

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 2481

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,
 2 TO ALLOW A TAXPAYER TO ELECT A REBATE IN PLACE OF THE HISTORIC
 3 PROPERTY INCOME TAX CREDIT AT ANY TIME AFTER CERTIFICATION OF THE
 4 CREDIT; TO PROVIDE THAT, IF THE TAXPAYER HAS PREVIOUSLY UTILIZED A
 5 CREDIT ON THE INCOME TAX RETURN, THEN THE AVAILABLE REBATE WILL BE
 6 REDUCED BY THE AMOUNT OF CREDIT; AND FOR 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 rebate or credit authorized by this
 19 section; or



20 (iii) Property designated a Mississippi Landmark
21 by the Department of Archives and History pursuant to Section
22 39-7-3 et seq.

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

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 rebate or credit authorized by this
35 section; or

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



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

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

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

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

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

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



69 (a) If the costs and expenses associated with
70 rehabilitation exceed:
71 (i) Five Thousand Dollars (\$5,000.00) in the case
72 of an owner-occupied dwelling; or
73 (ii) Fifty percent (50%) of the adjusted basis in
74 the property in the case of all other properties; and
75 (b) The rehabilitation is consistent with the standards
76 of the Secretary of the United States Department of the Interior
77 as determined by the department.
78 (3) Any taxpayer eligible for the rebate or credit
79 authorized by this section may claim the rebate or credit in
80 phases if:
81 (a) There is a written set of architectural plans and
82 specifications for all phases of the rehabilitation (written plans
83 outlining and describing all phases of the rehabilitation shall be
84 accepted as written plans and specifications);
85 (b) The written set of architectural plans and
86 specifications are completed before the physical work on the
87 rehabilitation begins; and
88 (c) The project receives final certification by the
89 department within sixty (60) months of the project start date
90 certified in the first phase.
91 (4) (a) (i) If the amount of the tax credit established by
92 this section exceeds the total state income tax liability for the
93 credit year, the amount that exceeds the total state income tax



94 liability may be carried forward for the ten (10) succeeding tax
95 years.

96 (ii) In lieu of claiming a tax credit, the
97 taxpayer may elect to claim a rebate in the amount of seventy-five
98 percent (75%) of the amount that would be eligible to claim as a
99 credit. * * * The election may be made at any time after the
100 certification. If the taxpayer has previously utilized a credit
101 on the income tax return, then the available rebate will be
102 reduced by the amount of credit.

103 (iii) Rebate requests shall be submitted to the
104 department on forms prescribed by the department. The department
105 will then provide the taxpayer with a voucher for the approved
106 amount. Within twelve (12) months of the issuance of the voucher
107 by the department, the taxpayer may submit the voucher to the
108 Department of Revenue to receive payment. Rebates shall be made
109 from current tax collections.

110 (b) Not-for-profit entities, including, but not limited
111 to, nonprofit corporations organized under Section 79-11-101 et
112 seq., shall be ineligible for the rebate or credit authorized by
113 this section. Credits granted to a partnership, a limited
114 liability company taxed as a partnership or multiple owners of
115 property shall be passed through to the partners, members or
116 owners on a pro rata basis or pursuant to an executed agreement
117 among the partners, members or owners documenting an alternative
118 distribution method. Partners, members or other owners of a



119 pass-through entity are not eligible to elect a refund of excess
120 credit in lieu of a carryforward of the credit. However, a
121 partnership or limited liability company taxed as a partnership
122 may elect to claim a rebate at the entity level on a form
123 prescribed by the department. Additionally, excess tax credits
124 that are attributable to rehabilitated property that was placed in
125 service by a pass-through entity prior to January 1, 2011, and
126 that have previously been allocated to and are held by another
127 pass-through entity prior to January 1, 2011, may be refunded to
128 such other pass-through entity.

129 (5) (a) (i) To claim the rebate or credit authorized
130 pursuant to this section, the taxpayer shall apply to the
131 department which shall determine the amount of eligible
132 rehabilitation costs and expenses and whether the rehabilitation
133 is consistent with the standards of the Secretary of the United
134 States Department of the Interior. The department shall issue a
135 certificate evidencing the date of the rebate or credit and amount
136 of eligible rebate or credit if the taxpayer is found to be
137 eligible for the tax rebate or credit. The taxpayer shall attach
138 the certificate to all income tax returns on which the credit is
139 claimed. Except as otherwise provided in this paragraph (a), the
140 department shall not issue certificates evidencing the eligible
141 rebate or credit which will result in rebates or credits being
142 awarded in excess of Twelve Million Dollars (\$12,000,000.00) in
143 any one (1) calendar year for projects with total qualified



144 rehabilitation costs and expenses of One Million Seven Hundred
145 Fifty Thousand Dollars (\$1,750,000.00) or more. The department
146 shall also not issue certificates evidencing the eligible rebate
147 or credit which will result in rebates or credits being awarded in
148 excess of Twelve Million Dollars (\$12,000,000.00) in any one (1)
149 calendar year for projects with total qualified rehabilitation
150 costs and expenses of less than One Million Seven Hundred Fifty
151 Thousand Dollars (\$1,750,000.00).

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

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

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

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

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



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

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

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

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

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

186 (7) (a) The board of trustees of the department shall
187 establish fees to be charged for the services performed by the
188 department under this section and shall publish the fee schedule.
189 The fees contained in the schedule shall be in amounts reasonably
190 calculated to recover the costs incurred by the department for the
191 administration of this section. Any taxpayer desiring to
192 participate in the tax credits authorized by this section shall
193 pay the appropriate fee as contained in the fee schedule to the



194 department, which shall be used by the department, without
195 appropriation, to offset the administrative costs of the
196 department associated with its duties under this section.

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

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

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

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



219 **SECTION 2.** This act shall take effect and be in force from
220 and after July 1, 2023.

