

1 HB687  
2 140373-1  
3 By Representatives Williams (J), McClurkin and McClammy  
4 RFD: Ways and Means Education  
5 First Read: 12-APR-12

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8 SYNOPSIS: This bill would amend Section 40-7-15, Code  
9 of Alabama 1975, relating to the fair market value  
10 of appraised property, which shall not include any  
11 income tax credits.

12 This bill would amend Section 40-7-62, Code  
13 of Alabama 1975, relating to fair market value of  
14 real property determined by jurisdictions, which  
15 shall not consider any tax credits and/or  
16 restricted rents in the determination.

17 This bill would provide for a tax credit,  
18 which shall be known as the Alabama Housing Tax  
19 Credit, for certain low-income housing; to provide  
20 for definitions; to provide for conditions and  
21 limitations; to provide for the Commissioner of the  
22 Department of Revenue to promulgate rules; and to  
23 provide for applicability.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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2           Relating to low-income housing, to amend Section  
3 40-7-15, Code of Alabama 1975, to provide that any income tax  
4 credit shall not be considered in the determining the fair  
5 market value of real property; to amend Section 40-7-62, Code  
6 of Alabama 1975, to provide that jurisdictions shall not  
7 consider any tax credits and/or restricted rents in  
8 determining fair market value of real property; to add Section  
9 40-8-6, Code of Alabama 1975, to provide for a tax credit with  
10 respect to certain low-income housing; to provide for  
11 definitions; to provide for conditions and limitations; to  
12 provide for authority of the state revenue commissioner with  
13 respect to the foregoing; to provide for applicability; and to  
14 repeal conflicting laws.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16           Section 1. Sections 40-7-15, and 40-7-62, Code of  
17 Alabama 1975, is hereby amended to read as follows:

18           "§40-7-15.

19           "(a) Except as otherwise provided by law, for the  
20 purpose of assessment, real and personal property shall be  
21 appraised at its fair and reasonable market value, according  
22 to the best judgment the assessor, the board of equalization,  
23 and agents of the Department of Revenue can form upon  
24 information, inspection, or otherwise, taking into  
25 consideration all elements or factors bearing on such value as  
26 heretofore or hereafter authorized; mineral, coal, oil, gas,  
27 timber, and turpentine interests, when they have been severed

1 in ownership from the soil, by sale or otherwise, shall be  
2 separately appraised and assessed. Notwithstanding the above,  
3 all property under lease as of October 1, 1978, which lease  
4 does not provide for a direct passthrough of property taxes to  
5 the lessee, shall be appraised solely on the basis of the  
6 economic net return to the owner.

7 "(b) A tax assessor shall not consider any income  
8 credits with respect to real property which are claimed and  
9 granted pursuant to either Section 41 of the Internal Revenue  
10 Code of 1986, as amended, or Chapter 7 of this title in  
11 determining fair market value of real property.

12 "§40-7-62.

13 "(a) Each county governing body of this state,  
14 through its respective tax assessor, shall have the property  
15 of such county appraised at its fair and reasonable market  
16 value, which fair and reasonable market value shall be the  
17 basis of assessments for ad valorem taxes.

18 "(b) Jurisdictions shall not consider any income tax  
19 credits and/or restricted rents with respect to real property  
20 which are claimed and/or granted pursuant to the Internal  
21 Revenue Code of 1986, as amended, in determining the fair  
22 market value of real property.

23 Section 2. Section 40-8-6 is hereby added to the  
24 Code of Alabama 1975, to read as follows:

25 §40-8-6

26 (a) When used in this act, the following words shall  
27 have the following meanings:

1           (1) FEDERAL HOUSING TAX CREDIT. The federal tax  
2 credit as provided in Section 42 of the Internal Revenue Code  
3 of 1986, as amended.

4           (2) MEDIAN INCOME. The income that is determined by  
5 the federal Department of Housing and Urban Development  
6 guidelines and adjusted for family size.

7           (3) PROJECT. A house project that has restricted  
8 rents that do not exceed 30 percent of median income for at  
9 least 40 percent of its units occupied by persons or families  
10 having incomes of 60 percent or less of this median income, or  
11 at least 20 percent of the units occupied by persons or  
12 families having incomes of 50 percent or less of the median  
13 income.

14           (4) QUALIFIED PROJECT. A qualified low-income  
15 building as that term is defined in Section 40 of the Internal  
16 Revenue Code of 1986, as amended, that is located within the  
17 State of Alabama.

18           (b) (1) A state tax credit against the tax imposed  
19 by this article, to be termed the Alabama housing tax credit,  
20 shall be allowed with respect to each qualified project in  
21 service after January 1, 2013, in an amount equal to the  
22 federal housing tax credit allowed with respect to such  
23 qualified project.

24           (2) (a) If under Section 42 of the Internal Revenue  
25 Code of 1986, as amended, a portion of any federal housing tax  
26 credit taken on a project is required to be recaptured, the  
27 taxpayer claiming any state tax credit with respect to such

1 project shall also be required to recapture a portion of any  
2 state tax credit authorized by this section. The state  
3 recapture amount shall be equal to the proportion of the state  
4 tax credit claimed by the taxpayer that equals the proportion  
5 the federal recapture amount bears to the original federal  
6 housing tax credit amount subject to recapture.

7 (b) In the event that recapture of any Alabama  
8 housing tax credit is required, any amended return submitted  
9 to the commissioner as provided in this section shall include  
10 the proportion of the state tax credit required to be  
11 recaptured, the identity of each taxpayer subject to the  
12 recapture, and the amount of tax credit previously allocated  
13 to such taxpayer.

14 (3) In no event shall the total amount of the tax  
15 credit under this section for a taxable year exceed the  
16 taxpayer's income tax liability. Any unused tax credit shall  
17 be allowed to be carried forward to apply to the taxpayer's  
18 next three succeeding years' tax liability. No such tax credit  
19 shall be allowed the taxpayer against prior years' tax  
20 liability.

21 (4) The tax credit allowed under this section, and  
22 any recaptured tax credit, shall be allocated among some or  
23 all of the partners, members, or shareholders of the entity  
24 owning the project in any manner agreed to by such persons,  
25 whether or not such persons are allocated or allowed any  
26 portion of the federal housing tax credit with respect to the  
27 project.

1                   (c) The Commissioner of the Department of Revenue  
2 shall promulgate any rules and regulations necessary to  
3 implement and administer this section.

4                   Section 3. All laws or parts of laws which conflict  
5 with this act are repealed.

6                   Section 4. This act shall become effective on  
7 January 1, 2013, and shall be applicable to all taxable years  
8 beginning on or after January 1, 2013, after its passage and  
9 approval by the Governor, or its otherwise becoming law.