

By: Senator(s) Clarke, Gollott, Jackson
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To: Finance

SENATE BILL NO. 2737

1 AN ACT TO AMEND SECTION 21-45-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE CONDITION THAT A PORTION OF A REDEVELOPMENT
3 PROJECT CONSTRUCTED UNDER THE TAX INCREMENT FINANCING WITH PRIVATE
4 FUNDS IN ADVANCE OF THE ISSUANCE OF BONDS MAY BE REIMBURSED ONLY
5 IF THE DEVELOPER DEDICATES THE PROJECT TO THE MUNICIPALITY, SHALL
6 NOT APPLY TO THE PRIVATELY OWNED PORTION OF A REDEVELOPMENT
7 PROJECT WHERE THE GOVERNING BODY OF A MUNICIPALITY MAKES A FINDING
8 THAT IT IS IN THE BEST INTEREST OF THE MUNICIPALITY THAT THE
9 CONDITION NOT APPLY; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 21-45-9, Mississippi Code of 1972, is
12 amended as follows:

13 21-45-9. (1) Any governing body may issue tax increment
14 bonds, the final maturity of which shall not extend beyond thirty
15 (30) years, for the purpose of financing all or a portion of the
16 cost of a redevelopment project within the boundaries of the
17 municipality, funding any reserve which the governing body may
18 deem advisable in connection with the retirement of the proposed
19 indebtedness and funding any other incidental expenses involved in
20 incurring such indebtedness. The debt service of indebtedness
21 incurred pursuant to this section shall be provided from the added
22 increments of municipal and county ad valorem tax revenues or any
23 portion of the sales taxes, or both, to result from any such
24 redevelopment project and shall never constitute an indebtedness
25 of the municipality within the meaning of any state constitutional
26 provision or statutory limitation and shall never constitute nor
27 give rise to a pecuniary liability of the municipality or a charge
28 against its general credit or taxing powers.

29 (2) The bonds may be authorized by resolution or
30 resolutions of the governing body, and may be issued in one or

31 more series, may bear such date or dates, mature at such time or
32 times, bear interest at such rate or rates, payable at such times,
33 be in such denominations, be in such form, be registered, be
34 executed in such manner, be payable in such medium of payment, at
35 such place or places, be subject to such terms of redemption, with
36 or without premium, carry such conversion or registration
37 privileges and be declared or become due before the maturity date
38 thereof, as such resolution or resolutions may provide; however,
39 the bonds shall not bear a greater interest rate to maturity than
40 that allowed under Section 75-17-101. The bonds shall be sold for
41 not less than par value plus accrued interest at public sale in
42 the manner provided by Section 31-19-25 or at private sale, in the
43 discretion of the governing body. The lowest interest rate
44 specified for any bonds issued shall not be less than seventy
45 percent (70%) of the highest interest rate specified for the same
46 bond issue. The bonds may be repurchased by the municipality out
47 of any available funds at a price not to exceed the principal
48 amount thereof and accrued interest, and all bonds so repurchased
49 shall be cancelled. In connection with the issuance of the bonds,
50 the municipality shall have the power to enter into contracts for
51 rating of the bonds by national rating agencies; obtaining bond
52 insurance or guarantees for the bonds and complying with the terms
53 and conditions of such insurance or guarantees; make provision for
54 payment in advance of maturity at the option of the owner or
55 holder of the bonds; covenant for the security and better
56 marketability of the bonds, including, without limitation, the
57 establishment of a debt service reserve fund and sinking funds to
58 secure or pay the bonds; and make any other provisions deemed
59 desirable by the municipality in connection with the issuance of
60 the bonds.

61 (3) If a governing body desires to issue tax increment
62 financing bonds under the Regional Economic Development Act, the

63 governing body also shall comply with any requirements provided
64 therein.

65 (4) In connection with the issuance of the bonds, the
66 municipality may arrange for lines of credit with any bank, firm
67 or person for the purpose of providing an additional source of
68 repayment for the bonds and amounts drawn on such lines of credit
69 may be evidenced by bonds, notes or other evidences of
70 indebtedness containing such terms and conditions as the
71 municipality may determine; * * * however, * * * such bonds, notes
72 or evidences of indebtedness shall be secured by and payable from
73 the same sources as are pledged to the payment of the bonds which
74 are additionally secured by such line of credit, and that the
75 bonds, notes or other evidences of indebtedness shall be deemed to
76 be bonds for all purposes of this chapter. Pending the
77 preparation or execution of definitive bonds, interim receipts or
78 certificates, or temporary bonds may be delivered to the purchaser
79 or purchasers of the bonds. Any provision of law to the contrary
80 notwithstanding, any bonds, if any, issued pursuant to this
81 chapter shall possess all of the qualities of negotiable
82 instruments.

83 (4) The municipality may also issue refunding bonds for the
84 purpose of paying any of its bonds at or prior to maturity or upon
85 acceleration or redemption. Refunding bonds may be issued at such
86 time prior to the maturity or redemption of the refunded bonds as
87 the municipality may determine. The refunding bonds may be issued
88 in sufficient amounts to pay or provide the principal of the bonds
89 being refunded, together with any redemption premium thereon, any
90 interest accrued or to accrue to the date of payment of such
91 bonds, the expenses of issuing the refunding bonds, the expenses
92 of redeeming the bonds being refunded, and such reserves for debt
93 service or other capital or current expenses from the proceeds of
94 such refunding bonds as may be required by any of the
95 municipality's resolutions, trust indenture or other security

96 instruments. The issuance of refunding bonds, the maturities and
97 other details thereof, the security therefor, the rights of the
98 holders and the rights, duties and obligations of the municipality
99 in respect of the same shall be governed by the provisions of this
100 chapter relating to the issuance of bonds other than refunding
101 bonds, insofar as the same may be applicable.

102 (5) Before incurring any debt pertaining to a redevelopment
103 project incorporating a tax increment financing plan the governing
104 body may, but shall not be required to, secure an agreement from
105 one or more developers obligating such developer or developers:

106 (a) To effect the completion of all or any portion of
107 the buildings or other facilities or improvements, as described in
108 the redevelopment project, at no cost to the municipality;

109 (b) To pay all or any portion of the real property
110 taxes due on the project in a timely manner; and

111 (c) To maintain and operate all or any portion of the
112 buildings or other facilities or improvements of the project in
113 such a manner as to preserve property values.

114 No breach of any such agreement shall impose any pecuniary
115 liability upon a municipality or any charge upon its general
116 credit or against its taxing powers.

117 (6) Additionally, the municipality may enter into an
118 agreement with the developer under which the developer may
119 construct all or any part of the redevelopment project with
120 private funds in advance of issuance of the bonds and may be
121 reimbursed by the municipality for actual costs incurred by the
122 developer upon issuance and delivery of the bonds and receipt of
123 the proceeds, conditioned upon dedication of redevelopment project
124 by the developer to the municipality to assure public use and
125 access. This condition shall not apply to:

126 (a) The privately owned portion of a project for which
127 the Mississippi Development Authority has issued a certificate of

128 convenience and necessity pursuant to the Regional Economic
129 Development Act; or

130 (b) The privately owned portion of a redevelopment
131 project where the governing body of a municipality makes a finding
132 that it is in the best interest of the municipality that the
133 condition shall not apply.

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