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Chapter No. 486
13/SS26/R423SG
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SENATE BILL NO. 2147

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2147

AN ACT TO AMEND SECTIONS 57-91-5, 57-91-7 AND 57-91-9, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "CONTAMINATED SITE" UNDER THE ECONOMIC REDEVELOPMENT ACT; TO REVISE THE TIME IN WHICH CERTAIN COUNTIES AND MUNICIPALITIES MAY APPLY TO THE MISSISSIPPI DEVELOPMENT AUTHORITY FOR DESIGNATION AS REDEVELOPMENT COUNTIES AND MUNICIPALITIES UNDER THE ECONOMIC REDEVELOPMENT ACT; TO EXTEND THE PERIOD OF TIME THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY MAKE INCENTIVE PAYMENTS FROM THE REDEVELOPMENT PROJECT INCENTIVE FUND TO A DEVELOPER OF A REDEVELOPMENT PROJECT UNDER THE ECONOMIC REDEVELOPMENT ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-91-5, Mississippi Code of 1972, is amended as follows:

57-91-5. As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Business enterprise" means any permanent business enterprise locating or relocating within a redevelopment project area, including, without limitation:

(i) Industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;

(ii) Enterprises for research and development, including, but not limited to, scientific laboratories;

(iii) Industry for the retail sale of goods and services;

(iv) The industry for recreation and hospitality, including, but not limited to, restaurants, hotels and sports facilities; and

(v) Such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA.

The term "business enterprise" shall not include gaming businesses.

(b) "Contaminated site" means real property that is either (i) subject to a bankruptcy court order in which the property has been abandoned from the bankruptcy estate, or (ii) Brownfield property that is subject to a Brownfield agreement under Section 49-35-11, and the expansion, redevelopment or reuse of which is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(c) "County" means any county of this state.

(d) "Developer" means any person who assumes certain environmental liability at a contaminated site and enters into an agreement with a redevelopment county or municipality whereby the developer agrees to undertake a redevelopment project. "Developer agreement" means said agreement.

(e) "Governing body" means the board of supervisors of any county or the governing board of a municipality.

(f) "Law" means any act or statute, general, special or local, of this state.

(g) "MDA" means the Mississippi Development Authority.

(h) "MDEQ" means the Mississippi Department of Environmental Quality.

(i) "Municipality" means any incorporated municipality in the state.

(j) "Person" means a natural person, partnership, association, corporation, business trust or other business entity.

(k) "Redevelopment counties and municipalities" means those counties or municipalities which meet the requirements of this chapter and which have by resolution or order designated a redevelopment project area and given its consent to participate in the program established under this chapter.

(l) "Redevelopment project" means a project that combines remediation of a contaminated site with the planned development of such site and surrounding land in a manner

conducive to use by the public or business enterprises including the construction of recreational facilities.

(m) "Redevelopment project area" means the geographic area defined by resolution of the county or municipality within which the remediation and planned development will take place containing the contaminated site and additional surrounding and adjacent land and waterfront, not exceeding six hundred fifty (650) acres, suitable for development.

(n) "Resolution" means an order, resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) "State taxes and fees" means any sales tax imposed on the sales or certain purchases by a business enterprise pursuant to law within a redevelopment project area, all income tax imposed pursuant to law on income earned by the approved business enterprise within a redevelopment project area and all franchise tax imposed pursuant to law on the value of capital used, invested or employed by the approved business enterprise in a redevelopment project area.

SECTION 2. Section 57-91-7, Mississippi Code of 1972, is amended as follows:

57-91-7. (1) From and after January 1, 2005, * * * any counties or municipalities meeting the following conditions may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) There is located within such county or municipality a contaminated site;

(b) There has been established by resolution of the county or municipality a redevelopment project area;

(c) There is submitted to the MDA application for designation as a redevelopment county or municipality which, at minimum, contains (i) MDEQ concurrence of the existence of a contaminated site and concurrence and involvement in the assessment and remediation plan, (ii) a resolution of the county or municipality setting forth the boundaries of the redevelopment project area and consenting to the designation of the county or municipality as a redevelopment county or municipality, and (iii) a developer agreement.

(2) If a proposed redevelopment project area falls wholly within the municipality, only the municipality must apply to the MDA for designation as a redevelopment municipality. If a proposed redevelopment project area falls wholly within the county and outside the boundaries of a municipality, only the county may apply to the MDA for designation as a redevelopment county. If a proposed redevelopment project area falls partly within and partly without a municipality, then both the county and municipality must apply for designation as a redevelopment county and municipality; however, the county and municipality may submit a single application to the MDA, but the governing bodies of both the county and the municipality must pass resolutions meeting the

requirements of paragraph (c)(ii) of subsection (1) of this section.

SECTION 3. Section 57-91-9, Mississippi Code of 1972, is amended as follows:

57-91-9. (1) There is created in the State Treasury a special fund to be known as the "Redevelopment Project Incentive Fund," into which shall be deposited certain state taxes and fees collected from business enterprises located within the redevelopment project area.

The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. Unexpended amounts remaining in the fund at the end of a fiscal year that are not necessary for incentive payments shall lapse into the General Fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program. The MDEQ may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for oversight costs of the assessment and remediation of the contaminated site.

(2) (a) Incentive payments may be made by the MDA to a developer in connection with a redevelopment project. Subject to the provisions of this subsection, the payments to a developer

shall be for the amount of state taxes and fees collected from business enterprises located and operating within a redevelopment project area and deposited into the Redevelopment Project Incentive Fund. In the case of sales taxes, the amounts deposited in the Redevelopment Project Incentive Fund shall be reduced by the diversions required in Section 27-65-75. The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to a developer * * * fifteen (15) years from the date that is two (2) years after the date on which the redevelopment project is approved by the MDA.

(b) Except as otherwise provided in this subsection, payments made to a developer under this section shall be in the following amounts:

(i) For the first six (6) years in which such payments are made, the developer shall receive one hundred percent (100%) of the funds deposited into the Redevelopment Project Incentive Fund;

(ii) For the seventh year in which such payments are made, the developer shall receive eighty percent (80%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iii) For the eighth year in which such payments are made, the developer shall receive seventy percent (70%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iv) For the ninth year in which such payments are made, the developer shall receive sixty percent (60%) of the funds deposited into the Redevelopment Project Incentive Fund; and

(v) For the tenth year and any subsequent year in which such payments are made, the developer shall receive fifty percent (50%) of the funds deposited into the Redevelopment Project Incentive Fund.

(c) In no event shall the total aggregate amount of incentive payments that may be made to a developer under this section exceed two and one-half (2-1/2) times the amount of the allowable cost of remediation of the contaminated site. The allowable cost of remediation of the contaminated site shall be jointly determined by the MDEQ and the MDA.

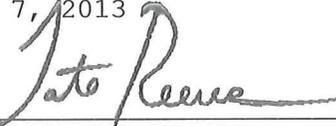
(d) Any monies in the Redevelopment Project Incentive Fund which are not used for the purpose of making incentive payments to a developer shall be deposited into the State General Fund. The developer shall not distribute the proceeds of any incentive payment to a business enterprise.

(3) At such time as payments are no longer required to be made to a developer, the MDA shall notify the * * * Department of Revenue and the state taxes and fees collected from business

enterprises located within the redevelopment project area shall no longer be deposited into the Redevelopment Project Incentive Fund.

SECTION 4. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
February 7, 2013



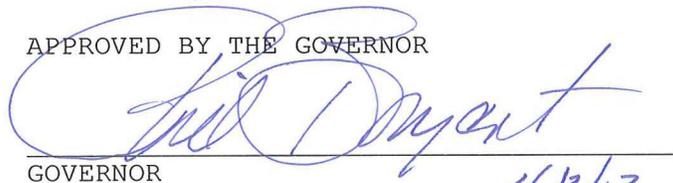
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 6, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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