

By: Representative Smith

To: Ways and Means

HOUSE BILL NO. 1587

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,
2 TO DELETE LANGUAGE THAT EXCLUDES CERTAIN SINGLE FAMILY DWELLINGS
3 FROM THE DEFINITION OF THE TERM "ELIGIBLE PROPERTY" IN THE LAW
4 THAT AUTHORIZES AN INCOME TAX CREDIT FOR COSTS AND EXPENSES
5 INCURRED IN REHABILITATION OF CERTAIN HISTORIC STRUCTURES; AND FOR
6 RELATED PURPOSES.

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

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

10 27-7-22.31. (1) As used in this section:

11 (a) "Certified historic structure" means a property
12 located in Mississippi that has been:

13 (i) Listed individually on the National Register
14 of Historic Places; or

15 (ii) Determined eligible for the National Register
16 of Historic Places by the Secretary of the United States
17 Department of the Interior and will be listed within thirty (30)
18 months of claiming the credit authorized by this section; or



19 (iii) Property designated a Mississippi Landmark
20 by the Department of Archives and History pursuant to Section
21 39-7-3 et seq.

22 (b) "Eligible property" means property located in
23 Mississippi and offered or used for residential or business
24 purposes * * *.

25 * * *

26 (c) "Structure in a certified historic district" means
27 a structure (and its structural components) located in Mississippi
28 which:

29 (i) Is listed in the National Register of Historic
30 Places; or

31 (ii) Has been determined eligible for the National
32 Register of Historic Places by the Secretary of the United States
33 Department of the Interior and will be listed within thirty (30)
34 months of claiming the credit authorized by this section; or

35 (iii) Is located in a registered historic district
36 listed on the National Register of Historic Places or located in a
37 potential district that has been determined eligible for the
38 National Register of Historic Places by the Secretary of the
39 United States Department of the Interior and will be listed within
40 thirty (30) months of claiming the credit authorized by this
41 section, and is certified by the Secretary of the United States
42 Department of the Interior as being of historic significance to
43 the district; or



44 (iv) Is certified by the Mississippi Department of
45 Archives and History as contributing to the historic significance
46 of:

47 1. A certified historic district listed on
48 the National Register of Historic Places; or

49 2. A potential district that has been
50 determined eligible for the National Register of Historic Places
51 by the Secretary of the United States Department of the Interior
52 and will be listed within thirty (30) months of claiming the
53 credit authorized by this section; or

54 3. A local district that has been certified
55 by the United States Department of the Interior.

56 (d) "Department" means the Department of Archives and
57 History.

58 (2) Any taxpayer incurring costs and expenses for the
59 rehabilitation of eligible property, which is a certified historic
60 structure or a structure in a certified historic district, shall
61 be entitled to a credit against the taxes imposed pursuant to this
62 chapter in an amount equal to twenty-five percent (25%) of the
63 total costs and expenses of rehabilitation incurred after January
64 1, 2006, which shall include, but not be limited to, qualified
65 rehabilitation expenditures as defined under Section 47(c)(2)(A)
66 of the Internal Revenue Code of 1986, as amended, and the related
67 regulations thereunder:



68 (a) If the costs and expenses associated with
69 rehabilitation exceed:
70 (i) Five Thousand Dollars (\$5,000.00) in the case
71 of an owner-occupied dwelling; or
72 (ii) Fifty percent (50%) of the total basis in the
73 property in the case of all other properties; and
74 (b) The rehabilitation is consistent with the standards
75 of the Secretary of the United States Department of the Interior
76 as determined by the department.
77 (3) Any taxpayer eligible for the credit authorized by this
78 section may claim the credit in phases if:
79 (a) There is a written set of architectural plans and
80 specifications for all phases of the rehabilitation (written plans
81 outlining and describing all phases of the rehabilitation shall be
82 accepted as written plans and specifications);
83 (b) The written set of architectural plans and
84 specifications are completed before the physical work on the
85 rehabilitation begins; and
86 (c) It can reasonably be expected that all phases of
87 the rehabilitation will be completed.
88 (4) (a) (i) If the amount of the tax credit established by
89 this section exceeds the total state income tax liability for the
90 year in which the rehabilitated property is placed in service, the
91 amount that exceeds the total state income tax liability may be
92 carried forward for the ten (10) succeeding tax years.



93 (ii) If the amount of the tax credit established
94 by this section exceeds Two Hundred Fifty Thousand Dollars
95 (\$250,000.00), the taxpayer may elect to claim a refund in the
96 amount of seventy-five percent (75%) of the excess credit in lieu
97 of the ten-year carryforward. The election must be made in the
98 year in which the rehabilitated property is placed in service.
99 Refunds will be paid in equal installments over a two-year period
100 and shall be made from current collections.

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

104 (b) Not-for-profit entities, including, but not limited
105 to, nonprofit corporations organized under Section 79-11-101 et
106 seq. shall be ineligible for the credit authorized by this
107 section. Credits granted to a partnership, a limited liability
108 company taxed as a partnership or multiple owners of property
109 shall be passed through to the partners, members or owners on a
110 pro rata basis or pursuant to an executed agreement among the
111 partners, members or owners documenting an alternative
112 distribution method. Partners, members or other owners of a
113 pass-through entity are not eligible to elect a refund of excess
114 credit in lieu of a carryforward of the credit. However, a
115 partnership or limited liability company taxed as a partnership
116 may elect to claim a refund of excess credit at the entity level
117 on a form prescribed by the Department of Revenue. Additionally,



118 excess tax credits that are attributable to rehabilitated property
119 that was placed in service by a pass-through entity prior to
120 January 1, 2011, and that have previously been allocated to and
121 are held by another pass-through entity prior to January 1, 2011,
122 may be refunded to such other pass-through entity.

123 (5) (a) To claim the credit authorized pursuant to this
124 section, the taxpayer shall apply to the department which shall
125 determine the amount of eligible rehabilitation costs and expenses
126 and whether the rehabilitation is consistent with the standards of
127 the Secretary of the United States Department of the Interior.
128 The department shall issue a certificate evidencing the eligible
129 credit if the taxpayer is found to be eligible for the tax credit.
130 The taxpayer shall attach the certificate to all income tax
131 returns on which the credit is claimed. The department shall not
132 issue certificates evidencing the eligible credit which, when
133 combined with certificates of eligible credits issued prior to
134 July 1, 2016, will result in credits being awarded in excess of
135 Twelve Million Dollars (\$12,000,000.00) in any one (1) state
136 fiscal year.

137 (b) The aggregate amount of tax credits that may be
138 awarded under this section shall not exceed One Hundred Twenty
139 Million Dollars (\$120,000,000.00) and not more than Twelve Million
140 Dollars (\$12,000,000.00) may be awarded in any one (1) state
141 fiscal year. A taxpayer who was issued a certificate evidencing
142 the eligible credit by the department prior to July 1, 2016, but



143 who was unable to be awarded the credit due to the limit on the
144 aggregate amount of credits authorized under this section prior to
145 July 1, 2016:

146 (i) May be awarded the credit so long as the award
147 does not cause the aggregate amount of tax credits awarded to
148 exceed the amounts authorized in this paragraph; and

149 (ii) Shall be given priority for tax credits
150 awarded after July 1, 2016.

151 (6) (a) The credit received by a taxpayer pursuant to this
152 section is subject to recapture if:

153 (i) The property is one that has been determined
154 eligible for the National Register of Historic Places but is not
155 listed on the National Register of Historic Places within thirty
156 (30) months of claiming the credit authorized by this section;

157 (ii) The potential district in which the property
158 is located is not listed on the National Register of Historic
159 Places within thirty (30) months of claiming the credit authorized
160 by this section; or

161 (iii) The rehabilitation of the property for which
162 the credit was granted is abandoned.

163 (b) The taxpayer shall notify the department and the
164 Department of Revenue if any of the situations that subject the
165 credit to recapture occur.

166 (7) (a) The board of trustees of the department shall
167 establish fees to be charged for the services performed by the



168 department under this section and shall publish the fee schedule.
169 The fees contained in the schedule shall be in amounts reasonably
170 calculated to recover the costs incurred by the department for the
171 administration of this section. Any taxpayer desiring to
172 participate in the tax credits authorized by this section shall
173 pay the appropriate fee as contained in the fee schedule to the
174 department, which shall be used by the department, without
175 appropriation, to offset the administrative costs of the
176 department associated with its duties under this section.

177 (b) There is hereby created within the State Treasury a
178 special fund into which shall be deposited all the fees collected
179 by the department pursuant to this section. Money deposited into
180 the fund shall not lapse at the end of any fiscal year and
181 investment earnings on the proceeds in such special fund shall be
182 deposited into such fund. Money from the fund shall be disbursed
183 upon warrants issued by the State Fiscal Officer upon requisitions
184 signed by the executive director of the department to assist the
185 department in carrying out its duties under this section.

186 (8) This section shall only apply to taxpayers:

187 (a) Who have been issued a certificate evidencing the
188 eligible credit before December 31, 2020; or

189 (b) Who, before December 31, 2020, have received a
190 determination in writing from the Mississippi Department of
191 Archives and History, in accordance with the department's Historic
192 Preservation Certificate Application, Part 2, that the



193 rehabilitation is consistent with the historic character of the
194 property and that the property meets the United States Secretary
195 of the Interior's Standards for Rehabilitation, or will meet the
196 standards if certain specified conditions are met, and, who are
197 issued a certificate evidencing the eligible credit on or after
198 December 31, 2020.

199 **SECTION 2.** This act shall take effect and be in force from
200 and after January 1, 2017.

