

Senate Amendments to House Bill No. 1296

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

21 27-7-22.31. (1) As used in this section:

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

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

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

30 (iii) Property designated a Mississippi Landmark
31 by the Department of Archives and History pursuant to Section
32 39-7-3 et seq.

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

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

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

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

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

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

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

59 2. A potential district that has been
60 determined eligible for the National Register of Historic Places
61 by the Secretary of the United States Department of the Interior

62 and will be listed within thirty (30) months of claiming the
63 credit authorized by this section; or

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

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

68 (2) Any taxpayer incurring costs and expenses for the
69 rehabilitation of eligible property, which is a certified historic
70 structure or a structure in a certified historic district, shall
71 be entitled to a credit against the taxes imposed pursuant to this
72 chapter in an amount equal to twenty-five percent (25%) of the
73 total costs and expenses of rehabilitation incurred after January
74 1, 2006, which shall include, but not be limited to, qualified
75 rehabilitation expenditures as defined under Section 47(c)(2)(A)
76 of the Internal Revenue Code of 1986, as amended, and the related
77 regulations thereunder:

78 (a) If the costs and expenses associated with
79 rehabilitation exceed:

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

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

84 (b) The rehabilitation is consistent with the standards
85 of the Secretary of the United States Department of the Interior
86 as determined by the department.

87 (3) Any taxpayer eligible for the credit authorized by this
88 section may claim the credit in phases if:

89 (a) There is a written set of architectural plans and
90 specifications for all phases of the rehabilitation (written plans
91 outlining and describing all phases of the rehabilitation shall be
92 accepted as written plans and specifications);

93 (b) The written set of architectural plans and
94 specifications are completed before the physical work on the
95 rehabilitation begins; and

96 (c) * * * The project receives final certification by
97 the department within sixty (60) months of the project start date
98 certified in the first phase.

99 (4) (a) (i) If the amount of the tax credit established by
100 this section exceeds the total state income tax liability for the
101 credit year * * *, the amount that exceeds the total state income
102 tax liability may be carried forward for the ten (10) succeeding
103 tax years. In addition, a taxpayer may sell or transfer the
104 excess portion of the tax credit to any taxpayer having a
105 liability for taxes under this chapter. A tax credit may not be
106 sold or transferred more than one (1) time, subject to guidelines
107 established by the Department of Revenue. The buyer or transferee
108 of a tax credit may use the acquired credit in the same manner and
109 to the same extent as the seller or transferor of the credit;
110 however, the sale or transfer of a credit will not extend the
111 length of time that the credit may be carried forward. In order
112 to sell or transfer a tax credit, the seller or transferor shall

113 notify the department and the Department of Revenue in writing
114 within thirty (30) days after the date of the sale or transfer.

115 The notice shall include:

116 1. The seller's or transferor's tax credit
117 balance before the sale or transfer of the credit;

118 2. The tax credit identification number
119 assigned by the department;

120 3. The unused portion of the credit remaining
121 after the sale or transfer;

122 4. All federal and state tax identification
123 numbers for both the seller or transferor and the buyer or
124 transferee;

125 5. The date of the sale or transfer;

126 6. The amount of the credit sold or
127 transferred; and

128 7. Any other information required by the
129 department or the Department of Revenue.

130 Failure by the seller or transferor to comply with the notice
131 requirements of this subparagraph (i) shall void the sale or
132 transfer.

133 (ii) The taxpayer may elect to claim a refund in
134 the amount of seventy-five percent (75%) of the excess credit in
135 lieu of the ten-year carryforward and the sale or transfer of the
136 credit. The election must be made in the year in which the * * *
137 credit is certified. Refunds will be paid in equal installments
138 over a two-year period and shall be made from current collections.

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

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

161 (5) (a) (i) To claim the credit authorized pursuant to
162 this section, the taxpayer shall apply to the department which
163 shall determine the amount of eligible rehabilitation costs and
164 expenses and whether the rehabilitation is consistent with the

165 standards of the Secretary of the United States Department of the
166 Interior. The department shall issue a certificate evidencing the
167 date of the credit and amount of eligible credit if the taxpayer
168 is found to be eligible for the tax credit. The taxpayer shall
169 attach the certificate to all income tax returns on which the
170 credit is claimed. Except as otherwise provided in this paragraph
171 (a), the department shall not issue certificates evidencing the
172 eligible credit which * * * will result in credits being awarded
173 in excess of Twelve Million Dollars (\$12,000,000.00) in any one
174 (1) * * * calendar year. However, the credit for any project with
175 total qualified rehabilitation costs and expenses of less than
176 Three Million Dollars (\$3,000,000.00) shall not count against such
177 Twelve Million Dollars (\$12,000,000.00) limit.

178 (ii) The taxpayer shall claim the credit on the
179 income tax return for the tax year for which the credit is
180 certified. The date of the credit shall be certified in the
181 following order:

182 1. The credit shall be certified based on the
183 date of project completion.

184 2. If the eligible credit exceeds the
185 available credit in the year in which the project is completed,
186 the credit shall be certified based on the date the certification
187 is issued by the department. The department shall issue the
188 certification in the first calendar year in which the requested
189 credit would not exceed the calendar year credit limit.

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

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

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

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

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

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

209 (7) (a) The board of trustees of the department shall
210 establish fees to be charged for the services performed by the
211 department under this section and shall publish the fee schedule.
212 The fees contained in the schedule shall be in amounts reasonably
213 calculated to recover the costs incurred by the department for the
214 administration of this section. Any taxpayer desiring to
215 participate in the tax credits authorized by this section shall

216 pay the appropriate fee as contained in the fee schedule to the
217 department, which shall be used by the department, without
218 appropriation, to offset the administrative costs of the
219 department associated with its duties under this section.

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

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

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

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

242 **SECTION 2.** This act shall take effect and be in force from
243 and after January 1, 2021, and shall stand repealed on December
244 31, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 AUTHORIZE THE SALE OR TRANSFER
8 OF SUCH INCOME TAX CREDITS; TO PROVIDE THAT CREDIT FOR A PROJECT
9 WITH TOTAL QUALIFIED REHABILITATION COSTS AND EXPENSES OF LESS
10 THAN \$3,000,000.00 SHALL NOT COUNT FOR PURPOSES OF THE PROHIBITION
11 AGAINST THE DEPARTMENT OF ARCHIVES AND HISTORY ISSUING
12 CERTIFICATES EVIDENCING THE ELIGIBLE CREDIT WHICH WILL RESULT IN
13 CREDITS BEING AWARDED IN EXCESS OF \$12,000,000.00 IN ANY ONE STATE
14 CALENDAR YEAR; TO PROVIDE THAT A TAXPAYER SHALL CLAIM THE TAX
15 CREDIT ON THE INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE
16 CREDIT IS CERTIFIED AND TO PROVIDE THE ORDER IN WHICH A TAX CREDIT
17 SHALL BE CERTIFIED; AND FOR RELATED PURPOSES.

SS26\HB1296A.J

Eugene S. Clarke
Secretary of the Senate