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Chapter No. 477
11/HR40/R1587SG
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HOUSE BILL NO. 1311

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1311

AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF THE AMOUNT OF THE INCOME TAX CREDIT ALLOWED FOR COSTS AND EXPENSES INCURRED IN THE REHABILITATION OF CERTIFIED HISTORIC STRUCTURES EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE YEAR AND THE AMOUNT OF THE TAX CREDIT ESTABLISHED BY THIS SECTION EXCEEDS \$250,000.00, THE TAXPAYER MAY ELECT TO CLAIM A REFUND IN THE AMOUNT OF 75% OF THE EXCESS CREDIT IN LIEU OF THE TEN-YEAR CARRYFORWARD; TO PROVIDE THAT THE ELECTION MUST BE MADE IN THE YEAR IN WHICH THE REHABILITATED PROPERTY IS PLACED IN SERVICE; TO PROVIDE THAT REFUNDS WILL BE PAID IN EQUAL INSTALLMENTS OVER A TWO-YEAR PERIOD AND SHALL BE MADE FROM CURRENT COLLECTIONS; TO LIMIT TO \$60,000,000.00 THE AGGREGATE AMOUNT OF CREDITS THAT MAY BE AWARDED UNDER THIS SECTION; TO PROVIDE THAT THIS SECTION SHALL APPLY TO TAXPAYERS WHO HAVE BEEN ISSUED A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT BEFORE DECEMBER 31, 2014, OR WHO, BEFORE DECEMBER 31, 2014, HAVE RECEIVED A DETERMINATION IN WRITING FROM THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY THAT THE REHABILITATION IS CONSISTENT WITH THE HISTORIC CHARACTER OF THE PROPERTY AND THAT THE PROPERTY MEETS THE U.S. SECRETARY OF INTERIOR'S STANDARDS FOR REHABILITATION, AND WHO ARE ISSUED A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT ON OR AFTER DECEMBER 31, 2014; AND FOR RELATED PURPOSES.

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

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

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

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

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

(c) "Structure in a certified historic district" means a structure (and its structural components) located in Mississippi 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.

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

(ii) If the amount of the tax credit established by this section exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), the taxpayer may elect to claim a refund in the amount of seventy-five percent (75%) of the excess credit in lieu of the ten-year carryforward. The election must be made in the year in which the rehabilitated property is placed in service. Refunds will be paid in equal installments over a two-year period and shall be made from current collections.

(iii) Refund requests shall be submitted to the Department of Revenue on forms prescribed by the department. Refunds shall be made from current tax collections.

(b) Not-for-profit entities, including, but not limited to, nonprofit corporations organized under Section 79-11-101 et seq. shall be ineligible for the credit authorized by this section. Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners on a pro rata basis or pursuant to an executed agreement among the partners, members or owners documenting an alternative distribution method. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a refund of excess credit at the entity level on a form prescribed by the Department of Revenue. Additionally,

excess tax credits that are attributable to rehabilitated property that was placed in service by a pass-through entity prior to January 1, 2011, and that have previously been allocated to and are held by another pass-through entity prior to January 1, 2011, may be refunded to such other pass-through entity.

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

(b) The aggregate amount of tax credits that may be awarded under this section shall not exceed Sixty Million Dollars (\$60,000,000.00).

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

(b) There is hereby created within the State Treasury a special fund into which shall be deposited all the fees collected by the department pursuant to this section. Money deposited into the fund shall not lapse at the end of any fiscal year and investment earnings on the proceeds in such special fund shall be

deposited into such fund. Money from the fund shall be disbursed upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the department to assist the department in carrying out its duties under this section.

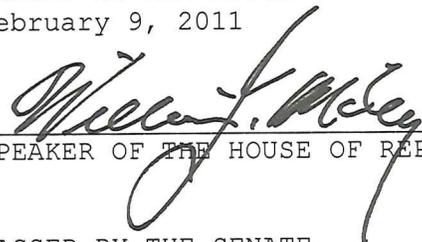
(6) This section shall only apply to taxpayers:

(a) Who have been issued a certificate evidencing the eligible credit before December 31, 2014; or

(b) Who, before December 31, 2014, have received a determination in writing from the Mississippi Department of Archives and History, in accordance with the department's Historic Preservation Certificate Application, Part 2, that the rehabilitation is consistent with the historic character of the property and that the property meets the United States Secretary of Interior's Standards for Rehabilitation, or will meet the standards if certain specified conditions are met, and, who are issued a certificate evidencing the eligible credit on or after December 31, 2014.

SECTION 2. This act shall take effect and be in force from and after January 1, 2011.

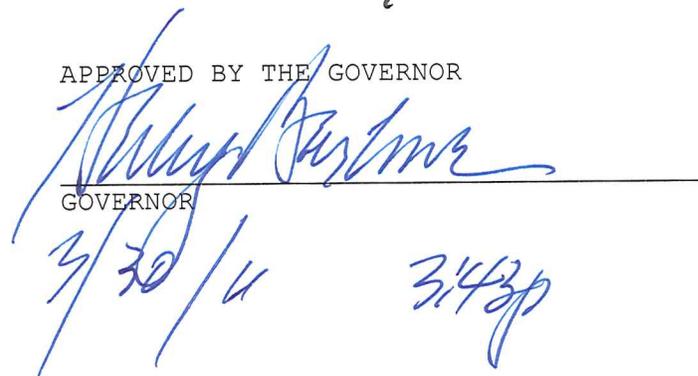
PASSED BY THE HOUSE OF REPRESENTATIVES
February 9, 2011


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 9, 2011


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

3/30/11

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