

By: Representatives Watson, Brown, Guice

To: Ways and Means

HOUSE BILL NO. 1727
(As Sent to Governor)

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 percent (4%) for
44 each of the second through seventh credit allowance dates for
45 purposes of the taxes imposed by Section 27-7-5 and means one and
46 one-third percent (1-1/3%) for each of the second through seventh
47 credit allowance dates for purposes of the taxes imposed by
48 Sections 27-15-103 and 27-15-109.

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

51 (i) The date upon which the investment is
52 initially made; and

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

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

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

65 (f) "Qualified equity investment" shall have the
66 meaning ascribed to such term in Section 45D of the Internal

67 Revenue Code of 1986, as amended; provided, however, that such
68 investment also:

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

71 (ii) Has been allocated by the Mississippi
72 Development Authority.

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

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

100 state fiscal year credits in excess of Fifteen Million Dollars
101 (\$15,000,000.00), exclusive of credits that might be carried
102 forward from previous taxable years. The Mississippi Development
103 Authority shall allocate credits within this limit as provided for
104 in subsection (4) of this section.

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

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

132 may recapture all or a portion of the credit allowed under this
133 section if:

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

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

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

147 Any credits that are subject to recapture under this
148 subsection shall be recaptured from the taxpayer that actually
149 claimed the credit.

150 The Mississippi Development Authority shall not allocate any
151 credits under this section after January 1, 2014.

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

161 (6) The Mississippi Development Authority shall file an
162 annual report on all qualified low-income community investments
163 with the Governor, the Clerk of the House of Representatives, the
164 Secretary of the Senate and the Secretary of State describing the

165 North American Industry Classification System Code, the county,
166 the dollars invested, the number of jobs assisted and the number
167 of jobs assisted with wages over one hundred percent (100%) of the
168 federal poverty level for a family of four (4) of each qualified
169 low-income community investment. The annual report will be posted
170 on the Mississippi Development Authority's Internet Web site.

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

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

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

185	Percentage of Total Admitted	Percentage of Premium
186	Assets in Qualifying	Tax Payable
187	Mississippi Investments	
188	1%	99%
189	2%	98%
190	3%	97%
191	4%	96%
192	5%	95%
193	6%	94%
194	7%	93%
195	8%	92%
196	9%	91%
197	10%	80%

198 15% 70%
199 20% 60%
200 25% 50%

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

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

205 (b) Bonds of this state or bonds of municipal, school,
206 road or levee districts, or other political subdivisions of this
207 state;

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

210 (d) Real property located in this state;

211 (e) Policy loans to residents of Mississippi, or other
212 loans to residents of this state, or to corporations domiciled in
213 this state;

214 (f) Common or preferred stock, bonds and other
215 evidences of indebtedness of corporations domiciled in this state;
216 and

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

219 "A qualifying Mississippi investment" shall not include any
220 investment for which a credit is allocated under Section 1 of
221 House Bill No. 1727, 2007 Regular Session.

222 (3) If the credits, or any part thereof, authorized by the
223 preceding provisions of this section shall be held by a court of
224 final jurisdiction to be unconstitutional and void for any reason
225 or to make the annual premium taxes levied by Sections 27-15-103,
226 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,
227 unlawfully discriminatory or otherwise invalid under the
228 Fourteenth Amendment or the Commerce Clause of the Constitution of
229 the United States or under any state or other Federal
230 Constitutional provisions, it is hereby expressly declared that

231 such fact shall in no way affect the validity of the annual
232 premium taxes levied thereby, and that such provisions would have
233 been enacted even though the Legislature had known this credit
234 section would be held invalid.

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

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