

1 HB505
2 140028-3
3 By Representative Poole
4 RFD: Commerce and Small Business
5 First Read: 08-MAR-12

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Act 2011-709 of the 2011 Regular Session,
9 now appearing as Section 40-9B-13, Code of Alabama 1975, to
10 provide further protection of tax abatements in the event
11 properties are damaged or destroyed by natural disasters.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Act 2011-709 of the 2011 Regular Session,
14 now appearing as Section 40-9B-13, Code of Alabama 1975, is
15 amended to read as follows:

16 "§40-9B-13.

17 "(a) This section shall be known as the ~~Tornado~~
18 Disaster Recovery Tax Incentive Protection Act of 2011.

19 "(b) For the purposes of this act, the following
20 terms shall have the following meanings:

21 "(1) DISASTER REPLACEMENT PROPERTY. Private use
22 industrial property obtained by a private user to repair or
23 replace private use industrial property on which tax
24 abatements were in existence at the time of a natural
25 disaster, that was damaged or destroyed by the natural
26 disaster.

1 "(2) GOVERNING BODY. The governing body of a
2 municipality, a county, or a public industrial authority which
3 may grant tax abatements with respect to private use
4 industrial property under Section 40-9B-4, subject to the
5 geographical or jurisdictional or other limitations of Section
6 40-9B-5.

7 "(3) NATURAL DISASTER. A catastrophe caused by
8 nature, or regardless of cause, a fire, flood, or explosion,
9 which is declared by the President of the United States or the
10 Governor of the State of Alabama to be a major disaster.

11 "(4) REPLACED PROPERTY. Private use industrial
12 property that was damaged or destroyed by a natural disaster,
13 and on which tax abatements were in existence at the time of
14 the disaster.

15 ~~"(b)~~ (c) Tax abatements that may otherwise be
16 granted pursuant to this chapter shall not be subject to
17 disqualification solely because the underlying transactions or
18 property relate to the repair or replacement of property
19 damaged ~~in the devastating tornado outbreaks of April 15 and~~
20 ~~April 27, 2011,~~ by a natural disaster and not to new
21 construction. This expansion of Alabama's abatement law
22 applies to transactions entered into or property acquired
23 ~~before December 31, 2012~~ after the tornado outbreaks of April
24 2011. Ad valorem tax abatements in existence ~~on April 15 or~~
25 ~~April 27, 2011~~ prior to the onset of a natural disaster, shall
26 not be disallowed due to an interruption of a qualifying
27 business activity at the site ~~lasting through October 1, 2011,~~

1 and directly attributable to the ~~tornados of April 15 and~~
2 ~~April 27, 2011~~ natural disaster.

3 "(d) Any tax abatements granted on replaced property
4 shall continue to apply to disaster replacement property
5 obtained by a private user if any of the following conditions
6 are met:

7 "(1) Where such disaster replacement property is
8 located at a different site than the replaced property, but
9 not within the jurisdiction of a different governing body,
10 then no new approval of the governing body shall be required
11 to transfer the previously granted tax abatements on the
12 replaced property to the disaster replacement property so long
13 as the cost of the disaster replacement property does not
14 exceed the cost of the replaced property by more than 25
15 percent. However, the private user shall provide written
16 notice to the abatement granting authority, to the assessing
17 official of the county where the property is located, and to
18 the Department of Revenue of the change in location of the
19 private use industrial property or the disaster replacement
20 property not later than the first October 1 following the
21 effective date of this act or the first October 1 following
22 the change in location of such property, whichever is later.
23 The user shall also file the appropriate tax returns on
24 October 1 of that year and each year thereafter, as required
25 by law.

26 "(2) Where disaster replacement property is located
27 within the jurisdiction of a governing body different from the

1 replaced property, then the private user shall obtain the
2 approval from the appropriate governing body for the
3 continuation of the ad valorem tax abatement, with such
4 approval to be requested in accordance with Sections 40-9B-5
5 and 40-9B-6.

6 "(3) If the cost of the disaster replacement
7 property exceeds the cost of the replaced property by more
8 than 25 percent, then the private user shall obtain governing
9 body approval under the procedures outlined in Sections
10 40-9B-5 and 40-9B-6 for the abatement of any taxes on the
11 amount of the investment that is greater than 25 percent more
12 than the cost of the replaced property. No new approval is
13 required on the amount of the new investment not greater than
14 25 percent more than the cost of the replaced property,
15 provided that no new governing body is affected by such
16 continuation of the tax abatements."

17 Section 2. This amendment of the Disaster Recovery
18 Tax Incentive Protection Act of 2011 applies to transactions
19 entered into or disaster replacement property acquired after
20 the tornado outbreaks of April 2011. Ad valorem tax abatements
21 in existence prior to a natural disaster shall not be
22 disallowed due to an interruption of a qualifying business
23 activity at the site of the replaced property.

24 Section 3. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill comes within one of the specified exceptions contained in
4 the amendment.

5 Section 4. The provisions of this act are severable.
6 If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 5. All laws or parts of laws which conflict
10 with this act are repealed.

11 Section 6. This act shall become retroactively
12 effective on April 15, 2011, following its approval by the
13 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 08-MAR-12

Read for the second time and placed
on the calendar with 1 substitute
and..... 05-APR-12

Read for the third time and passed
as amended..... 03-MAY-12

Yeas 94, Nays 0, Abstains 0

Greg Pappas
Clerk