

By: Representatives Lamar, McGee, Felsher

To: Ways and Means

HOUSE BILL NO. 1296
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972,
2 WHICH AUTHORIZES AN INCOME TAX CREDIT FOR COSTS AND EXPENSES
3 INCURRED FOR THE REHABILITATION OF CERTAIN HISTORIC STRUCTURES, TO
4 REMOVE THE PROVISION THAT EXCLUDES SINGLE-FAMILY DWELLINGS FROM
5 THE DEFINITION OF THE TERM "ELIGIBLE PROPERTY"; TO REVISE THE
6 PROVISIONS UNDER WHICH A TAXPAYER ELIGIBLE FOR A TAX CREDIT MAY
7 CLAIM THE TAX CREDIT IN PHASES; TO REMOVE THE OPTION, IN LIEU OF
8 THE TEN-YEAR CARRYFORWARD, OF A REFUND PAID OVER A TWO-YEAR PERIOD
9 IN THE AMOUNT OF 75% OF THE EXCESS CREDIT; TO ALLOW THE OPTION, IN
10 LIEU OF CLAIMING THE CREDIT, OF A REBATE OF 75% OF THE AMOUNT THAT
11 WOULD BE ELIGIBLE TO CLAIM AS A CREDIT; TO PROVIDE THAT THE REBATE
12 SHALL BE SUBJECT TO APPROVAL BY THE DEPARTMENT OF ARCHIVES AND
13 HISTORY AND SHALL BE REDEEMED WITH THE DEPARTMENT OF REVENUE FOR
14 AN IMMEDIATE CASH PAYMENT; TO PROVIDE THAT THE DEPARTMENT OF
15 ARCHIVES AND HISTORY SHALL NOT ISSUE CERTIFICATES EVIDENCING THE
16 ELIGIBLE REBATE OR CREDIT WHICH WILL RESULT IN CREDITS BEING
17 AWARDED IN EXCESS OF \$12,000,000.00 IN ANY ONE STATE CALENDAR YEAR
18 FOR PROJECTS WITH TOTAL QUALIFIED REHABILITATION COSTS AND
19 EXPENSES OF \$1,750,000.00 OR MORE; TO PROVIDE THAT THE DEPARTMENT
20 OF ARCHIVES AND HISTORY SHALL NOT ISSUE CERTIFICATES EVIDENCING
21 THE ELIGIBLE REBATE OR CREDIT WHICH WILL RESULT IN CREDITS BEING
22 AWARDED IN EXCESS OF \$12,000,000.00 IN ANY ONE STATE CALENDAR YEAR
23 FOR PROJECTS WITH TOTAL QUALIFIED REHABILITATION COSTS AND
24 EXPENSES OF LESS THAN \$1,750,000.00; TO PROVIDE THAT A TAXPAYER
25 CLAIMING A CREDIT INSTEAD OF A REBATE SHALL CLAIM THE CREDIT ON
26 THE INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE CREDIT IS
27 CERTIFIED; TO PROVIDE THE ORDER IN WHICH A REBATE OR CREDIT SHALL
28 BE CERTIFIED; AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** Section 27-7-22.31, Mississippi Code of 1972, is
31 amended as follows:



32 27-7-22.31. (1) As used in this section:

33 (a) "Certified historic structure" means a property
34 located in Mississippi that has been:

35 (i) Listed individually on the National Register
36 of Historic Places; or

37 (ii) Determined eligible for the National Register
38 of Historic Places by the Secretary of the United States
39 Department of the Interior and will be listed within thirty (30)
40 months of claiming the rebate or credit authorized by this
41 section; or

42 (iii) Property designated a Mississippi Landmark
43 by the Department of Archives and History pursuant to Section
44 39-7-3 et seq.

45 (b) "Eligible property" means property located in
46 Mississippi and offered or used for residential or business
47 purposes * * *.

48 (c) "Structure in a certified historic district" means
49 a structure (and its structural components) located in Mississippi
50 which:

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

53 (ii) Has been determined eligible for the National
54 Register of Historic Places by the Secretary of the United States
55 Department of the Interior and will be listed within thirty (30)



56 months of claiming the rebate or credit authorized by this
57 section; or

58 (iii) Is located in a registered historic district
59 listed on the National Register of Historic Places or located in a
60 potential district that has been determined eligible for the
61 National Register of Historic Places by the Secretary of the
62 United States Department of the Interior and will be listed within
63 thirty (30) months of claiming the rebate or credit authorized by
64 this section, and is certified by the Secretary of the United
65 States Department of the Interior as being of historic
66 significance to the district; or

67 (iv) Is certified by the Mississippi Department of
68 Archives and History as contributing to the historic significance
69 of:

70 1. A certified historic district listed on
71 the National Register of Historic Places; or

72 2. A potential district that has been
73 determined eligible for the National Register of Historic Places
74 by the Secretary of the United States Department of the Interior
75 and will be listed within thirty (30) months of claiming the
76 rebate or credit authorized by this section; or

77 3. A local district that has been certified
78 by the United States Department of the Interior.

79 (d) "Department" means the Department of Archives and
80 History.



81 (2) Any taxpayer incurring costs and expenses for the
82 rehabilitation of eligible property, which is a certified historic
83 structure or a structure in a certified historic district, shall
84 be entitled to a rebate or credit against the taxes imposed
85 pursuant to this chapter in an amount equal to twenty-five percent
86 (25%) of the total costs and expenses of rehabilitation incurred
87 after January 1, 2006, which shall include, but not be limited to,
88 qualified rehabilitation expenditures as defined under Section
89 47(c) (2) (A) of the Internal Revenue Code of 1986, as amended, and
90 the related regulations thereunder:

91 (a) If the costs and expenses associated with
92 rehabilitation exceed:

93 (i) Five Thousand Dollars (\$5,000.00) in the case
94 of an owner-occupied dwelling; or

95 (ii) Fifty percent (50%) of the * * * adjusted
96 basis in the property in the case of all other properties; and

97 (b) The rehabilitation is consistent with the standards
98 of the Secretary of the United States Department of the Interior
99 as determined by the department.

100 (3) Any taxpayer eligible for the rebate or credit
101 authorized by this section may claim the rebate or credit in
102 phases if:

103 (a) There is a written set of architectural plans and
104 specifications for all phases of the rehabilitation (written plans



105 outlining and describing all phases of the rehabilitation shall be
106 accepted as written plans and specifications);

107 (b) The written set of architectural plans and
108 specifications are completed before the physical work on the
109 rehabilitation begins; and

110 (c) * * * The project receives final certification by
111 the department within sixty (60) months of the project start date
112 certified in the first phase.

113 (4) (a) (i) If the amount of the tax credit established by
114 this section exceeds the total state income tax liability for the
115 credit year * * *, the amount that exceeds the total state income
116 tax liability may be carried forward for the ten (10) succeeding
117 tax years.

118 (ii) In lieu of claiming a tax credit, the
119 taxpayer may elect to claim a * * * rebate in the amount of
120 seventy-five percent (75%) of the * * * amount that would be
121 eligible to claim as a credit. The election must be made in the
122 year in which the * * * rebate is certified. * * *

123 (iii) * * * Rebate requests shall be submitted to
124 the department * * * on forms prescribed by the department. The
125 department will then provide the taxpayer with a voucher for the
126 approved amount. Within twelve (12) months of the issuance of the
127 voucher by the department, the taxpayer may submit the voucher to
128 the Department of Revenue to receive payment. * * * Rebates shall
129 be made from current tax collections.



130 (b) Not-for-profit entities, including, but not limited
131 to, nonprofit corporations organized under Section 79-11-101 et
132 seq., shall be ineligible for the rebate or credit authorized by
133 this section. Credits granted to a partnership, a limited
134 liability company taxed as a partnership or multiple owners of
135 property shall be passed through to the partners, members or
136 owners on a pro rata basis or pursuant to an executed agreement
137 among the partners, members or owners documenting an alternative
138 distribution method. Partners, members or other owners of a
139 pass-through entity are not eligible to elect a refund of excess
140 credit in lieu of a carryforward of the credit. However, a
141 partnership or limited liability company taxed as a partnership
142 may elect to claim a * * * rebate at the entity level on a form
143 prescribed by the department * * *. Additionally, excess tax
144 credits that are attributable to rehabilitated property that was
145 placed in service by a pass-through entity prior to January 1,
146 2011, and that have previously been allocated to and are held by
147 another pass-through entity prior to January 1, 2011, may be
148 refunded to such other pass-through entity.

149 (5) (a) (i) To claim the rebate or credit authorized
150 pursuant to this section, the taxpayer shall apply to the
151 department which shall determine the amount of eligible
152 rehabilitation costs and expenses and whether the rehabilitation
153 is consistent with the standards of the Secretary of the United
154 States Department of the Interior. The department shall issue a



155 certificate evidencing the date of the rebate or credit and amount
156 of eligible rebate or credit if the taxpayer is found to be
157 eligible for the tax rebate or credit. The taxpayer shall attach
158 the certificate to all income tax returns on which the credit is
159 claimed. Except as otherwise provided in this paragraph (a), the
160 department shall not issue certificates evidencing the eligible
161 rebate or credit which * * * will result in rebates or credits
162 being awarded in excess of Twelve Million Dollars (\$12,000,000.00)
163 in any one (1) * * * calendar year for projects with total
164 qualified rehabilitation costs and expenses of One Million Seven
165 Hundred Fifty Thousand Dollars (\$1,750,000.00) or more. The
166 department shall also not issue certificates evidencing the
167 eligible rebate or credit which will result in rebates or credits
168 being awarded in excess of Twelve Million Dollars (\$12,000,000.00)
169 in any one (1) calendar year for projects with total qualified
170 rehabilitation costs and expenses of less than One Million Seven
171 Hundred Fifty Thousand Dollars (\$1,750,000.00).

172 (ii) If claiming a credit instead of a rebate, the
173 taxpayer shall claim such credit on the income tax return for the
174 tax year for which the credit is certified.

175 (b) The date of the rebate or credit shall be certified
176 in the following order:

177 (i) The rebate or credit shall be certified based
178 on the date of project completion.



179 (ii) If the eligible rebate or credit exceeds the
180 available limit in the year in which the project is completed, the
181 rebate or credit shall be certified based on the date the
182 certification is issued by the department. The department shall
183 issue the certification in the first calendar year in which the
184 requested rebate or credit would not exceed the calendar year
185 limit.

186 (* * *c) The aggregate amount of tax rebates or
187 credits that may be awarded under this section shall not exceed
188 One Hundred Eighty Million Dollars (\$180,000,000.00). * * *

189 (6) (a) The rebate or credit received by a taxpayer
190 pursuant to this section is subject to recapture if:

191 (i) The property is one that has been determined
192 eligible for the National Register of Historic Places but is not
193 listed on the National Register of Historic Places within thirty
194 (30) months of claiming the rebate or credit authorized by this
195 section;

196 (ii) The potential district in which the property
197 is located is not listed on the National Register of Historic
198 Places within thirty (30) months of claiming the rebate or credit
199 authorized by this section; or

200 (iii) * * * The project has not received final
201 certification by the department within sixty (60) months of the
202 project start date certified in the first phase.



203 (b) The taxpayer shall notify the department and the
204 Department of Revenue if any of the situations that subject the
205 credit to recapture occur.

206 (7) (a) The board of trustees of the department shall
207 establish fees to be charged for the services performed by the
208 department under this section and shall publish the fee schedule.
209 The fees contained in the schedule shall be in amounts reasonably
210 calculated to recover the costs incurred by the department for the
211 administration of this section. Any taxpayer desiring to
212 participate in the tax credits authorized by this section shall
213 pay the appropriate fee as contained in the fee schedule to the
214 department, which shall be used by the department, without
215 appropriation, to offset the administrative costs of the
216 department associated with its duties under this section.

217 (b) There is hereby created within the State Treasury a
218 special fund into which shall be deposited all the fees collected
219 by the department pursuant to this section. Money deposited into
220 the fund shall not lapse at the end of any fiscal year and
221 investment earnings on the proceeds in such special fund shall be
222 deposited into such fund. Money from the fund shall be disbursed
223 upon warrants issued by the State Fiscal Officer upon requisitions
224 signed by the executive director of the department to assist the
225 department in carrying out its duties under this section.

226 (8) This section shall only apply to taxpayers:



227 (a) Who have been issued a certificate evidencing the
228 eligible credit before December 31, 2030; or

229 (b) Who, before December 31, 2030, have received a
230 determination in writing from the Mississippi Department of
231 Archives and History, in accordance with the department's Historic
232 Preservation Certificate Application, Part 2, that the
233 rehabilitation is consistent with the historic character of the
234 property and that the property meets the United States Secretary
235 of the Interior's Standards for Rehabilitation, or will meet the
236 standards if certain specified conditions are met, and, who are
237 issued a certificate evidencing the eligible credit on or after
238 December 31, 2030.

239 **SECTION 2.** This act shall take effect and be in force from
240 and after January 1, 2021.

