

**Adopted**  
**COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1296**

**BY: Committee**

**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



Department of the Interior and will be listed within thirty (30) months of claiming the 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 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 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 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.

(2) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or a structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to this chapter in an amount equal to twenty-five percent (25%) of the total costs and expenses of rehabilitation incurred after January 1, 2006, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under Section 47(c) (2) (A)



of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder:

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

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

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

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

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

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

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

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

(4) (a) (i) If the amount of the tax credit established by 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



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 refund of excess credit at the entity level on a form prescribed by the Department of Revenue. 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 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 credit and amount of eligible credit if the taxpayer is found to be eligible for the tax 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 credit which \* \* \* will result in credits being awarded in excess of Twelve Million Dollars (\$12,000,000.00) in any one (1) \* \* \* calendar year. However, the credit for any project with total qualified rehabilitation costs and expenses of less than



Three Million Dollars (\$3,000,000.00) shall not count against such  
Twelve Million Dollars (\$12,000,000.00) limit.

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

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

2. If the eligible credit exceeds the  
available credit in the year in which the project is completed,  
the 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  
credit would not exceed the calendar year credit limit.

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

(6) (a) The 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 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 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:

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

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

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

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

AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES AN INCOME TAX CREDIT FOR COSTS AND EXPENSES INCURRED FOR THE REHABILITATION OF CERTAIN HISTORIC STRUCTURES, TO REMOVE THE PROVISION THAT EXCLUDES SINGLE-FAMILY DWELLINGS FROM THE DEFINITION OF THE TERM "ELIGIBLE PROPERTY"; TO REVISE THE 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.

