

By: Representatives Watson, Brown, Guice

To: Ways and Means

## HOUSE BILL NO. 1727

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; TO PROVIDE FOR THE  
11 RECAPTURE OF ALL OR A PORTION OF THE CREDIT UNDER CERTAIN  
12 CIRCUMSTANCES; TO AMEND SECTION 27-15-129, MISSISSIPPI CODE OF  
13 1972, TO PROVIDE THAT THE INVESTMENTS THAT MAY REDUCE A TAXPAYER'S  
14 INSURANCE PREMIUM TAX LIABILITY UNDER SUCH SECTION SHALL NOT  
15 INCLUDE ANY INVESTMENT FOR WHICH A CREDIT IS ALLOCATED UNDER THIS  
16 ACT; AND FOR RELATED PURPOSES.

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

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

19 (a) "Adjusted purchase price" means the investment in  
20 the qualified community development entity for the qualified  
21 equity investment, substantially all of the proceeds of which are  
22 used to make qualified low-income community investments in  
23 Mississippi.

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

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

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

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

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

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

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

59 (e) "Qualified active low-income community business"  
60 shall have the meaning ascribed to such term in Section 45D of the  
61 Internal Revenue Code of 1986, as amended.

62 (f) "Qualified equity investment" shall have the  
63 meaning ascribed to such term in Section 45D of the Internal  
64 Revenue Code of 1986, as amended; provided, however, that such  
65 investment also:

66 (i) Is acquired after January 1, 2007, at its  
67 original issuance solely in exchange for cash; and

68 (ii) Has been allocated by the Mississippi  
69 Development Authority.

70 (g) "Qualified low-income community investment" shall  
71 have the meaning ascribed to such term in Section 45D of the  
72 Internal Revenue Code of 1986, as amended; provided, however, that  
73 the maximum amount of qualified low-income community investments  
74 issued for a single qualified active low-income community  
75 business, on an aggregate basis with all of its affiliates, that  
76 may be included for purposes of allocating any credits under this  
77 section shall not exceed Ten Million Dollars (\$10,000,000.00), in  
78 the aggregate, whether issued by one (1) or several qualified  
79 community development entities.

80 (2) A taxpayer that holds a qualified equity investment on  
81 the credit allowance date of the qualified equity investment shall  
82 be entitled to a credit applicable against the taxes imposed by  
83 Sections 27-7-5, 27-15-103 and 27-15-109 during the taxable year  
84 that includes the credit allowance date. The amount of the credit  
85 shall be equal to the applicable percentage of the adjusted  
86 purchase price paid to the qualified community development entity  
87 for the qualified equity investment. The amount of the credit  
88 that may be utilized in any one (1) tax year shall be limited to  
89 an amount not greater than the total tax liability of the taxpayer  
90 for the taxes imposed by the above-referenced sections. The  
91 credit shall not be refundable or transferable. Any unused  
92 portion of the credit may be carried forward for seven (7) taxable  
93 years beyond the last credit allowance date. The maximum  
94 aggregate amount of qualified equity investments that may be  
95 allocated by the Mississippi Development Authority may not exceed  
96 an amount that would result in taxpayers claiming in any one (1)  
97 state fiscal year credits in excess of Fifteen Million Dollars  
98 (\$15,000,000.00), exclusive of credits that might be carried  
99 forward from previous taxable years. The Mississippi Development

100 Authority shall allocate credits within this limit as provided for  
101 in subsection (4) of this section.

102 (3) Tax credits authorized by this section that are earned  
103 by a partnership, limited liability company, S-corporation or  
104 other similar pass-through entity, may be allocated to the  
105 partners, members or shareholders of such entity in accordance  
106 with the provisions of any agreement of the partners, members or  
107 shareholders.

108 (4) The qualified community development entity shall apply  
109 for credits with the Mississippi Development Authority on forms  
110 prescribed by the Mississippi Development Authority. In the  
111 application the qualified community development entity shall  
112 certify to the Mississippi Development Authority the anticipated  
113 dollar amount of the qualified equity investments to be made in  
114 this state during the first twelve-month period following the  
115 initial credit allowance date. The Mississippi Development  
116 Authority shall allocate credits based on the anticipated dollar  
117 amount of qualified equity investments as certified in the  
118 application. Once the Mississippi Development Authority has  
119 allocated credits to a qualified community development entity,  
120 such entity shall have fifteen (15) days from the date of such  
121 allocation to issue the corresponding qualified equity  
122 investments. If the qualified equity investment is not issued  
123 within such time period, the allocation shall be cancelled and  
124 returned to the Mississippi Development Authority for  
125 reallocation. If on the second credit allowance date the actual  
126 dollar amount of the investments is lower than the amount  
127 estimated, the Mississippi Development Authority shall adjust the  
128 tax credit allowed under this section. The State Tax Commission  
129 may recapture all or a portion of the credit allowed under this  
130 section if:

131 (a) Any amount of federal tax credits available with  
132 respect to a qualified equity investment that is eligible for a

133 tax credit under this section is recaptured under Section 45D of  
134 the Internal Revenue Code of 1986, as amended; or

135 (b) The qualified community development entity redeems  
136 or makes any principal repayment with respect to a qualified  
137 equity investment prior to the seventh anniversary of the issuance  
138 of the qualified equity investment.

139 (c) The qualified community development entity fails to  
140 maintain at least eighty-five percent (85%) of the proceeds of the  
141 qualified equity investment in qualified low-income community  
142 investments in Mississippi at any time prior to the seventh  
143 anniversary of the issuance of the qualified equity investment.

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

147 (5) Each qualified community development entity that  
148 receives qualified equity investments to make qualified low-income  
149 community investments in Mississippi must annually report to the  
150 Mississippi Development Authority the North American Industry  
151 Classification System Code, the county, the dollars invested, the  
152 number of jobs assisted and the number of jobs assisted with wages  
153 over one hundred percent (100%) of the federal poverty level for a  
154 family of four (4) of each qualified low-income community  
155 investment.

156 (6) The Mississippi Development Authority shall file an  
157 annual report on all qualified low-income community investments  
158 with the Governor, the Clerk of the House of Representatives, the  
159 Secretary of the Senate and the Secretary of State describing the  
160 North American Industry Classification System Code, the county,  
161 the dollars invested, the number of jobs assisted and the number  
162 of jobs assisted with wages over one hundred percent (100%) of the  
163 federal poverty level for a family of four (4) of each qualified  
164 low-income community investment. The annual report will be posted  
165 on the Mississippi Development Authority's Internet Web site.

166 (7) The Mississippi Development Authority shall promulgate  
167 rules and regulations to implement the provisions of this section.

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

170 27-15-129. (1) The amount of premium tax payable pursuant  
171 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
172 Mississippi Code of 1972, shall be reduced from the amount  
173 otherwise fixed in such sections if the payer files a sworn  
174 statement with the required annual report showing as of the  
175 beginning of the reporting period that at least the following  
176 amounts of the total admitted assets of the payer were invested  
177 and maintained in qualifying Mississippi investments as  
178 hereinafter defined in subsection (2) of this section over the  
179 period covered by such report:

180	Percentage of Total Admitted	Percentage of Premium
181	Assets in Qualifying	Tax Payable
182	Mississippi Investments	
183	1%	99%
184	2%	98%
185	3%	97%
186	4%	96%
187	5%	95%
188	6%	94%
189	7%	93%
190	8%	92%
191	9%	91%
192	10%	80%
193	15%	70%
194	20%	60%
195	25%	50%

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

198           (a) Certificates of deposit issued by any bank or  
199 savings and loan association domiciled in this state;  
200           (b) Bonds of this state or bonds of municipal, school,  
201 road or levee districts, or other political subdivisions of this  
202 state;  
203           (c) Loans evidenced by notes and secured by deeds of  
204 trust on property located in this state;  
205           (d) Real property located in this state;  
206           (e) Policy loans to residents of Mississippi, or other  
207 loans to residents of this state, or to corporations domiciled in  
208 this state;  
209           (f) Common or preferred stock, bonds and other  
210 evidences of indebtedness of corporations domiciled in this state;  
211 and  
212           (g) Cash on deposit in any bank or savings and loan  
213 association domiciled in this state.

214           "A qualifying Mississippi investment" shall not include any  
215 investment for which a credit is allocated under Section 1 of  
216 House Bill No. \_\_\_\_\_, 2007 Regular Session.

217           (3) If the credits, or any part thereof, authorized by the  
218 preceding provisions of this section shall be held by a court of  
219 final jurisdiction to be unconstitutional and void for any reason  
220 or to make the annual premium taxes levied by Sections 27-15-103,  
221 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
222 unlawfully discriminatory or otherwise invalid under the  
223 Fourteenth Amendment or the Commerce Clause of the Constitution of  
224 the United States or under any state or other Federal  
225 Constitutional provisions, it is hereby expressly declared that  
226 such fact shall in no way affect the validity of the annual  
227 premium taxes levied thereby, and that such provisions would have  
228 been enacted even though the Legislature had known this credit  
229 section would be held invalid.

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

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