatives Watson, Brown

To: Ways and Means

## HOUSE BILL NO. 1578

1 AN ACT TO PROVIDE FOR AN INCOME TAX AND INSURANCE PREMIUM TAX  
2 CREDIT FOR TAXPAYERS THAT PAY A QUALIFIED COMMUNITY DEVELOPMENT  
3 ENTITY FOR QUALIFIED EQUITY INVESTMENTS; TO PROVIDE THAT THE  
4 AMOUNT OF THE CREDIT SHALL BE EQUAL TO A CERTAIN PERCENTAGE OF THE  
5 ADJUSTED PURCHASE PRICE PAID TO THE QUALIFIED COMMUNITY  
6 DEVELOPMENT ENTITY FOR THE QUALIFIED EQUITY INVESTMENT; TO PROVIDE  
7 THAT THE MAXIMUM AGGREGATE AMOUNT OF THE CREDITS THAT MAY BE  
8 ALLOCATED TO ALL TAXPAYERS IN ANY ONE STATE FISCAL YEAR SHALL NOT  
9 EXCEED \$15,000,000.00 AND THAT THE CREDITS SHALL BE ALLOCATED BY  
10 THE MISSISSIPPI DEVELOPMENT AUTHORITY ON A FIRST-COME,  
11 FIRST-SERVED BASIS; TO PROVIDE FOR THE RECAPTURE OF ALL OR A  
12 PORTION OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO AMEND  
13 SECTION 27-15-129, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
14 INVESTMENTS THAT MAY REDUCE A TAXPAYER'S INSURANCE PREMIUM TAX  
15 LIABILITY UNDER SUCH SECTION SHALL NOT INCLUDE ANY INVESTMENT FOR  
16 WHICH A CREDIT IS ALLOCATED UNDER THIS ACT; AND FOR RELATED  
17 PURPOSES.

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

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

20 (a) "Adjusted purchase price" means the investment in  
21 the qualified community development entity for the qualified  
22 equity investment in projects located in Mississippi:

23 For the purposes of calculating the amount of qualified  
24 low-income community investments held by a qualified community  
25 development entity, an investment will be considered held by a  
26 qualified community development entity even if the investment has  
27 been sold or repaid; provided that the qualified community  
28 development entity reinvests an amount equal to the capital  
29 returned to or recovered by the qualified community development  
30 entity from the original investment, exclusive of any profits  
31 realized, in another qualified low-income community investment in  
32 Mississippi within twelve (12) months of the receipt of such  
33 capital. A qualified community development entity will not be  
34 required to reinvest capital returned from the qualified

35 low-income community investments after the sixth anniversary of  
36 the issuance of the qualified equity investment, the proceeds of  
37 which were used to make the qualified low-income community  
38 investment, and the qualified low-income community investment will  
39 be considered held by the qualified community development entity  
40 through the seventh anniversary of the qualified equity  
41 investment's issuance.

42 (b) "Applicable percentage" means four and one-half  
43 percent (4-1/2%) for each of the second through seventh credit  
44 allowance dates.

45 (c) "Credit allowance date" means, with respect to any  
46 equity investment:

47 (i) The date upon which the investment is  
48 initially made; and

49 (ii) Each of the subsequent six (6) anniversary  
50 dates of the date upon which the investment is initially made.

51 (d) "Qualified community development entity" shall have  
52 the meaning ascribed to such term in Section 45D of the Internal  
53 Revenue Code of 1986, as amended, if the entity has entered into  
54 an Allocation Agreement with the Community Development Financial  
55 Institutions Fund of the United States Department of the Treasury  
56 with respect to credits authorized by Section 45D of the Internal  
57 Revenue Code of 1986, as amended.

58 (e) "Long-term debt security" means any debt instrument  
59 issued by a qualified community development entity, at par value  
60 of a premium, with an original maturity date of at least seven (7)  
61 years from the date of its issuance, with no acceleration of  
62 repayment, amortization or prepayment features prior to its  
63 original maturity date, and with no distribution, payment or  
64 interest features related to the profitability of the qualified  
65 community development entity or the performance of the qualified  
66 community development entity's investment portfolio; however, this  
67 shall in no way limit the holder's ability to accelerate payments

68 of the debt instrument in situations where the qualified community  
69 development entity has defaulted on covenants designed to ensure  
70 compliance with this section or Section 45D of the Internal  
71 Revenue Code of 1986, as amended.

72 (f) "Qualified active low-income community business"  
73 shall have the meaning ascribed to such term in Section 45D of the  
74 Internal Revenue Code of 1986, as amended.

75 (g) "Qualified equity investment" means any equity  
76 investment in, or long-term debt security issued by, a qualified  
77 community development entity that:

78 (i) Has been allocated by the Mississippi  
79 Development Authority;

80 (ii) Is acquired after January 1, 2007, at its  
81 original issuance solely in exchange for cash;

82 (iii) Has at least eighty-five percent (85%) of  
83 its cash purchase price used by the qualified community  
84 development entity to make qualified low-income community  
85 investments; and

86 (iv) Is designated by the qualified community  
87 development entity as a qualified equity investment.

88 (h) "Qualified low-income community investment" shall  
89 have the meaning ascribed to such term in Section 45D of the  
90 Internal Revenue Code of 1986, as amended.

91 (2) A taxpayer that holds a qualified equity investment on  
92 the credit allowance date of the qualified equity investment shall  
93 be entitled to a credit applicable against the taxes imposed by  
94 Sections 27-7-5, 27-15-103 and 27-15-109 during the taxable year  
95 that includes the credit allowance date. The amount of the credit  
96 shall be equal to the applicable percentage of the adjusted  
97 purchase price paid to the qualified community development entity  
98 for the qualified equity investment in Mississippi. The amount of  
99 the credit that may be utilized in any one (1) tax year shall be  
100 limited to an amount not greater than the total tax liability of

101 the taxpayer for the taxes imposed by the above-referenced  
102 sections. The credit shall not be refundable or transferable.  
103 Any unused portion of the credit may be carried forward for seven  
104 (7) taxable years beyond the last credit allowance date. The  
105 maximum aggregate amount of qualified equity investments that may  
106 be allocated by the Mississippi Development Authority may not  
107 exceed an amount that would result in taxpayers claiming in any  
108 one (1) state fiscal year credits in excess of Fifteen Million  
109 Dollars (\$15,000,000.00), exclusive of credits that might be  
110 carried forward from previous taxable years. The Mississippi  
111 Development Authority shall allocate credits within this limit as  
112 provided for in subsection (4) of this section.

113 (3) Tax credits authorized by this section that are earned  
114 by a partnership, limited liability company, S-corporation or  
115 other similar pass-through entity, may be allocated to the  
116 partners, members or shareholders of such entity in accordance  
117 with the provisions of any agreement of the partners, members or  
118 shareholders.

119 (4) The qualified community development entity shall apply  
120 for credits with the Mississippi Development Authority on forms  
121 prescribed by the Mississippi Development Authority. In the  
122 application the qualified community development entity shall  
123 certify to the Mississippi Development Authority the anticipated  
124 dollar amount of the qualified equity investments to be made in  
125 this state during the first twelve-month period following the  
126 initial credit allowance date. The Mississippi Development  
127 Authority shall allocate credits based on the anticipated dollar  
128 amount of qualified equity investments as certified in the  
129 application on a first-come, first-served basis. If on the second  
130 credit allowance date the actual dollar amount of the investments  
131 is lower than the amount estimated, the Mississippi Development  
132 Authority shall adjust the tax credit allowed under this section.

133 The State Tax Commission may recapture all or a portion of the  
134 credit allowed under this section if:

135 (a) Any amount of federal tax credits available with  
136 respect to a qualified equity investment that is eligible for a  
137 tax credit under this section is recaptured under Section 45D of  
138 the Internal Revenue Code of 1986, as amended; or

139 (b) The qualified community development entity redeems  
140 or makes any principal repayment with respect to a qualified  
141 equity investment prior to the seventh anniversary of the issuance  
142 of the qualified equity investment.

143 Any credits that are subject to recapture under this  
144 subsection shall be recaptured from the taxpayer that actually  
145 claimed the credit.

146 (5) The Mississippi Development Authority shall promulgate  
147 rules and regulations to implement the provisions of this section.

148 **SECTION 2.** Section 27-15-129, Mississippi Code of 1972, is  
149 amended as follows:

150 27-15-129. (1) The amount of premium tax payable pursuant  
151 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
152 Mississippi Code of 1972, shall be reduced from the amount  
153 otherwise fixed in such sections if the payer files a sworn  
154 statement with the required annual report showing as of the  
155 beginning of the reporting period that at least the following  
156 amounts of the total admitted assets of the payer were invested  
157 and maintained in qualifying Mississippi investments as  
158 hereinafter defined in subsection (2) of this section over the  
159 period covered by such report:

160	Percentage of Total Admitted	Percentage of Premium
161	Assets in Qualifying	Tax Payable
162	Mississippi Investments	
163	1%	99%
164	2%	98%
165	3%	97%

166	4%	96%
167	5%	95%
168	6%	94%
169	7%	93%
170	8%	92%
171	9%	91%
172	10%	80%
173	15%	70%
174	20%	60%
175	25%	50%

176 (2) For the purpose of this section, "a qualifying  
177 Mississippi investment" is hereby defined as follows:

178 (a) Certificates of deposit issued by any bank or  
179 savings and loan association domiciled in this state;

180 (b) Bonds of this state or bonds of municipal, school,  
181 road or levee districts, or other political subdivisions of this  
182 state;

183 (c) Loans evidenced by notes and secured by deeds of  
184 trust on property located in this state;

185 (d) Real property located in this state;

186 (e) Policy loans to residents of Mississippi, or other  
187 loans to residents of this state, or to corporations domiciled in  
188 this state;

189 (f) Common or preferred stock, bonds and other  
190 evidences of indebtedness of corporations domiciled in this state;  
191 and

192 (g) Cash on deposit in any bank or savings and loan  
193 association domiciled in this state.

194 "A qualifying Mississippi investment" shall not include any  
195 investment for which a credit is allocated under Section 1 of  
196 House Bill No. 1578, 2007 Regular Session.

197 (3) If the credits, or any part thereof, authorized by the  
198 preceding provisions of this section shall be held by a court of

199 final jurisdiction to be unconstitutional and void for any reason  
200 or to make the annual premium taxes levied by Sections 27-15-103,  
201 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
202 unlawfully discriminatory or otherwise invalid under the  
203 Fourteenth Amendment or the Commerce Clause of the Constitution of  
204 the United States or under any state or other Federal  
205 Constitutional provisions, it is hereby expressly declared that  
206 such fact shall in no way affect the validity of the annual  
207 premium taxes levied thereby, and that such provisions would have  
208 been enacted even though the Legislature had known this credit  
209 section would be held invalid.

210 (4) This section shall apply to taxes accruing and  
211 investments existing from and after July 1, 1985.

212 **SECTION 3.** This act shall take effect and be in force from  
213 and after January 1, 2007.