

By: Representatives Lamar, McGee, Felsher

To: Ways and Means

HOUSE BILL NO. 1296  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,  
2 WHICH AUTHORIZES AN INCOME TAX CREDIT FOR COSTS AND EXPENSES  
3 INCURRED FOR THE REHABILITATION OF CERTAIN HISTORIC STRUCTURES, TO  
4 REMOVE THE PROVISION THAT EXCLUDES SINGLE-FAMILY DWELLINGS FROM  
5 THE DEFINITION OF THE TERM "ELIGIBLE PROPERTY"; TO REVISE THE  
6 PROVISIONS UNDER WHICH A TAXPAYER ELIGIBLE FOR A TAX CREDIT MAY  
7 CLAIM THE TAX CREDIT IN PHASES; TO REMOVE THE OPTION, IN LIEU OF  
8 THE TEN-YEAR CARRYFORWARD, OF A REFUND PAID OVER A TWO-YEAR PERIOD  
9 IN THE AMOUNT OF 75% OF THE EXCESS CREDIT; TO ALLOW THE OPTION, IN  
10 LIEU OF CLAIMING THE CREDIT, OF A REBATE OF 75% OF THE AMOUNT THAT  
11 WOULD BE ELIGIBLE TO CLAIM AS A CREDIT; TO PROVIDE THAT THE REBATE  
12 SHALL BE SUBJECT TO APPROVAL BY THE DEPARTMENT OF ARCHIVES AND  
13 HISTORY AND SHALL BE REDEEMED WITH THE DEPARTMENT OF REVENUE FOR  
14 AN IMMEDIATE CASH PAYMENT; TO PROVIDE THAT THE DEPARTMENT OF  
15 ARCHIVES AND HISTORY SHALL NOT ISSUE CERTIFICATES EVIDENCING THE  
16 ELIGIBLE REBATE OR CREDIT WHICH WILL RESULT IN CREDITS BEING  
17 AWARDED IN EXCESS OF \$12,000,000.00 IN ANY ONE STATE CALENDAR YEAR  
18 FOR PROJECTS WITH TOTAL QUALIFIED REHABILITATION COSTS AND  
19 EXPENSES OF \$1,750,000.00 OR MORE; TO PROVIDE THAT THE DEPARTMENT  
20 OF ARCHIVES AND HISTORY SHALL NOT ISSUE CERTIFICATES EVIDENCING  
21 THE ELIGIBLE REBATE OR CREDIT WHICH WILL RESULT IN CREDITS BEING  
22 AWARDED IN EXCESS OF \$12,000,000.00 IN ANY ONE STATE CALENDAR YEAR  
23 FOR PROJECTS WITH TOTAL QUALIFIED REHABILITATION COSTS AND  
24 EXPENSES OF LESS THAN \$1,750,000.00; TO PROVIDE THAT A TAXPAYER  
25 CLAIMING A CREDIT INSTEAD OF A REBATE SHALL CLAIM THE CREDIT ON  
26 THE INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE CREDIT IS  
27 CERTIFIED; TO PROVIDE THE ORDER IN WHICH A REBATE OR CREDIT SHALL  
28 BE CERTIFIED; AND FOR RELATED PURPOSES.

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

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



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

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

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

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

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

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

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

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

(ii) Has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30)



months of claiming the rebate or credit authorized by this section; or

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

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

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

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

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

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



81           (2) Any taxpayer incurring costs and expenses for the  
82 rehabilitation of eligible property, which is a certified historic  
83 structure or a structure in a certified historic district, shall  
84 be entitled to a rebate or credit against the taxes imposed  
85 pursuant to this chapter in an amount equal to twenty-five percent  
86 (25%) of the total costs and expenses of rehabilitation incurred  
87 after January 1, 2006, which shall include, but not be limited to,  
88 qualified rehabilitation expenditures as defined under Section  
89 47(c) (2) (A) of the Internal Revenue Code of 1986, as amended, and  
90 the related regulations thereunder:

91           (a) If the costs and expenses associated with  
92 rehabilitation exceed:

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

95                   (ii) Fifty percent (50%) of the \* \* \* adjusted  
96 basis in the property in the case of all other properties; and

97           (b) The rehabilitation is consistent with the standards  
98 of the Secretary of the United States Department of the Interior  
99 as determined by the department.

100          (3) Any taxpayer eligible for the rebate or credit  
101 authorized by this section may claim the rebate or credit in  
102 phases if:

103           (a) There is a written set of architectural plans and  
104 specifications for all phases of the rehabilitation (written plans



105 outlining and describing all phases of the rehabilitation shall be  
106 accepted as written plans and specifications);

107 (b) The written set of architectural plans and  
108 specifications are completed before the physical work on the  
109 rehabilitation begins; and

110 (c) \* \* \* The project receives final certification by  
111 the department within sixty (60) months of the project start date  
112 certified in the first phase.

113 (4) (a) (i) If the amount of the tax credit established by  
114 this section exceeds the total state income tax liability for the  
115 credit year \* \* \*, the amount that exceeds the total state income  
116 tax liability may be carried forward for the ten (10) succeeding  
117 tax years.

118 (ii) In lieu of claiming a tax credit, the  
119 taxpayer may elect to claim a \* \* \* rebate in the amount of  
120 seventy-five percent (75%) of the \* \* \* amount that would be  
121 eligible to claim as a credit. The election must be made in the  
122 year in which the \* \* \* rebate is certified. \* \* \*

123 (iii) \* \* \* Rebate requests shall be submitted to  
124 the department \* \* \* on forms prescribed by the department. The  
125 department will then provide the taxpayer with a voucher for the  
126 approved amount. Within twelve (12) months of the issuance of the  
127 voucher by the department, the taxpayer may submit the voucher to  
128 the Department of Revenue to receive payment. \* \* \* Rebates shall  
129 be made from current tax collections.



(b) Not-for-profit entities, including, but not limited to, nonprofit corporations organized under Section 79-11-101 et seq., shall be ineligible for the rebate or credit authorized by this section. Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners on a pro rata basis or pursuant to an executed agreement among the partners, members or owners documenting an alternative distribution method. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a \* \* \* rebate at the entity level on a form prescribed by the department \* \* \*. Additionally, excess tax credits that are attributable to rehabilitated property that was placed in service by a pass-through entity prior to January 1, 2011, and that have previously been allocated to and are held by another pass-through entity prior to January 1, 2011, may be refunded to such other pass-through entity.

(5) (a) (i) To claim the rebate or credit authorized pursuant to this section, the taxpayer shall apply to the department which shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior. The department shall issue a



certificate evidencing the date of the rebate or credit and amount  
of eligible rebate or credit if the taxpayer is found to be  
eligible for the tax rebate or credit. The taxpayer shall attach  
the certificate to all income tax returns on which the credit is  
claimed. Except as otherwise provided in this paragraph (a), the  
department shall not issue certificates evidencing the eligible  
rebate or credit which \* \* \* will result in rebates or credits  
being awarded in excess of Twelve Million Dollars (\$12,000,000.00)  
in any one (1) \* \* \* calendar year for projects with total  
qualified rehabilitation costs and expenses of One Million Seven  
Hundred Fifty Thousand Dollars (\$1,750,000.00) or more. The  
department shall also not issue certificates evidencing the  
eligible rebate or credit which will result in rebates or credits  
being awarded in excess of Twelve Million Dollars (\$12,000,000.00)  
in any one (1) calendar year for projects with total qualified  
rehabilitation costs and expenses of less than One Million Seven  
Hundred Fifty Thousand Dollars (\$1,750,000.00).

(ii) If claiming a credit instead of a rebate, the  
taxpayer shall claim such credit on the income tax return for the  
tax year for which the credit is certified.

(b) The date of the rebate or credit shall be certified  
in the following order:

(i) The rebate or credit shall be certified based  
on the date of project completion.



(ii) If the eligible rebate or credit exceeds the available limit in the year in which the project is completed, the rebate or credit shall be certified based on the date the certification is issued by the department. The department shall issue the certification in the first calendar year in which the requested rebate or credit would not exceed the calendar year limit.

( \* \* \* c) The aggregate amount of tax rebates or credits that may be awarded under this section shall not exceed One Hundred Eighty Million Dollars (\$180,000,000.00). \* \* \*

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

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

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

(iii) \* \* \* The project has not received final certification by the department within sixty (60) months of the project start date certified in the first phase.





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

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

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

(8) This section shall only apply to taxpayers:



227 (a) Who have been issued a certificate evidencing the  
228 eligible credit before December 31, 2030; or

229 (b) Who, before December 31, 2030, have received a  
230 determination in writing from the Mississippi Department of  
231 Archives and History, in accordance with the department's Historic  
232 Preservation Certificate Application, Part 2, that the  
233 rehabilitation is consistent with the historic character of the  
234 property and that the property meets the United States Secretary  
235 of the Interior's Standards for Rehabilitation, or will meet the  
236 standards if certain specified conditions are met, and, who are  
237 issued a certificate evidencing the eligible credit on or after  
238 December 31, 2030.

239 **SECTION 2.** This act shall take effect and be in force from  
240 and after January 1, 2021.

