

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1939

1 AN ACT TO PROVIDE THAT THE DEPARTMENT OF FINANCE AND
 2 ADMINISTRATION SHALL ESTABLISH A PROGRAM TO PROVIDE AN INCOME TAX
 3 CREDIT FOR TAXPAYERS WHO DEVELOP PROPERTY USED OR FORMERLY USED
 4 FOR COMMERCIAL PURPOSES IN THE CAPITOL COMPLEX IMPROVEMENT
 5 DISTRICT FOR THE PURPOSE OF CONVERTING THE PROPERTY TO RESIDENTIAL
 6 USE; TO PROVIDE AN APPLICATION PROCESS FOR TAXPAYERS WHO DESIRE TO
 7 PARTICIPATE IN THE TAX CREDIT PROGRAM; TO AUTHORIZE A REFUNDABLE
 8 INCOME TAX CREDIT FOR TAXPAYERS WHO INCUR COSTS FOR THE
 9 DEVELOPMENT OF PROPERTY AS PROVIDED IN THIS ACT; TO PROVIDE FOR
 10 THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT IF THE AMOUNT OF THE
 11 TAX CREDIT CLAIMED BY A TAXPAYER EXCEEDS THE AMOUNT OF INCOME TAX
 12 LIABILITY OF THE TAXPAYER FOR A TAXABLE YEAR, THE TAXPAYER SHALL
 13 BE ELIGIBLE TO RECEIVE A REFUND FROM THE DEPARTMENT OF REVENUE FOR
 14 THE AMOUNT OF SUCH EXCESS; TO PROVIDE THAT IN LIEU OF RECEIVING
 15 SUCH A REFUND, A TAXPAYER MAY SELL OR TRANSFER THE EXCESS PORTION
 16 OF THE TAX CREDIT TO ANY TAXPAYER HAVING A LIABILITY FOR INCOME
 17 TAXES; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) As used in this section, the following words
 20 and phrases shall have the meanings ascribed herein unless the
 21 context clearly requires otherwise:

22 (a) "Development" means construction, repair,
 23 renovation, operation and/or maintenance of eligible property such
 24 as buildings and other facilities, and/or procuring the



25 construction, repair, renovation, operation and/or maintenance of
26 eligible property such as buildings and other facilities.

27 (b) "District" means the Capitol Complex Improvement
28 District created in Section 29-5-203, Mississippi Code of 1972.

29 (c) "Eligible property" means property used or formerly
30 used for commercial purposes as of the date of an application
31 submitted under subsection (2) of this section and located within
32 the district.

33 (2) (a) The Department of Finance and Administration shall
34 establish a program to provide a tax credit for taxpayers who
35 develop eligible property for the purpose of converting the
36 property to residential use.

37 (b) A person or other entity desiring to participate in
38 the tax credit program established under this section must submit
39 an application to the Department of Finance and Administration.
40 The application must contain a development plan that provides:

41 (i) A description of:

42 1. The property to be developed,

43 2. The purpose or purposes for which the
44 property is or was formerly being used at the time the application
45 is submitted, and

46 3. The type of work the applicant will
47 perform as part of development of the property and the purpose or
48 purposes for which the property will be placed into use after
49 development; and



50 (ii) Any other information requested by the
51 Department of Finance and Administration.

52 (c) The Department of Finance and Administration shall
53 review such application and determine whether the applicant is
54 eligible to participate in the tax credit program. If the
55 Department of Finance and Administration approves the applicant
56 for participation in the program, it shall issue a certificate of
57 participation to the applicant designating the applicant as
58 eligible to participate in the program.

59 (3) A taxpayer who incurs costs for the development of
60 eligible property for the purpose of converting the property to
61 residential use shall be allowed a credit against the taxes
62 imposed under this chapter. The credit shall be for an amount
63 equal to twenty-five percent (25%) of the incurred costs for
64 development of the eligible property. If the amount of the credit
65 claimed by a taxpayer exceeds the amount of tax imposed upon the
66 taxpayer for the taxable year reduced by the sum of all other
67 credits allowable to the taxpayer under this chapter, except
68 credit for tax payments made by or on behalf of the taxpayer, then
69 the taxpayer shall be eligible to receive a refund from the
70 department for the amount of such excess. In addition, in lieu of
71 receiving a refund for the amount of such excess tax credit, a
72 taxpayer may sell or transfer the excess portion of the tax credit
73 to any taxpayer having a liability for taxes under this chapter.
74 A tax credit may not be sold or transferred more than one (1)



75 time, subject to guidelines established by the department. The
76 buyer or transferee of a tax credit may use the acquired credit in
77 the same manner and to the same extent as the seller or transferor
78 of the credit; however, the sale or transfer of a credit will not
79 extend the length of time that the credit may be carried forward.
80 In order to sell or transfer a tax credit, the seller or
81 transferor shall notify the department in writing within thirty
82 (30) days after the date of the sale or transfer. The notice
83 shall include:

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

86 2. The tax credit identification number
87 assigned by the department;

88 3. The unused portion of the tax credit
89 remaining after the sale or transfer;

90 4. All federal and state tax identification
91 numbers for both the seller or transferor and the buyer or
92 transferee;

93 5. The date of the sale or transfer;

94 6. The amount of the tax credit sold or
95 transferred; and

96 7. Any other information required by the
97 department.



98 Failure by the seller or transferor to comply with the notice
99 requirements of this subsection (3) shall void the sale or
100 transfer.

101 (4) A taxpayer shall apply for credits under this section
102 with the department on forms prescribed by the department. In the
103 application the taxpayer shall provide a copy of the certificate
104 of participation issued by the Department of Finance and
105 Administration and certify to the department the dollar amount of
106 the costs for development incurred or to be incurred during the
107 calendar year and that the eligible property for which the costs
108 were incurred or will be incurred has been developed or is being
109 developed for the purpose of converting the property to
110 residential use. Within thirty (30) days after the receipt of an
111 application, the department shall allocate credits based on the
112 dollar amount of costs for development as certified in the
113 application. However, if the department cannot allocate the full
114 amount of credits certified in the application due to the limit on
115 the aggregate amount of credits that may be awarded under this
116 section in a calendar year, the department shall so notify the
117 applicant within thirty (30) days with the amount of credits, if
118 any, that may be allocated to the applicant in the calendar year.
119 Once the department has allocated credits to a taxpayer, if the
120 costs for development for which a credit is allocated have not
121 been incurred as of the date of the allocation, then the costs
122 must be incurred not later than sixty (60) days from the date of



123 the allocation. If the costs for development are not incurred
124 within such time period, the allocation shall be cancelled and
125 returned to the department for reallocation. Upon final
126 documentation of the costs for development, if the actual dollar
127 amount of the incurred costs for development is lower than the
128 amount estimated, the department shall adjust the tax credit
129 allowed under this section.

130 (5) The aggregate amount of tax credits that may be
131 allocated by the department under this section during a calendar
132 year shall not exceed Five Million Dollars (\$5,000,000.00).

133 **SECTION 2.** Section 1 of this act shall be codified as a new
134 section in Chapter 7, Title 27, Mississippi Code of 1972.

135 **SECTION 3.** Nothing in this act shall affect or defeat any
136 claim, assessment, appeal, suit, right or cause of action for
137 taxes due or accrued under the income tax laws before the date on
138 which this act becomes effective, whether such claims,
139 assessments, appeals, suits or actions have been begun before the
140 date on which this act becomes effective or are begun thereafter;
141 and the provisions of the income tax laws are expressly continued
142 in full force, effect and operation for the purpose of the
143 assessment, collection and enrollment of liens for any taxes due
144 or accrued and the execution of any warrant under such laws before
145 the date on which this act becomes effective, and for the
146 imposition of any penalties, forfeitures or claims for failure to
147 comply with such laws.



148 **SECTION 4.** This act shall take effect and be in force from
149 and after January 1, 2024.

