

By: Representative Sykes

To: Ways and Means

HOUSE BILL NO. 258

1 AN ACT TO CREATE THE MISSISSIPPI AFFORDABLE HOUSING TRUST  
2 FUND; TO PROVIDE THAT MONIES IN THE TRUST FUND SHALL BE MADE  
3 AVAILABLE FOR ASSISTING THE DEVELOPMENT, REHABILITATION AND  
4 PRESERVATION OF AFFORDABLE HOUSING; TO PROVIDE THAT THE TRUST FUND  
5 SHALL BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
6 CREATE THE MISSISSIPPI AFFORDABLE HOUSING TRUST FUND OVERSIGHT  
7 BOARD TO APPROVE RULES AND REGULATIONS PROPOSED BY THE MISSISSIPPI  
8 DEVELOPMENT AUTHORITY, TO OVERSEE THE MANAGEMENT OF MONIES IN THE  
9 TRUST FUND AND TO APPROVE AWARDS OF TRUST FUND MONIES TO  
10 APPLICANTS; TO PROVIDE FOR THE MEMBERSHIP OF THE OVERSIGHT BOARD;  
11 TO AMEND SECTION 75-76-129, MISSISSIPPI CODE OF 1972, TO PROVIDE  
12 THAT A PORTION OF ALL TAXES, FEES, INTEREST, PENALTIES, DAMAGES,  
13 FINES OR OTHER MONIES COLLECTED BY THE DEPARTMENT OF REVENUE UNDER  
14 THE GAMING CONTROL ACT SHALL BE DEPOSITED TO THE CREDIT OF THE  
15 MISSISSIPPI AFFORDABLE HOUSING TRUST FUND; AND FOR RELATED  
16 PURPOSES.

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

18 **SECTION 1.** (1) The Legislature hereby finds and declares  
19 that there exists in the state a need to assist low-income persons  
20 in accessing affordable rental and home ownership housing and to  
21 provide for the development, rehabilitation and preservation of  
22 decent, safe and affordable housing for low-income persons; to  
23 revitalize distressed neighborhoods and build healthy, vibrant  
24 communities; to leverage additional private investment in state  
25 communities and contribute to economic growth through increased



26 housing production, employment and tax revenues. To address these  
27 needs, the purposes of Sections 1 through 9 of this act shall be  
28 the following:

29 (a) To fill the growing gap in the state's ability to  
30 build affordable rental and ownership housing by encouraging the  
31 dedication of permanent public and private revenue sources to fund  
32 additional housing activities.

33 (b) To promote home ownership for low-income persons,  
34 to address homelessness and the prevention of homelessness, and to  
35 produce, rehabilitate and preserve affordable housing throughout  
36 the state.

37 (c) To develop affordable rental housing for low-income  
38 persons, in mixed-income settings and in areas with the greatest  
39 economic opportunities.

40 (d) To promote accessible housing for individuals with  
41 disabilities, homelessness prevention activities, down payment  
42 assistance for low-income home buyers, housing and foreclosure  
43 counseling, technical assistance and capacity building for  
44 nonprofit housing organizations.

45 (2) As used in Sections 1 through 9 of this act:

46 (a) "Trust fund" means the Mississippi Affordable  
47 Housing Trust Fund.

48 (b) "State" means the State of Mississippi.

49 (c) "Low-income individuals and families" means an  
50 individual or family that, at the time of initial occupancy of a



51 unit, has a total annual gross household income at or below eighty  
52 percent (80%) of the area median income, as adjusted for family  
53 size.

54 (d) "Oversight board" means the Mississippi Affordable  
55 Housing Trust Fund Oversight Board created pursuant to Section 4  
56 of this act.

57 (e) "Area median income" means: (i) for a rural area,  
58 the median income for the state, and (ii) for a nonrural area, the  
59 greater of the median income for the state or the median income  
60 for the applicable metropolitan area or county, all as determined  
61 by the United States Department of Housing and Urban Development.

62 (f) "MDA" means the Mississippi Development Authority.

63 (g) "Participating jurisdiction" means a local housing  
64 trust fund in the state that meets the requirements of Section 8  
65 of this act.

66 (h) "Very low-income individuals and families" means an  
67 individual or family that, at the time of initial occupancy of a  
68 unit, has a total annual gross household income at or below fifty  
69 percent (50%) of the area median income, as adjusted for family  
70 size.

71 (i) "Extremely low-income individuals and families"  
72 means an individual or family that, at the time of initial  
73 occupancy of a unit, has a total annual gross household income at  
74 or below thirty percent (30%) of the area median income, as  
75 adjusted for family size.



76 (j) "Rural area" means a county outside of a  
77 Metropolitan Statistical Area as designated by the United States  
78 Office of Management and Budget.

79 (k) "Nonrural area" means a county inside a  
80 Metropolitan Statistical Area as designated by the United States  
81 Office of Management and Budget.

82 (l) "Affordability period" means the period of time  
83 during which a housing project must comply with the rental and  
84 income restrictions set forth pursuant to this act.

85 **SECTION 2.** (1) There is hereby created within the State  
86 Treasury a special fund to be designated the "Mississippi  
87 Affordable Housing Trust Fund" into which shall be deposited funds  
88 required to be deposited in the trust fund pursuant to Section  
89 75-76-129 and monies designated for deposit into the trust fund  
90 from any other source. In addition, there shall be deposited into  
91 the trust fund such amounts as may become available under the  
92 provisions of Sections 1 through 9 of this act, including, but not  
93 limited to:

94 (a) All receipts, including dividends, principal and  
95 interest repayments attributable to any loans or agreements funded  
96 from the trust fund;

97 (b) All proceeds of assets of whatever nature received  
98 by the MDA, and attributable to default with respect to loans or  
99 agreements funded from the trust fund;



100 (c) Any appropriations, grants or gifts of funds or  
101 property, or financial or other aid from any federal or state  
102 agency or body, local government or any other public organization  
103 or private individual made to the trust fund;

104 (d) Any income received as a result of the investment  
105 of monies in the trust fund; and

106 (e) All fees or charges collected pursuant to Sections  
107 1 through 9 of this act.

108 (2) Monies in the trust fund shall be made available for  
109 assisting the development, rehabilitation and preservation of  
110 affordable housing and for other purposes consistent with Sections  
111 1 through 9 of this act. The trust fund shall be administered by  
112 the MDA, subject to oversight by the oversight board.

113 Unexpended amounts remaining in the fund at the end of a  
114 fiscal year shall not lapse, and any investment earnings on  
115 amounts in the fund shall be deposited to the credit of the fund.

116 **SECTION 3.** (1) The MDA shall be responsible for the general  
117 administration of the trust fund, including, but not limited to,  
118 the following duties:

119 (a) Develop rules and regulations in furtherance of the  
120 provisions of Sections 1 through 9 of this act.

121 (b) Marketing the trust fund to eligible applicants.

122 (c) Receiving, reviewing and evaluating proposals for  
123 the use of trust fund monies.



124 (d) Submitting funding recommendations to the oversight  
125 board.

126 (e) Development of annual monitoring reports to ensure  
127 that trust fund monies are expended in a manner consistent with  
128 Sections 1 through 9 of this act.

129 (f) Cause an annual audit of the trust fund in  
130 accordance with GAAP (generally accepted accounting principles) by  
131 an independent auditor, who shall submit such audit to the  
132 oversight board no later than December 31 of the applicable year.

133 **SECTION 4.** (1) There is created the Mississippi Affordable  
134 Housing Trust Fund Oversight Board. The oversight board shall  
135 consist of eleven (11) members appointed with the advice and  
136 consent of the Senate as provided in this section. The Governor  
137 shall appoint (4) members, one (1) member from each congressional  
138 district; the Lieutenant Governor shall appoint four (4) members,  
139 one (1) from each congressional district; and the Attorney General  
140 shall appoint three (3) members, one (1) from each Supreme Court  
141 district. The initial members of the oversight board shall be  
142 appointed to staggered terms as follows:

143 (a) Of the Governor's appointments, one (1) member  
144 shall be appointed for a term of two (2) years, one (1) member  
145 shall be appointed for a term of three (3) years, one (1) member  
146 shall be appointed for a term of four (4) years and one (1) member  
147 shall be appointed for a term of five (5) years.



148 (b) Of the Lieutenant Governor's appointments, one (1)  
149 member shall be appointed for a term of two (2) years, one (1)  
150 member shall be appointed for a term of three (3) years, one (1)  
151 member shall be appointed for a term of four (4) years and one (1)  
152 member shall be appointed for a term of five (5) years.

153 (c) Of the Attorney General's appointments, one (1)  
154 member shall be appointed for a term of two (2) years, one (1)  
155 member shall be appointed for a term of three (3) years and one  
156 (1) member shall be appointed for a term of four (4) years.

157 (2) At the expiration of the terms of the initial members,  
158 all members of the board shall be appointed in the same manner and  
159 from the same districts prescribed in subsection (1) of this  
160 section, for terms of five (5) years from the expiration of the  
161 previous term and thereafter until his or her successor is duly  
162 appointed. Vacancies in office shall be filled by appointment in  
163 the same manner as the appointment to the position that becomes  
164 vacant, subject to the advice and consent of the Senate at the  
165 next regular session of the Legislature. An appointment to fill a  
166 vacancy other than by expiration of a term of office shall be for  
167 the balance of the unexpired term and thereafter until his  
168 successor is duly appointed.

169 (3) Members of the oversight board shall receive no annual  
170 salary but shall be entitled to reimbursement for all actual and  
171 necessary expenses incurred in the discharge of their official  
172 duties, including mileage as authorized by Section 25-3-41.



173           (4) The members of the oversight board shall be chosen  
174 pursuant to the following guidelines:

175           (a) The members of the oversight board should be a  
176 resident of the state, and should reflect the demographics of the  
177 state.

178           (b) Each member shall have a demonstrated interest in  
179 the needs of low-income individuals and families and the  
180 revitalization of distressed neighborhoods.

181           (c) One (1) member shall be from the legal services or  
182 fair housing community.

183           (d) One (1) member shall be a person qualifying as a  
184 low-income individual or family.

185           (e) One (1) member shall be a representative from a  
186 Community Housing Development Organization (as defined by the  
187 United States Department of Housing and Urban Development).

188           (f) One (1) member shall be from a financial  
189 institution that finances affordable housing in distressed  
190 communities, nominated by the Mississippi Bankers' Association.

191           (g) One (1) member shall be from an intermediary  
192 involved in financing or constructing affordable housing in the  
193 state.

194           (h) One (1) member shall be a representative of a  
195 Public Housing Authority.

196           (i) One (1) member shall be a representative from a  
197 community service organization.





198 (j) One (1) member shall be nominated by the Board of  
199 the Mississippi Home Corporation.

200 (k) One (1) member shall be nominated by the Home  
201 Builders Association of Mississippi.

202 (l) One (1) member shall be nominated by the state  
203 chapter of the American Association of Retired Persons.

204 (m) One (1) member shall be nominated by the  
205 Mississippi Coalition of Citizens with Disabilities.

206 (5) The oversight board shall be responsible for the overall  
207 management of the trust fund, including, but not limited to, the  
208 following duties:

209 (a) Approve rules and regulations proposed by the MDA.

210 (b) Oversee the management of monies in the trust fund.

211 (c) Approve awards of trust fund monies to applicants,  
212 based on recommendations of the MDA.

213 (d) Review annual monitoring reports prepared by the  
214 MDA.

215 **SECTION 5.** (1) In furtherance of the purposes described in  
216 Section 1 of this act, the MDA shall administer the trust fund to  
217 provide loans, loan guarantees, loan subsidies, grants or other  
218 comparable forms of assistance to eligible applicants for the  
219 following activities:

220 (a) Housing production (both rental and home  
221 ownership), including, without limitation, new construction,  
222 rehabilitation and adaptive reuse.



223 (b) Acquisition, including, without limitation, land,  
224 single-family residential buildings, multifamily residential  
225 buildings and other existing dwellings that may be used in whole  
226 or in part for residential purposes.

227 (c) Rental assistance payments.

228 (d) Down payment assistance for home ownership.

229 (e) Preservation of existing affordable housing,  
230 including emergency repair.

231 (f) Housing related support services, including home  
232 ownership education and financial counseling, down payment  
233 assistance and foreclosure prevention.

234 (g) Grants or loans to not-for-profit organizations  
235 whose purpose is addressing the affordable housing needs of  
236 low-income individuals or families.

237 (2) Funds in the trust fund account must be used for the  
238 benefit of low-income persons or families. The MDA and oversight  
239 board shall develop and implement rules and regulations that are  
240 consistent with the following annual income targeting goals:

241 (a) At least sixty percent (60%) of the funds in the  
242 trust fund shall benefit very low-income persons and families, and  
243 at least fifty-five percent (55%) of that sixty percent (60%)  
244 shall benefit extremely low-income persons and families.

245 (b) At least fifty-five percent (55%) of the funds in  
246 the trust fund shall benefit rural areas.



247 (c) At least forty percent (40%) of the funds in the  
248 trust fund shall benefit home ownership activities.

249 (d) At least forty percent (40%) of the funds in the  
250 trust fund shall benefit rental activities.

251 (3) (a) All housing projects funded by the trust fund will  
252 be required to meet a minimum applicable affordability period, in  
253 order to ensure that affordable housing in the state is sustained  
254 over the long term. The MDA and oversight board shall develop and  
255 implement rules and regulations that are consistent with the  
256 provisions of this subsection. For rental properties, the MDA and  
257 oversight board shall develop and implement procedures for the  
258 annual verification of rental and income levels of tenants. For  
259 home ownership properties, the MDA and oversight board shall  
260 develop and implement procedures whereby the deed (or other  
261 applicable land title recordation document) contains binding  
262 income level restrictions for applicable home owners.

263 (b) The minimum applicable affordability periods shall  
264 be:

265 (i) Where the average per unit amount of trust  
266 fund monies expended is less than Fifteen Thousand Dollars  
267 (\$15,000.00), the minimum affordability period shall be five (5)  
268 years.

269 (ii) Where the average per unit amount of trust  
270 fund monies expended is equal to or greater than Fifteen Thousand  
271 Dollars (\$15,000.00) but equal to or less than Forty Thousand



272 Dollars (\$40,000.00), the minimum affordability period shall be  
273 ten (10) years.

274 (iii) Where the average per unit amount of trust  
275 fund monies expended is greater than Forty Thousand Dollars  
276 (\$40,000.00), the minimum affordability period shall be fifteen  
277 (15) years.

278 (4) Monies from the trust fund shall be awarded through a  
279 competitive application process administered by the MDA. The  
280 oversight board shall be responsible for the final approval of  
281 applications. Applications shall be scored on a points system,  
282 and evaluated based on criteria established by the MDA and  
283 approved by the oversight board. At a minimum, such criteria must  
284 include (and shall not include any criteria inconsistent with) the  
285 following:

286 (a) The ability of the applicant to timely complete the  
287 proposed construction and/or rehabilitation, determined through  
288 consideration of past history in completing projects of similar  
289 scale and nature.

290 (b) For rental housing, the property management history  
291 of the developer and management agent.

292 (c) The timeliness with which the proposed project will  
293 be placed in service and available for occupancy.

294 (d) The length of the affordability period for the  
295 project beyond the minimum affordability period as set forth in  
296 subsection (3) (b) (iii) of this section, and the strength of the



297 enforcement mechanisms proposed by the applicant to ensure such  
298 long-term affordability.

299 (e) The percentage of units in the proposed project  
300 that shall be made available to extremely low-income families and  
301 individuals.

302 (f) The degree to which trust fund monies are used to  
303 leverage additional funds for the proposed project, and/or the  
304 time frame for repayment of trust fund monies.

305 (g) The extent to which the applicant has addressed or  
306 intends to address community concerns related to the proposed  
307 project as described in any locally adopted plan.

308 (h) For the rehabilitation of existing projects, the  
309 extent to which the applicant attempts to minimize the negative  
310 impacts on existing tenants and community members, particularly  
311 displacement of existing occupants.

312 (i) The extent to which the proposed project serves  
313 occupants with special needs, including, but not limited to,  
314 elderly, disabled, mentally ill or homeless persons.

315 (j) The extent to which the proposed project adheres to  
316 energy-efficiency standards and other "green" housing principles.

317 (k) The extent to which financial and/or home ownership  
318 counseling is provided for occupants.

319 (l) The overall extent to which the proposed project  
320 meets the stated goals of the trust fund.



321           **SECTION 6.** Five percent (5%) of the monies credited each  
322 year to the trust fund account may be used to make capacity  
323 building grants to nonprofit organizations, local government  
324 units, Indian tribes and Indian tribal organizations to expand  
325 their capacity to provide affordable housing and housing-related  
326 services. The grants may be used to assess housing needs and to  
327 develop and implement strategies to meet those needs, including  
328 the creation or preservation of affordable housing, prepurchase  
329 and post-purchase counseling and associated administrative costs,  
330 and the linking of supportive services to the housing. The MDA,  
331 with the approval of the oversight board, shall adopt rules and  
332 regulations specifying the eligible uses of grant money under this  
333 section; however, such rules and regulations shall give funding  
334 priority to those applicants that include low-income individuals  
335 and families in their membership, have provided housing-related  
336 services to low-income individuals and families, and demonstrate a  
337 commitment of local resources, which may include in-kind  
338 contributions.

339           **SECTION 7.** Administrative costs incurred by the oversight  
340 board and MDA in implementing the provisions of Sections 1 through  
341 9 of this act may be paid from the trust fund; however, no more  
342 than five percent (5%) of the monies in the trust fund and in no  
343 event not more than Four Hundred Thousand Dollars (\$400,000.00)  
344 shall be spent on an annual basis for such costs.



345           **SECTION 8.** (1) A participating jurisdiction may be eligible  
346 to receive matching funds from the trust fund, provided that it  
347 meets the requirements of this section.

348           (2) Matching funds from the trust fund shall be available to  
349 a participating jurisdiction if the participating jurisdiction:

350                   (a) Uses such matching funds in compliance with all  
351 applicable trust fund rules and regulations, including, but not  
352 limited to, applicable restrictions on eligible activities and  
353 income targeting; and

354                   (b) Expends Twenty-five Cents (25¢) from the  
355 participating jurisdiction trust fund for every One Dollar (\$1.00)  
356 from the trust fund.

357           (3) Participating jurisdictions may use matching trust fund  
358 proceeds as a source of matching funds for any federal housing  
359 programs, except the HOME Investment Partnership Program.

360           (4) In order to demonstrate compliance with subsection  
361 (2)(b) of this section, a participating jurisdiction may use  
362 sources such as the value of donated land or buildings, the value  
363 of donated infrastructure improvements, cash, tax abatements and  
364 public or private contributions.

365           **SECTION 9.** (1) To the greatest extent possible, the trust  
366 fund shall be implemented and operated in compliance with other  
367 state and federal housing programs and sources of funds,  
368 including, but not limited to, the HOME Investment Partnership  
369 Program, the Community Development Block Grant program, the



370 Low-Income Housing Tax Credit program, United States Department of  
371 Housing and Urban Development programs, and USDA Rural Housing  
372 programs.

373 (2) All housing projects funded in whole or in part with  
374 monies from the trust fund shall comply in all respects with  
375 applicable fair housing laws and regulations.

376 **SECTION 10.** Section 75-76-129, Mississippi Code of 1972, is  
377 amended as follows:

378 \* \* \*

379 **[From and after January 1, 2018, through June 30, 2018, this**  
380 **section shall read as follows:]**

381 75-76-129. On or before the last day of each month all  
382 taxes, fees, interest, penalties, damages, fines or other monies  
383 collected by the Department of Revenue during that month under the  
384 provisions of this chapter, with the exception of (a) the local  
385 government fees imposed under Section 75-76-195, and (b) an amount  
386 equal to Three Million Dollars (\$3,000,000.00) of the revenue  
387 collected pursuant to the fee imposed under Section  
388 75-76-177(1)(c) shall be paid by the Department of Revenue to the  
389 State Treasurer to be deposited in the State General Fund. The  
390 local government fees shall be distributed by the Department of  
391 Revenue pursuant to Section 75-76-197. An amount equal to Three  
392 Million Dollars (\$3,000,000.00) of the revenue collected during  
393 that month pursuant to the fee imposed under Section  
394 75-76-177(1)(c) shall be deposited by the Department of Revenue





395 into the bond sinking fund created in Section 1(3) of Chapter 479,  
396 Laws of 2015.

397 **[From and after July 1, 2018, this section shall read as**  
398 **follows:]**

399 75-76-129. On or before the last day of each month all  
400 taxes, fees, interest, penalties, damages, fines or other monies  
401 collected by the Department of Revenue during that month under the  
402 provisions of this chapter, with the exception of (a) the local  
403 government fees imposed under Section 75-76-195, and (b) an amount  
404 equal to \* \* \* Three Million Five Hundred Thousand Dollars  
405 (\$3,500,000.00) of the revenue collected pursuant to the fee  
406 imposed under Section 75-76-177(1)(c) shall be paid by the  
407 Department of Revenue to the State Treasurer to be deposited in  
408 the State General Fund. The local government fees shall be  
409 distributed by the Department of Revenue pursuant to Section  
410 75-76-197. An amount equal to Three Million Dollars  
411 (\$3,000,000.00) of the revenue collected during that month  
412 pursuant to the fee imposed under Section 75-76-177(1)(c) shall be  
413 deposited by the Department of Revenue into the bond sinking fund  
414 created in Section 1(3) of Chapter 479, Laws of 2015. An amount  
415 equal to Five Hundred Thousand Dollars (\$500,000.00) of the  
416 revenue collected during that month pursuant to the fee imposed  
417 under Section 75-76-177(1)(c) shall be deposited by the Department  
418 of Revenue into the Mississippi Affordable Housing Trust Fund  
419 created in Section 2 of this act.



420           **SECTION 11.** This act shall take effect and be in force from  
421 and after July 1, 2018.

