

By: Representatives Brown, Robinson, Watson To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1662

1 AN ACT TO AMEND SECTION 57-105-1, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF THE TERMS "APPLICABLE PERCENTAGE" AND  
3 "CREDIT ALLOWANCE DATE" FOR PURPOSES OF THE INCOME TAX CREDIT FOR  
4 TAXPAYERS HOLDING QUALIFIED EQUITY INVESTMENTS; TO CLARIFY THE  
5 YEARS BEYOND WHICH SUCH CREDIT MAY BE CARRIED FORWARD; TO PROVIDE  
6 THAT ONE-THIRD OF THE MAXIMUM AMOUNT OF THE CREDIT THAT MAY BE  
7 ALLOCATED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY IN ANY ONE  
8 FISCAL YEAR MAY BE FOR INSURANCE PREMIUM TAXES; TO PROVIDE THAT  
9 TAX CREDITS EARNED BY A PARTNERSHIP, LIMITED LIABILITY COMPANY, S  
10 CORPORATION OR OTHER SIMILAR PASS-THROUGH ENTITY, SHALL BE  
11 ALLOCATED AMONG ALL PARTNERS, MEMBERS OR SHAREHOLDERS,  
12 RESPECTIVELY, EITHER IN PROPORTION TO THEIR OWNERSHIP INTEREST IN  
13 SUCH ENTITY OR AS THE PARTNERS, MEMBERS OR SHAREHOLDERS MUTUALLY  
14 AGREE; TO REQUIRE THAT A QUALIFIED COMMUNITY DEVELOPMENT ENTITY  
15 SUBMIT AN APPLICATION FEE TO THE MISSISSIPPI DEVELOPMENT AUTHORITY  
16 WHEN APPLYING FOR TAX CREDITS FOR QUALIFIED EQUITY INVESTMENTS TAX  
17 CREDITS; TO REVISE THE TIME IN WHICH A QUALIFIED COMMUNITY  
18 DEVELOPMENT ENTITY MUST ISSUE A QUALIFIED EQUITY INVESTMENT AFTER  
19 THE MISSISSIPPI DEVELOPMENT AUTHORITY ALLOCATES A TAX CREDIT FOR  
20 SUCH INVESTMENT; TO PROVIDE THAT IF UPON FINAL DOCUMENTATION OF  
21 THE QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS THE AMOUNT OF THE  
22 INVESTMENTS IS LOWER THAN THE AMOUNT ESTIMATED THE MISSISSIPPI  
23 DEVELOPMENT AUTHORITY SHALL ADJUST THE TAX CREDIT; AND FOR RELATED  
24 PURPOSES.

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

26 **SECTION 1.** Section 57-105-1, Mississippi Code of 1972, is  
27 amended as follows:

28 57-105-1. (1) As used in this section:

29 (a) "Adjusted purchase price" means the investment in  
30 the qualified community development entity for the qualified  
31 equity investment, substantially all of the proceeds of which are  
32 used to make qualified low-income community investments in  
33 Mississippi.

34 For the purposes of calculating the amount of qualified  
35 low-income community investments held by a qualified community  
36 development entity, an investment will be considered held by a



37 qualified community development entity even if the investment has  
38 been sold or repaid; provided that the qualified community  
39 development entity reinvests an amount equal to the capital  
40 returned to or recovered by the qualified community development  
41 entity from the original investment, exclusive of any profits  
42 realized, in another qualified low-income community investment in  
43 Mississippi within twelve (12) months of the receipt of such  
44 capital. A qualified community development entity will not be  
45 required to reinvest capital returned from the qualified  
46 low-income community investments after the sixth anniversary of  
47 the issuance of the qualified equity investment, the proceeds of  
48 which were used to make the qualified low-income community  
49 investment, and the qualified low-income community investment will  
50 be considered held by the qualified community development entity  
51 through the seventh anniversary of the qualified equity  
52 investment's issuance.

53 (b) "Applicable percentage" means:

54 (i) For any equity investment issued prior to July  
55 1, 2008, four percent (4%) for each of the second through seventh  
56 credit allowance dates for purposes of the taxes imposed by  
57 Section 27-7-5 and one and one-third percent (1-1/3%) for each of  
58 the second through seventh credit allowance dates for purposes of  
59 the taxes imposed by Sections 27-15-103 and 27-15-109.

60 (ii) For any equity investment issued from and  
61 after July 1, 2008, eight percent (8%) for each of the first  
62 through third credit allowance dates for purposes of the taxes  
63 imposed by Section 27-7-5 or the taxes imposed by Sections  
64 27-15-103 and 27-15-109.

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

67 (i) The date upon which the investment is  
68 initially made; and



69 (ii) 1. For equity investments issued prior to  
70 July 1, 2008, each of the subsequent six (6) anniversary dates of  
71 the date upon which the investment is initially made; or

72 2. For equity investments issued from and  
73 after July 1, 2008, each of the subsequent two (2) anniversary  
74 dates of the date upon which the investment is initially made.

75 (d) "Qualified community development entity" shall have  
76 the meaning ascribed to such term in Section 45D of the Internal  
77 Revenue Code of 1986, as amended, if the entity has entered into  
78 an Allocation Agreement with the Community Development Financial  
79 Institutions Fund of the United States Department of the Treasury  
80 with respect to credits authorized by Section 45D of the Internal  
81 Revenue Code of 1986, as amended.

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

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

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

91 (ii) Has been allocated by the Mississippi  
92 Development Authority.

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



101 the aggregate, whether issued by one (1) or several qualified  
102 community development entities.

103 (2) A taxpayer that holds a qualified equity investment on  
104 the credit allowance date of the qualified equity investment shall  
105 be entitled to a credit applicable against the taxes imposed by  
106 Sections 27-7-5, 27-15-103 and 27-15-109 during the taxable year  
107 that includes the credit allowance date. The amount of the credit  
108 shall be equal to the applicable percentage of the adjusted  
109 purchase price paid to the qualified community development entity  
110 for the qualified equity investment. The amount of the credit  
111 that may be utilized in any one (1) tax year shall be limited to  
112 an amount not greater than the total tax liability of the taxpayer  
113 for the taxes imposed by the above-referenced sections. The  
114 credit shall not be refundable or transferable. Any unused  
115 portion of the credit may be carried forward for seven (7) taxable  
116 years beyond the \* \* \* credit allowance date on which the credit  
117 was earned. The maximum aggregate amount of qualified equity  
118 investments that may be allocated by the Mississippi Development  
119 Authority may not exceed an amount that would result in taxpayers  
120 claiming in any one (1) state fiscal year credits in excess of  
121 Fifteen Million Dollars (\$15,000,000.00), exclusive of credits  
122 that might be carried forward from previous taxable years;  
123 however, a maximum of one-third (1/3) of this amount may be  
124 allocated as credits for taxes imposed by Sections 27-15-103 and  
125 27-15-109. The Mississippi Development Authority shall allocate  
126 credits within this limit as provided for in subsection (4) of  
127 this section.

128 (3) Tax credits authorized by this section that are earned  
129 by a partnership, limited liability company, S corporation or  
130 other similar pass-through entity, shall be allocated among all  
131 partners, members or shareholders, respectively, either in  
132 proportion to their ownership interest in such entity or as the  
133 partners, members or shareholders mutually agree as provided in an



134 executed document. Such allocation shall be made each taxable  
135 year of such pass-through entity which contains a credit allowance  
136 date.

137 (4) The qualified community development entity shall apply  
138 for credits with the Mississippi Development Authority on forms  
139 prescribed by the Mississippi Development Authority. The  
140 qualified community development entity must pay an application fee  
141 of One Thousand Dollars (\$1,000.00) to the Mississippi Development  
142 Authority at the time the application is submitted. In the  
143 application the qualified community development entity shall  
144 certify to the Mississippi Development Authority the anticipated  
145 dollar amount of the qualified equity investments to be made in  
146 this state during the first twelve-month period following the  
147 initial credit allowance date. The Mississippi Development  
148 Authority shall allocate credits based on the anticipated dollar  
149 amount of qualified equity investments as certified in the  
150 application. Once the Mississippi Development Authority has  
151 allocated credits to a qualified community development entity,  
152 such entity shall have thirty (30) days from the date of such  
153 allocation to issue the corresponding qualified equity  
154 investments. If the qualified equity investment is not issued  
155 within such time period, the allocation shall be cancelled and  
156 returned to the Mississippi Development Authority for  
157 reallocation. Upon final documentation of the qualified  
158 low-income community investments, if the actual dollar amount of  
159 the investments is lower than the amount estimated, the  
160 Mississippi Development Authority shall adjust the tax credit  
161 allowed under this section. The State Tax Commission may  
162 recapture all \* \* \* of the credit allowed under this section if:  
163 (a) Any amount of federal tax credits available with  
164 respect to a qualified equity investment that is eligible for a  
165 tax credit under this section is recaptured under Section 45D of  
166 the Internal Revenue Code of 1986, as amended; or



167           (b) The qualified community development entity redeems  
168 or makes any principal repayment with respect to a qualified  
169 equity investment prior to the seventh anniversary of the issuance  
170 of the qualified equity investment; or

171           (c) The qualified community development entity fails to  
172 maintain at least eighty-five percent (85%) of the proceeds of the  
173 qualified equity investment in qualified low-income community  
174 investments in Mississippi at any time prior to the seventh  
175 anniversary of the issuance of the qualified equity investment.

176           Any credits that are subject to recapture under this  
177 subsection shall be recaptured from the taxpayer that actually  
178 claimed the credit.

179           The Mississippi Development Authority shall not allocate any  
180 credits under this section after January 1, 2014.

181           (5) Each qualified community development entity that  
182 receives qualified equity investments to make qualified low-income  
183 community investments in Mississippi must annually report to the  
184 Mississippi Development Authority the North American Industry  
185 Classification System Code, the county, the dollars invested, the  
186 number of jobs assisted and the number of jobs assisted with wages  
187 over one hundred percent (100%) of the federal poverty level for a  
188 family of four (4) of each qualified low-income community  
189 investment.

190           (6) The Mississippi Development Authority shall file an  
191 annual report on all qualified low-income community investments  
192 with the Governor, the Clerk of the House of Representatives, the  
193 Secretary of the Senate and the Secretary of State describing the  
194 North American Industry Classification System Code, the county,  
195 the dollars invested, the number of jobs assisted and the number  
196 of jobs assisted with wages over one hundred percent (100%) of the  
197 federal poverty level for a family of four (4) of each qualified  
198 low-income community investment. The annual report will be posted  
199 on the Mississippi Development Authority's Internet Web site.



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

202 **SECTION 2.** This act shall take effect and be in force from  
203 and after July 1, 2008.

