

By: Representatives Watson, Barker, Clark,  
Scott, Clarke

To: Ways and Means

HOUSE BILL NO. 1311  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT IF THE AMOUNT OF THE INCOME TAX CREDIT ALLOWED FOR  
3 COSTS AND EXPENSES INCURRED IN THE REHABILITATION OF CERTIFIED  
4 HISTORIC STRUCTURES EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE  
5 YEAR AND THE AMOUNT OF THE TAX CREDIT ESTABLISHED BY THIS SECTION  
6 EXCEEDS \$250,000.00, THE TAXPAYER MAY ELECT TO CLAIM A REFUND IN  
7 THE AMOUNT OF 75% OF THE EXCESS CREDIT IN LIEU OF THE TEN-YEAR  
8 CARRYFORWARD; TO PROVIDE THAT THE ELECTION MUST BE MADE IN THE  
9 YEAR IN WHICH THE REHABILITATED PROPERTY IS PLACED IN SERVICE; TO  
10 PROVIDE THAT REFUNDS WILL BE PAID IN EQUAL INSTALLMENTS OVER A  
11 TWO-YEAR PERIOD AND SHALL BE MADE FROM CURRENT COLLECTIONS; TO  
12 LIMIT TO \$60,000,000.00 THE AGGREGATE AMOUNT OF CREDITS THAT MAY  
13 BE AWARDED UNDER THIS SECTION; TO PROVIDE THAT THIS SECTION SHALL  
14 APPLY TO TAXPAYERS WHO HAVE BEEN ISSUED A CERTIFICATE EVIDENCING  
15 THE ELIGIBLE CREDIT BEFORE DECEMBER 31, 2014, OR WHO, BEFORE  
16 DECEMBER 31, 2014, HAVE RECEIVED A DETERMINATION IN WRITING FROM  
17 THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY THAT THE  
18 REHABILITATION IS CONSISTENT WITH THE HISTORIC CHARACTER OF THE  
19 PROPERTY AND THAT THE PROPERTY MEETS THE U.S. SECRETARY OF  
20 INTERIOR'S STANDARDS FOR REHABILITATION, AND WHO ARE ISSUED A  
21 CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT ON OR AFTER DECEMBER  
22 31, 2014; AND FOR RELATED PURPOSES.

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

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

26 27-7-22.31. (1) As used in this section:

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

32 (b) "Eligible property" means property located in  
33 Mississippi and offered or used for residential or business  
34 purposes.



35 (c) "Structure in a certified historic district" means  
36 a structure (and its structural components) located in Mississippi  
37 which is:

38 (i) Is listed in the National Register of Historic  
39 Places; or

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

44 (iii) Certified by the Mississippi Department of  
45 Archives and History as contributing to the historic significance  
46 of a certified historic district listed on the National Register  
47 of Historic Places or a local district that has been certified by  
48 the United States Department of the Interior.

49 (d) "Department" means the Department of Archives and  
50 History.

51 (2) Any taxpayer incurring costs and expenses for the  
52 rehabilitation of eligible property, which is a certified historic  
53 structure or a structure in a certified historic district, shall  
54 be entitled to a credit against the taxes imposed pursuant to this  
55 chapter in an amount equal to twenty-five percent (25%) of the  
56 total costs and expenses of rehabilitation incurred after January  
57 1, 2006, which shall include, but not be limited to, qualified  
58 rehabilitation expenditures as defined under Section 47(c)(2)(A)  
59 of the Internal Revenue Code of 1986, as amended, and the related  
60 regulations thereunder:

61 (a) If the costs and expenses associated with  
62 rehabilitation exceed:

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

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



67 (b) The rehabilitation is consistent with the standards  
68 of the Secretary of the United States Department of the Interior  
69 as determined by the department.

70 (3) (a) (i) If the amount of the tax credit established by  
71 this section exceeds the total state income tax liability for the  
72 year in which the rehabilitated property is placed in service, the  
73 amount that exceeds the total state income tax liability may be  
74 carried forward for the ten (10) succeeding tax years.

75 (ii) If the amount of the tax credit established  
76 by this section exceeds Two Hundred Fifty Thousand Dollars  
77 (\$250,000.00), the taxpayer may elect to claim a refund in the  
78 amount of seventy-five percent (75%) of the excess credit in lieu  
79 of the ten-year carryforward. The election must be made in the  
80 year in which the rehabilitated property is placed in service.  
81 Refunds will be paid in equal installments over a two-year period  
82 and shall be made from current collections.

83 (iii) Refund requests shall be submitted to the  
84 Department of Revenue on forms prescribed by the department.  
85 Refunds shall be made from current tax collections.

86 (b) Not-for-profit entities, including, but not limited  
87 to, nonprofit corporations organized under Section 79-11-101 et  
88 seq. shall be ineligible for the credit authorized by this  
89 section. Credits granted to a partnership, a limited liability  
90 company taxed as a partnership or multiple owners of property  
91 shall be passed through to the partners, members or owners on a  
92 pro rata basis or pursuant to an executed agreement among the  
93 partners, members or owners documenting an alternative  
94 distribution method. Partners, members or other owners of a  
95 pass-through entity are not eligible to elect a refund of excess  
96 credit in lieu of a carryforward of the credit. However, a  
97 partnership or limited liability company taxed as a partnership  
98 may elect to claim a refund of excess credit at the entity level  
99 on a form prescribed by the Department of Revenue. Additionally,



100 excess tax credits that are attributable to rehabilitated property  
101 that was placed in service by a pass-through entity prior to  
102 January 1, 2011, and that have previously been allocated to and  
103 are held by another pass-through entity prior to January 1, 2011,  
104 may be refunded to such other pass-through entity.

105 (4) (a) To claim the credit authorized pursuant to this  
106 section, the taxpayer shall apply to the department which shall  
107 determine the amount of eligible rehabilitation costs and expenses  
108 and whether the rehabilitation is consistent with the standards of  
109 the Secretary of the United States Department of the Interior.  
110 The department shall issue a certificate evidencing the eligible  
111 credit if the taxpayer is found to be eligible for the tax credit.  
112 The taxpayer shall attach the certificate to all income tax  
113 returns on which the credit is claimed.

114 (b) The aggregate amount of tax credits that may be  
115 awarded under this section shall not exceed Sixty Million Dollars  
116 (\$60,000,000.00).

117 (5) (a) The board of trustees of the department shall  
118 establish fees to be charged for the services performed by the  
119 department under this section and shall publish the fee schedule.  
120 The fees contained in the schedule shall be in amounts reasonably  
121 calculated to recover the costs incurred by the department for the  
122 administration of this section. Any taxpayer desiring to  
123 participate in the tax credits authorized by this section shall  
124 pay the appropriate fee as contained in the fee schedule to the  
125 department, which shall be used by the department, without  
126 appropriation, to offset the administrative costs of the  
127 department associated with its duties under this section.

128 (b) There is hereby created within the State Treasury a  
129 special fund into which shall be deposited all the fees collected  
130 by the department pursuant to this section. Money deposited into  
131 the fund shall not lapse at the end of any fiscal year and  
132 investment earnings on the proceeds in such special fund shall be



133 deposited into such fund. Money from the fund shall be disbursed  
134 upon warrants issued by the State Fiscal Officer upon requisitions  
135 signed by the executive director of the department to assist the  
136 department in carrying out its duties under this section.

137 (6) This section shall only apply to taxpayers:

138 (a) Who have been issued a certificate evidencing the  
139 eligible credit before December 31, 2014; or

140 (b) Who, before December 31, 2014, have received a  
141 determination in writing from the Mississippi Department of  
142 Archives and History, in accordance with the department's Historic  
143 Preservation Certificate Application, Part 2, that the  
144 rehabilitation is consistent with the historic character of the  
145 property and that the property meets the United States Secretary  
146 of Interior's Standards for Rehabilitation, or will meet the  
147 standards if certain specified conditions are met, and, who are  
148 issued a certificate evidencing the eligible credit on or after  
149 December 31, 2014.

150 **SECTION 2.** This act shall take effect and be in force from  
151 and after January 1, 2011.

