

Senate Amendments to House Bill No. 1727

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

13 SECTION 1. (1) As used in this section:

14 (a) "Adjusted purchase price" means the investment in
15 the qualified community development entity for the qualified
16 equity investment, substantially all of the proceeds of which are
17 used to make qualified low-income community investments in
18 Mississippi.

19 For the purposes of calculating the amount of qualified
20 low-income community investments held by a qualified community
21 development entity, an investment will be considered held by a
22 qualified community development entity even if the investment has
23 been sold or repaid; provided that the qualified community
24 development entity reinvests an amount equal to the capital
25 returned to or recovered by the qualified community development
26 entity from the original investment, exclusive of any profits
27 realized, in another qualified low-income community investment in
28 Mississippi within twelve (12) months of the receipt of such
29 capital. A qualified community development entity will not be
30 required to reinvest capital returned from the qualified
31 low-income community investments after the sixth anniversary of
32 the issuance of the qualified equity investment, the proceeds of
33 which were used to make the qualified low-income community
34 investment, and the qualified low-income community investment will
35 be considered held by the qualified community development entity
36 through the seventh anniversary of the qualified equity
37 investment's issuance.

38 (b) "Applicable percentage" means one and one-half
39 percent (1-1/2%) for each of the second through seventh credit
40 allowance dates.

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

43 (i) The date upon which the investment is
44 initially made; and

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

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

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

57 (f) "Qualified equity investment" shall have the
58 meaning ascribed to such term in Section 45D of the Internal
59 Revenue Code of 1986, as amended; if such investment also:

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

62 (ii) Has been allocated by the Mississippi
63 Development Authority.

64 (g) "Qualified low-income community investment" shall
65 have the meaning ascribed to such term in Section 45D of the
66 Internal Revenue Code of 1986, as amended; however, the maximum
67 amount of qualified low-income community investments issued for a
68 single qualified active low-income community business, on an
69 aggregate basis with all of its affiliates, that may be included
70 for purposes of allocating any credits under this section shall
71 not exceed Ten Million Dollars (\$10,000,000.00), in the aggregate,

72 whether issued by one (1) or several qualified community
73 development entities.

74 (2) A taxpayer that holds a qualified equity investment on
75 the credit allowance date of the qualified equity investment shall
76 be entitled to a credit applicable against the taxes imposed by
77 Section 27-7-5 during the taxable year that includes the credit
78 allowance date. The amount of the credit shall be equal to the
79 applicable percentage of the adjusted purchase price paid to the
80 qualified community development entity for the qualified equity
81 investment. The amount of the credit that may be utilized in any
82 one tax year shall be limited to an amount not greater than the
83 total income tax liability of the taxpayer. The credit shall not
84 be refundable or transferable. Any unused portion of the credit
85 may be carried forward for seven (7) taxable years beyond the last
86 credit allowance date. The maximum aggregate amount of qualified
87 equity investments that may be allocated by the Mississippi
88 Development Authority may not exceed an amount that would result
89 in taxpayers claiming in any one state fiscal year credits in
90 excess of Fifteen Million Dollars (\$15,000,000.00), exclusive of
91 credits that might be carried forward from previous taxable years.
92 The Mississippi Development Authority shall allocate credits
93 within this limit as provided for in subsection (4) of this
94 section.

95 (3) Tax credits authorized by this section that are earned
96 by a partnership, limited liability company, S-corporation or
97 other similar pass-through entity, may be allocated to the
98 partners, members or shareholders of such entity in accordance
99 with the provisions of any agreement of the partners, members or
100 shareholders.

101 (4) The qualified community development entity shall apply
102 for credits with the Mississippi Development Authority on forms
103 prescribed by the Mississippi Development Authority. In the
104 application the qualified community development entity shall
105 certify to the Mississippi Development Authority the anticipated
106 dollar amount of the qualified equity investments to be made in

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

124 (a) Any amount of federal tax credits available with
125 respect to a qualified equity investment that is eligible for a
126 tax credit under this section is recaptured under Section 45D of
127 the Internal Revenue Code of 1986, as amended;

128 (b) The qualified community development entity redeems
129 or makes any principal repayment with respect to a qualified
130 equity investment prior to the seventh anniversary of the issuance
131 of the qualified equity investment; or

132 (c) The qualified community development entity fails to
133 maintain at least eighty-five percent (85%) of the proceeds of the
134 qualified equity investment in qualified low-income community
135 investments in Mississippi at any time prior to the seventh
136 anniversary of the issuance of the qualified equity investment.

137 Any credits that are subject to recapture under this
138 subsection shall be recaptured from the taxpayer that actually
139 claimed the credit.

140 (5) Each qualified community development entity that
141 receives qualified equity investments to make qualified low-income

142 community investments in Mississippi must annually report to the
143 Mississippi Development Authority, the North American Industry
144 Classification System Code, the county, the dollars invested, the
145 number of jobs assisted and the number of jobs assisted with wages
146 over one hundred percent (100%) of the federal poverty level for a
147 family of four (4) of each qualified low-income community
148 investment.

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

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

161 **SECTION 2.** This act shall take effect and be in force from
162 and after January 1, 2007.

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

1 AN ACT TO PROVIDE FOR AN INCOME TAX CREDIT FOR TAXPAYERS THAT
2 PAY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY FOR QUALIFIED EQUITY
3 INVESTMENTS; TO PROVIDE THAT THE AMOUNT OF THE CREDIT SHALL BE
4 EQUAL TO A CERTAIN PERCENTAGE OF THE ADJUSTED PURCHASE PRICE PAID
5 TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FOR THE QUALIFIED
6 EQUITY INVESTMENT; TO PROVIDE THAT THE MAXIMUM AGGREGATE AMOUNT OF
7 THE CREDITS THAT MAY BE ALLOCATED TO ALL TAXPAYERS IN ANY ONE
8 STATE FISCAL YEAR SHALL NOT EXCEED \$15,000,000.00 AND THAT THE
9 CREDITS SHALL BE ALLOCATED BY THE MISSISSIPPI DEVELOPMENT
10 AUTHORITY; TO PROVIDE FOR THE RECAPTURE OF ALL OR A PORTION OF THE
11 CREDIT UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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John O. Gilbert
Secretary of the Senate