

By: Representatives Watson, Clarke

To: Ways and Means

HOUSE BILL NO. 1630

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS WHO
2 INCUR COSTS AND EXPENSES FOR THE REHABILITATION OF ELIGIBLE
3 PROPERTY WHICH IS A CERTIFIED HISTORIC STRUCTURE OR A STRUCTURE IN
4 A CERTIFIED HISTORIC DISTRICT IN AN AMOUNT EQUAL TO 25% OF THE
5 TOTAL COSTS AND EXPENSES OF REHABILITATION INCURRED, IF THE COSTS
6 AND EXPENSES ASSOCIATED WITH REHABILITATION EXCEED \$5,000.00 IN
7 THE CASE OF AN OWNER-OCCUPIED DWELLING AND 50% OF THE TOTAL BASIS
8 IN THE PROPERTY IN THE CASE OF ALL OTHER PROPERTY, IF THE
9 REHABILITATION IS CONSISTENT WITH THE STANDARDS OF THE SECRETARY
10 OF THE UNITED STATES DEPARTMENT OF THE INTERIOR AS DETERMINED BY
11 THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY; TO PROVIDE
12 THAT IF THE AMOUNT OF THE TAX CREDIT EXCEEDS THE TOTAL STATE
13 INCOME TAX LIABILITY FOR THE YEAR IN WHICH THE REHABILITATED
14 PROPERTY IS PLACED IN SERVICE, THE AMOUNT THAT EXCEEDS THE TOTAL
15 STATE INCOME TAX LIABILITY MAY BE CARRIED FORWARD FOR THE 10
16 SUCCEEDING TAX YEARS; TO PROVIDE THE MANNER IN WHICH SUCH CREDIT
17 MAY BE CLAIMED; TO REQUIRE THE DEPARTMENT OF ARCHIVES AND HISTORY
18 TO DETERMINE THE AMOUNT OF THE ELIGIBLE TAX CREDIT; TO AUTHORIZE
19 THE DEPARTMENT OF ARCHIVES AND HISTORY TO IMPOSE A FEE ON PERSONS
20 WHO APPLY FOR THE CREDIT TO PAY THE COSTS THE DEPARTMENT INCURS IN
21 ADMINISTERING THIS ACT; TO PROVIDE FOR A DECEMBER 31, 2011, REPEAL
22 DATE ON THE INCOME TAX CREDIT AUTHORIZED UNDER THIS ACT; TO AMEND
23 SECTION 27-104-27, MISSISSIPPI CODE OF 1972, IN CONFORMITY
24 THERETO; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** (1) As used in this section:

27 (a) "Certified historic structure" means a property
28 located in Mississippi and listed individually on the National
29 Register of Historic Places or property that has been designated a
30 Mississippi Landmark by the Department of Archives and History
31 pursuant to Section 39-7-3 et seq.

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

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

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

(ii) Is located in a registered historic district listed on the National Register of Historic Places and is certified by the Secretary of the United States Department of the Interior as being of historic significance to the district; or

(iii) Certified by the Mississippi Department of Archives and History as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places or 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 total 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.

70 (3) (a) If the amount of the tax credit established by this
71 section exceeds the total state income tax liability for the year
72 in which the rehabilitated property is placed in service, the
73 amount that exceeds the total state income tax liability may be
74 carried forward for the ten (10) succeeding tax years.

75 (b) Not-for-profit entities, including, but not limited
76 to, nonprofit corporations organized under Section 79-11-101 et
77 seq. shall be ineligible for the credit authorized by this
78 section. Credits granted to a partnership, a limited liability
79 company taxed as a partnership or multiple owners of property
80 shall be passed through to the partners, members or owners on a
81 pro rata basis or pursuant to an executed agreement among the
82 partners, members or owners documenting an alternative
83 distribution method.

84 (4) To claim the credit authorized pursuant to this section,
85 the taxpayer shall apply to the department which shall determine
86 the amount of eligible rehabilitation costs and expenses and
87 whether the rehabilitation is consistent with the standards of the
88 Secretary of the United States Department of the Interior. The
89 department shall issue a certificate evidencing the eligible
90 credit if the taxpayer is found to be eligible for the tax credit.
91 The taxpayer shall attach the certificate to all income tax
92 returns on which the credit is claimed.

93 (5) (a) The board of trustees of the department shall
94 establish fees to be charged for the services performed by the
95 department under this section and shall publish the fee schedule.
96 The fees contained in the schedule shall be in amounts reasonably
97 calculated to recover the costs incurred by the department for the
98 administration of this section. Any taxpayer desiring to
99 participate in the tax credits authorized by this section shall
100 pay the appropriate fee as contained in the fee schedule to the
101 department, which shall be used by the department, without

102 appropriation, to offset the administrative costs of the
103 department associated with its duties under this section.

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

113 (6) This section shall stand repealed on December 31, 2011.

114 **SECTION 2.** Section 27-104-27, Mississippi Code of 1972, is
115 amended as follows:

116 27-104-27. Notwithstanding anything in Sections 27-103-101
117 through 27-103-139 and 27-104-1 through 27-104-29 contained, the
118 same shall not be construed to apply to any agency supported
119 wholly by funds granted or allotted under any act of Congress.
120 The State Auditor of Public Accounts and after July 1, 1986, the
121 State Fiscal Officer shall determine which special fund accounts
122 in the State Treasury require an appropriation act and request an
123 appropriation for such special fund accounts. For all other
124 special fund accounts, the State Auditor of Public Accounts, or
125 the State Fiscal Officer after July 1, 1986, shall certify that
126 such accounts do not require an appropriation. The Legislative
127 Budget Office shall recommend an appropriation for each special
128 fund account existing in the State Treasury so certified as
129 requiring an appropriation, unless exempted as hereinafter
130 provided. In the event the Legislative Budget Committee and the
131 State Fiscal Officer find that any state agency should not be
132 included under the provisions of Sections 27-103-101 through
133 27-103-139 and 27-104-1 through 27-104-29, then the said committee
134 and officer may, in their discretion, exempt said state agency

from the provisions thereof. Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-29 shall not apply to funds collected and disbursed by a state agency created and existing under the provisions of Sections 73-3-101 through 73-3-169. Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-29 shall not apply to funds deposited into the special fund created pursuant to Section 45-9-101, the special fund created pursuant to Section 69-37-39, the special fund created pursuant to Section 1 of Chapter 521, Laws of 1999, the special fund created pursuant to Section 31-17-127, the special fund created pursuant to Section 65-1-110 or the special fund created pursuant to Section 1 of House Bill No. 1630, 2006 Regular Session.

The State Fiscal Officer shall not promulgate or attempt to enforce any rule, order or regulation which is not in accordance with the provisions of a legally executed trust indenture agreement, nor shall Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-29 be construed to apply to funds collected and disbursed by a state agency under Sections 65-33-45 and 65-33-47.

SECTION 3. This act shall take effect and be in force from and after January 1, 2006.