

APA1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 281 Department or Agency: Department of Commerce

Rule No. 281-6-2

Rule Title: Alabama Renewal Act-Growing Alabama Credit

X New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? YES

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Angela Hill

Date 11-15-16

(DATE FILED)
(STAMP)

APA-2
07/04

Alabama Department of Commerce

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Commerce

RULE NO. & TITLE: 281-6-2 Alabama Renewal Act -Growing Alabama Credit

INTENDED ACTION: Adopt new rules.

SUBSTANCE OF PROPOSED ACTION: The Department of Commerce proposes to adopt rules for the award and administration of the Growing Alabama Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 19 of Code of Alabama 1975.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit their views either orally or in writing to the Department of Commerce, 401 Adams Avenue, Suite 670, Montgomery, AL 36104, at any time prior to the date specified below, which is more than thirty-five (35) days following the publication of this notice.

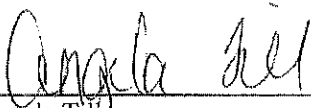
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

January 5, 2017

CONTACT PERSONS AT AGENCY:

Greg Canfield
Secretary of Commerce
401 Adams Avenue, Suite 670
Montgomery, AL 36104
(334) 242-0421

William A. McCrary
401 Adams Avenue
Suite 749
Montgomery, Alabama 36104
(334) 242-7133



Angela Till
Deputy Secretary of Commerce
11-15-16

Date

APA6
07/04

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 281 Department or Agency: Alabama Department of Commerce

Rule No.: 281-6-2

Rule Title: Alabama Renewal Act- Growing Alabama Credit

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:**
The adoption of these rules is intended to allow the Alabama Department of Commerce to effectively administer the Growing Alabama Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 19 of Code of Alabama 1975.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:** **These rules are expected to provide for the effective administration of the Growing Alabama Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 19 of the Code of Alabama 1975.**
3. **EFFECT OF THIS RULE ON COMPETITION:** **There is anticipated to be no effect on competition between Alabama businesses within the State of Alabama, however Alabama as a State will be more competitive in the site selection process for new and expanding businesses.**
4. **EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** **There is anticipated to be no effect on the cost-of-living or doing business within the State of Alabama.**
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** **It is anticipated that the implementation of these rules will promote the development of under-utilized industrial sites thereby furthering efforts to recruit companies to bring new jobs and capital investment into the State.**

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
There is no new source of revenue for such purpose.

7. THE SHORT TERM/LONG TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
In both the short term and long term it is anticipated that the implementation of these rules will promote the development of under-utilized industrial sites thereby furthering efforts to recruit companies to bring new jobs and capital investment into the State.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE INCLUDING QUALITATIVE / QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
N/A

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
None.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
None.

"NEW CHAPTER"

ALABAMA DEPARTMENT OF COMMERCE

CHAPTER 281-6-2

ALABAMA RENEWAL ACT -
GROWING ALABAMA CREDIT

TABLE OF CONTENTS

281-6-2.01	Definitions
281-6-2.02	Local Economic Development Organizations
281-6-2.03	Application for Funding from Local Economic Development Organizations
281-6-2.04	Projects Eligible for Funding under the Growing Alabama Program
281-6-2.05	Compliance with Alabama Department of Economic and Community Affairs Procedures
281-6-2.06	Award of Funding to Local Economic Development Organizations
281-6-2.07	Partial Funding of Projects
281-6-2.08	Online System Administered by Revenue

Section 281-6-2.01 Definitions. In addition to the definitions contained in Section 40-18-410 of the Code of Alabama 1975, the following words and phrases used in Title 40, Chapter 18, Article 19 shall have the following meanings:

ACT. Alabama Renewal Act, codified at Title 40, Chapter 18, Article 19 of the Code.

ADECA. The Alabama Department of Economic and Community Affairs.

CODE. The Code of Alabama 1975, as amended.

COMMERCE. The Alabama Department of Commerce.

GROWING ALABAMA FUNDING AGREEMENT. The agreement between the State and the local economic development organization required by the Act pursuant to which a project and its funding are made eligible for Growing Alabama Credits.

REVENUE. The Alabama Department of Revenue.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. § 40-18-415(f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.02. Local Economic Development Organizations

(a) Commerce determines that public corporations organized and existing under the following provisions of the Code are local economic development organizations as such term is used in the Act:

- (1) Title 4, Chapter 3 (Airport Authorities),
- (2) Title 11, Chapter 20, Article 2 (County Industrial Development Boards),
- (3) Title 11, Chapter 54, Article 4 (Municipal Industrial Development Boards),
- (4) Title 11, Chapter 54, Article 6 (Commercial Development Authorities),
- (5) Title 11, Chapter 54A (Downtown Redevelopment Authorities),
- (6) Title 11, Chapter 92A (County Industrial Development Authorities),
- (7) Title 11, Chapter 92B (Local Reuse or Development Authorities),
- (8) Title 11, Chapter 94 (Port Authorities),
- (9) Title 11, Chapter 105 (Tourism Development Authorities),
- (10) Title 33, Chapter 13 (Alabama State Port Authority), and
- (11) Title 40, Chapter 10, Article 2 (State Industrial Development Authority)

(b) In addition, Commerce determines that capital improvement cooperative districts organized and existing under the provisions of Title 11, Chapter 99B of the Code are local economic development organizations as such term is used in the Act if all of the members of a cooperative district are either (i) entities listed in subsection (a) of this Section, (b) a municipality or county or (iii) have otherwise been designated as a local economic development organization by Commerce.

(c) An organization seeking designation as a local economic development organization may apply in writing on letterhead of the

organization and shall include the following information regarding the organization:

- (1) Legal name of the organization,
- (2) Address of the organization,
- (3) Name of authorized contact person for the organization,
- (4) Email address of authorized contact person,
- (5) Telephone number of authorized contact person,
- (6) State of incorporation of the organization,
 - (A) If the organization is organized or incorporated in Alabama, certification of the title, chapter and article (if applicable) under which the organization is organized or incorporated, or
 - (B) If the organization is unincorporated, information regarding board appointment procedures, including the identity of each third party empowered to appoint directors,
- (7) Certification that the organization is not operated for a profit, and
- (8) Narratives describing the following:
 - (A) The organization's mission,
 - (B) The organization's programs to improve a community or region of Alabama, and
 - (C) The organization's record of supporting or otherwise participating in economic development activities in the community or region of Alabama it serves.

(d) Applications for designation as a local economic development organization should be submitted to Commerce at the following address:

Alabama Department of Commerce
401 Adams Avenue, Suite 670
P.O. Box 304106
Montgomery, Alabama 36130-4106
Attn: Deputy Secretary of Commerce
Business Development Division

(e) Applications for designation as a local economic development organization may be made free of charge.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. And § 40-18-411 and §40-18-415(a) and (f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.03. Applications for Funding from Local Economic Development Organizations

(a) A local economic development organization seeking funding for a site pursuant to Section 40-18-411 of the Code shall file an application on a form prescribed by Commerce.

(b) Applications for funding may be submitted on or after October 1, 2016. Applications for funding should be submitted to Commerce at the address set forth on the application.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §40-18-411 and §40-18-415(a) and (f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.04. Projects Eligible for Funding under the Growing Alabama Program. Projects eligible for funding include site preparation or public infrastructure work to real property that is owned by a local economic development organization.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §.40-18-415(f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.05. Compliance with Alabama Department of Economic and Community Affairs Procedures. The Act requires that the local economic development organization provide quotes for work to be funded in compliance with procedures set forth by ADECA. ADECA may amend its procedures relating to obtaining quotes from time to time.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §40-18-411 and §40-18-415(f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.06. Award of Funding to Local Economic Development Organization.

(a) Commerce will review applications for approval. If Commerce approves an application, it will forward the application to the Renewal of Alabama Commission.

(b) Applications are reviewed by the Renewal of Alabama Commission pursuant to procedures adopted by the Renewal of Alabama Commission.

(c) Applications that are approved by the Renewal of Alabama Commission shall be returned to Commerce for entry into a Growing Alabama Funding Agreement. Commerce shall prescribe the form of Growing Alabama Funding Agreement and may amend the same from time to time.

(d) Upon execution and delivery of a Growing Alabama Funding Agreement by all parties thereto, Commerce will provide a copy of the Growing Alabama Funding Agreement to Revenue together with such information as is necessary or convenient for Revenue to administer the online system mandated by the Act.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §40-18-412 and §40-18-415(f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.07. Partial Funding of Projects. Each application filed by a local economic development organization shall include a certification of the amount of organization funding available to complete the project should taxpayer funding not materialize. Each Growing Alabama Funding Agreement shall include an agreement by the local economic development organization to fully fund the project once an agreed amount of cash contributions from taxpayers is received. For the avoidance of doubt, a local economic development organization may specify that no organization funding is available for the project, in which case the project must be fully funded by cash contributions from taxpayers prior to proceeding.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. § 40-18-415(f).

History: New Rule: Filed November 15, 2016

Section 281-6-2.08. Online System Administered by Revenue.

(a) Upon receipt of a notification from Commerce that a local economic development organization's application has been approved by the Renewal of Alabama Commission, Revenue will open an online system for each project through which taxpayers may agree to fund all or part of the local economic development organization's project. Revenue shall notify a local economic development organization of the date that the online system for a project is open to reserve Growing Alabama Credits.

(b) Taxpayers shall have thirty days from the date that the online system for a project is open to reserve Growing Alabama Credits. Growing Alabama Credits available for a project shall be available on a first-come, first-served basis.

(c) The online system operated by Revenue shall reserve a Growing Alabama Credit for the taxpayer to the extent the project remains unfunded until the local economic development organization makes the certifications contained in subsection (e) of this Section. The credit reservation shall grant the taxpayer twenty-one calendar days from the date of the taxpayer's credit reservation to make a cash contribution to the local economic development organization for the applicable project.

(d) Within sixty days from the date that the online system for a project is open for reservations, the local economic development organization shall certify to Commerce the following:

(1) a list of the taxpayers who made cash contributions for the project,

(2) the amount of cash contribution actually received from each,

(3) a statement that the project has or has not received sufficient funding as provided in the applicable Growing Alabama Funding Agreement, and

(4) a statement that the project will or will not be constructed.

(e) Within sixty days from the date that the online system for a project is open for reservations, the local economic development organization shall provide to Revenue a copy of the list provided to Commerce under subsection (d) of this Section and

shall, utilizing the online system operated by Revenue, certify the following information:

(1) that each contribution applicable to the project has been made,

(2) that the project has been funded in accordance with the applicable Growing Alabama Funding Agreement, and

(3) that the project will be undertaken by the local economic development organization.

Absence of the certifications required by this subsection (e) shall cause the credit reservation to be automatically denied by the online system operated by Revenue and, upon denial, no Growing Alabama Credit may be claimed by the taxpayer.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §40-18-412 and §40-18-415(f).

History: New Rule: Filed November 15, 2016