

By: Representatives Watson, Brown, Guice

To: Ways and Means

HOUSE BILL NO. 1727

1 AN ACT TO PROVIDE FOR AN INCOME TAX AND INSURANCE PREMIUM TAX
2 CREDIT FOR TAXPAYERS THAT PAY A QUALIFIED COMMUNITY DEVELOPMENT
3 ENTITY FOR QUALIFIED EQUITY INVESTMENTS; TO PROVIDE THAT THE
4 AMOUNT OF THE CREDIT SHALL BE EQUAL TO A CERTAIN PERCENTAGE OF THE
5 ADJUSTED PURCHASE PRICE PAID TO THE QUALIFIED COMMUNITY
6 DEVELOPMENT ENTITY FOR THE QUALIFIED EQUITY INVESTMENT; TO PROVIDE
7 THAT THE MAXIMUM AGGREGATE AMOUNT OF THE CREDITS THAT MAY BE
8 ALLOCATED TO ALL TAXPAYERS IN ANY ONE STATE FISCAL YEAR SHALL NOT
9 EXCEED \$15,000,000.00 AND THAT THE CREDITS SHALL BE ALLOCATED BY
10 THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE
11 RECAPTURE OF ALL OR A PORTION OF THE CREDIT UNDER CERTAIN
12 CIRCUMSTANCES; TO AMEND SECTION 27-15-129, MISSISSIPPI CODE OF
13 1972, TO PROVIDE THAT THE INVESTMENTS THAT MAY REDUCE A TAXPAYER'S
14 INSURANCE PREMIUM TAX LIABILITY UNDER SUCH SECTION SHALL NOT
15 INCLUDE ANY INVESTMENT FOR WHICH A CREDIT IS ALLOCATED UNDER THIS
16 ACT; AND FOR RELATED PURPOSES.

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

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

19 (a) "Adjusted purchase price" means the investment in
20 the qualified community development entity for the qualified
21 equity investment, substantially all of the proceeds of which are
22 used to make qualified low-income community investments in
23 Mississippi.

24 For the purposes of calculating the amount of qualified
25 low-income community investments held by a qualified community
26 development entity, an investment will be considered held by a
27 qualified community development entity even if the investment has
28 been sold or repaid; provided that the qualified community
29 development entity reinvests an amount equal to the capital
30 returned to or recovered by the qualified community development
31 entity from the original investment, exclusive of any profits
32 realized, in another qualified low-income community investment in
33 Mississippi within twelve (12) months of the receipt of such
34 capital. A qualified community development entity will not be

35 required to reinvest capital returned from the qualified
36 low-income community investments after the sixth anniversary of
37 the issuance of the qualified equity investment, the proceeds of
38 which were used to make the qualified low-income community
39 investment, and the qualified low-income community investment will
40 be considered held by the qualified community development entity
41 through the seventh anniversary of the qualified equity
42 investment's issuance.

43 (b) "Applicable percentage" means four and one-half
44 percent (4-1/2%) for each of the second through seventh credit
45 allowance dates.

46 (c) "Credit allowance date" means, with respect to any
47 qualified equity investment:

48 (i) The date upon which the investment is
49 initially made; and

50 (ii) Each of the subsequent six (6) anniversary
51 dates of the date upon which the investment is initially made.

52 (d) "Qualified community development entity" shall have
53 the meaning ascribed to such term in Section 45D of the Internal
54 Revenue Code of 1986, as amended, if the entity has entered into
55 an Allocation Agreement with the Community Development Financial
56 Institutions Fund of the United States Department of the Treasury
57 with respect to credits authorized by Section 45D of the Internal
58 Revenue Code of 1986, as amended.

59 (e) "Qualified active low-income community business"
60 shall have the meaning ascribed to such term in Section 45D of the
61 Internal Revenue Code of 1986, as amended.

62 (f) "Qualified equity investment" shall have the
63 meaning ascribed to such term in Section 45D of the Internal
64 Revenue Code of 1986, as amended; provided, however, that such
65 investment also:

66 (i) Is acquired after January 1, 2007, at its
67 original issuance solely in exchange for cash; and

68 (ii) Has been allocated by the Mississippi
69 Development Authority.

70 (g) "Qualified low-income community investment" shall
71 have the meaning ascribed to such term in Section 45D of the
72 Internal Revenue Code of 1986, as amended; provided, however, that
73 the maximum amount of qualified low-income community investments
74 issued for a single qualified active low-income community
75 business, on an aggregate basis with all of its affiliates, that
76 may be included for purposes of allocating any credits under this
77 section shall not exceed Ten Million Dollars (\$10,000,000.00), in
78 the aggregate, whether issued by one (1) or several qualified
79 community development entities.

80 (2) A taxpayer that holds a qualified equity investment on
81 the credit allowance date of the qualified equity investment shall
82 be entitled to a credit applicable against the taxes imposed by
83 Sections 27-7-5, 27-15-103 and 27-15-109 during the taxable year
84 that includes the credit allowance date. The amount of the credit
85 shall be equal to the applicable percentage of the adjusted
86 purchase price paid to the qualified community development entity
87 for the qualified equity investment. The amount of the credit
88 that may be utilized in any one (1) tax year shall be limited to
89 an amount not greater than the total tax liability of the taxpayer
90 for the taxes imposed by the above-referenced sections. The
91 credit shall not be refundable or transferable. Any unused
92 portion of the credit may be carried forward for seven (7) taxable
93 years beyond the last credit allowance date. The maximum
94 aggregate amount of qualified equity investments that may be
95 allocated by the Mississippi Development Authority may not exceed
96 an amount that would result in taxpayers claiming in any one (1)
97 state fiscal year credits in excess of Fifteen Million Dollars
98 (\$15,000,000.00), exclusive of credits that might be carried
99 forward from previous taxable years. The Mississippi Development

100 Authority shall allocate credits within this limit as provided for
101 in subsection (4) of this section.

102 (3) Tax credits authorized by this section that are earned
103 by a partnership, limited liability company, S-corporation or
104 other similar pass-through entity, may be allocated to the
105 partners, members or shareholders of such entity in accordance
106 with the provisions of any agreement of the partners, members or
107 shareholders.

108 (4) The qualified community development entity shall apply
109 for credits with the Mississippi Development Authority on forms
110 prescribed by the Mississippi Development Authority. In the
111 application the qualified community development entity shall
112 certify to the Mississippi Development Authority the anticipated
113 dollar amount of the qualified equity investments to be made in
114 this state during the first twelve-month period following the
115 initial credit allowance date. The Mississippi Development
116 Authority shall allocate credits based on the anticipated dollar
117 amount of qualified equity investments as certified in the
118 application. Once the Mississippi Development Authority has
119 allocated credits to a qualified community development entity,
120 such entity shall have fifteen (15) days from the date of such
121 allocation to issue the corresponding qualified equity
122 investments. If the qualified equity investment is not issued
123 within such time period, the allocation shall be cancelled and
124 returned to the Mississippi Development Authority for
125 reallocation. If on the second credit allowance date the actual
126 dollar amount of the investments is lower than the amount
127 estimated, the Mississippi Development Authority shall adjust the
128 tax credit allowed under this section. The State Tax Commission
129 may recapture all or a portion of the credit allowed under this
130 section if:

131 (a) Any amount of federal tax credits available with
132 respect to a qualified equity investment that is eligible for a

133 tax credit under this section is recaptured under Section 45D of
134 the Internal Revenue Code of 1986, as amended; or

135 (b) The qualified community development entity redeems
136 or makes any principal repayment with respect to a qualified
137 equity investment prior to the seventh anniversary of the issuance
138 of the qualified equity investment.

139 (c) The qualified community development entity fails to
140 maintain at least eighty-five percent (85%) of the proceeds of the
141 qualified equity investment in qualified low-income community
142 investments in Mississippi at any time prior to the seventh
143 anniversary of the issuance of the qualified equity investment.

144 Any credits that are subject to recapture under this
145 subsection shall be recaptured from the taxpayer that actually
146 claimed the credit.

147 (5) Each qualified community development entity that
148 receives qualified equity investments to make qualified low-income
149 community investments in Mississippi must annually report to the
150 Mississippi Development Authority the North American Industry
151 Classification System Code, the county, the dollars invested, the
152 number of jobs assisted and the number of jobs assisted with wages
153 over one hundred percent (100%) of the federal poverty level for a
154 family of four (4) of each qualified low-income community
155 investment.

156 (6) The Mississippi Development Authority shall file an
157 annual report on all qualified low-income community investments
158 with the Governor, the Clerk of the House of Representatives, the
159 Secretary of the Senate and the Secretary of State describing the
160 North American Industry Classification System Code, the county,
161 the dollars invested, the number of jobs assisted and the number
162 of jobs assisted with wages over one hundred percent (100%) of the
163 federal poverty level for a family of four (4) of each qualified
164 low-income community investment. The annual report will be posted
165 on the Mississippi Development Authority's Internet Web site.

166 (7) The Mississippi Development Authority shall promulgate
167 rules and regulations to implement the provisions of this section.

168 **SECTION 2.** Section 27-15-129, Mississippi Code of 1972, is
169 amended as follows:

170 27-15-129. (1) The amount of premium tax payable pursuant
171 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,
172 Mississippi Code of 1972, shall be reduced from the amount
173 otherwise fixed in such sections if the payer files a sworn
174 statement with the required annual report showing as of the
175 beginning of the reporting period that at least the following
176 amounts of the total admitted assets of the payer were invested
177 and maintained in qualifying Mississippi investments as
178 hereinafter defined in subsection (2) of this section over the
179 period covered by such report:

180	Percentage of Total Admitted	Percentage of Premium
181	Assets in Qualifying	Tax Payable
182	Mississippi Investments	
183	1%	99%
184	2%	98%
185	3%	97%
186	4%	96%
187	5%	95%
188	6%	94%
189	7%	93%
190	8%	92%
191	9%	91%
192	10%	80%
193	15%	70%
194	20%	60%
195	25%	50%

196 (2) For the purpose of this section, "a qualifying
197 Mississippi investment" is hereby defined as follows:

198 (a) Certificates of deposit issued by any bank or
199 savings and loan association domiciled in this state;
200 (b) Bonds of this state or bonds of municipal, school,
201 road or levee districts, or other political subdivisions of this
202 state;
203 (c) Loans evidenced by notes and secured by deeds of
204 trust on property located in this state;
205 (d) Real property located in this state;
206 (e) Policy loans to residents of Mississippi, or other
207 loans to residents of this state, or to corporations domiciled in
208 this state;
209 (f) Common or preferred stock, bonds and other
210 evidences of indebtedness of corporations domiciled in this state;
211 and
212 (g) Cash on deposit in any bank or savings and loan
213 association domiciled in this state.

214 "A qualifying Mississippi investment" shall not include any
215 investment for which a credit is allocated under Section 1 of
216 House Bill No. _____, 2007 Regular Session.

217 (3) If the credits, or any part thereof, authorized by the
218 preceding provisions of this section shall be held by a court of
219 final jurisdiction to be unconstitutional and void for any reason
220 or to make the annual premium taxes levied by Sections 27-15-103,
221 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,
222 unlawfully discriminatory or otherwise invalid under the
223 Fourteenth Amendment or the Commerce Clause of the Constitution of
224 the United States or under any state or other Federal
225 Constitutional provisions, it is hereby expressly declared that
226 such fact shall in no way affect the validity of the annual
227 premium taxes levied thereby, and that such provisions would have
228 been enacted even though the Legislature had known this credit
229 section would be held invalid.

230 (4) This section shall apply to taxes accruing and
231 investments existing from and after July 1, 1985.

232 **SECTION 3.** This act shall take effect and be in force from
233 and after January 1, 2007.