

1 HB211
2 208837-1
3 By Representatives South, Lee and Pettus
4 RFD: Ways and Means Education
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

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8 SYNOPSIS: Under the capital credit program, an annual
9 credit of a percentage of the capital costs of a
10 qualifying project can be applied to an Alabama
11 income tax or financial institution excise tax
12 liability of an investing company. A qualifying
13 project must meet specific employment and wage
14 requirements after the project is placed into
15 service for the capital credit to be available.

16 This bill establishes the COVID-19 Recovery
17 Capital Credit Protection Act of 2021. The bill
18 provides an extension to the employment and wage
19 requirements for a qualifying project placed into
20 service during 2019, 2020, and 2021.

21 The bill provides that the failure to meet
22 the annual employment and wage requirements during
23 the 2020 and 2021 tax years will not be considered
24 in determining whether a project will be
25 disqualified from the program. The bill provides
26 that forfeiture penalties will not apply for

1 qualifying projects failing to meet those
2 requirements.

3 Under current law, an amount up to
4 twenty-five thousand dollars received as severance,
5 unemployment compensation or termination pay, or as
6 income from a supplemental income plan, by an
7 employee who is terminated, laid-off, fired, or
8 displaced from his or her employment, is exempt
9 from income tax.

10 This bill provides an increase in the
11 exemption amount received as severance,
12 unemployment compensation or termination pay, or as
13 income from a supplemental income plan for tax
14 years beginning after December 31, 2019.

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To establish the COVID-19 Recovery Capital Credit
21 Protection Act of 2021; to amend Section 40-18-19.1, Code of
22 Alabama 1975; to increase the amount of various types of
23 compensation that may be exempted; and to provide an extension
24 to the employment and wage requirements of the capital credit
25 program and associated penalties.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 2, 3, and 5 shall be known and
2 may be cited as the "COVID-19 Recovery Capital Credit
3 Protection Act of 2021."

4 Section 2. (a) For the purposes of this act the
5 following terms shall have the assigned meanings:

6 (1) APPROVED PROJECT ENTITY. An entity that has
7 filed a notice of intent with the Department on or before
8 January 1, 2016, and who has subsequently filed or will file a
9 report of investment in project with the Department to claim a
10 capital credit under the Capital Credit Program.

11 (2) DEPARTMENT. The Alabama Department of Revenue.

12 (3) QUALIFYING PROJECT. A project that has been
13 placed into service in calendar years 2019, 2020, and 2021.

14 Section 3. (a) The one-year period in which to
15 satisfy the initial employment and wage requirements for an
16 approved project entity, shall be extended to a period not to
17 exceed two years for any otherwise qualifying project placed
18 into service in calendar years 2019, 2020, or 2021 that have
19 been directly affected by the COVID-19 pandemic.

20 (b) An approved project entity's qualifying project,
21 that fails to meet the annual employment and wage requirements
22 for tax years beginning after December 31, 2019, but before
23 January 1, 2022, will not be considered in the determination
24 of disqualification from the capital credit program; provided
25 that the COVID-19 pandemic is the primary cause of the
26 disqualification.

1 (c) An approved project entity shall not be subject
2 to certain forfeiture penalties imposed on qualifying projects
3 that fail to maintain employment and wage requirements for any
4 tax year ending before January 1, 2022. For tax years
5 beginning on or after January 1, 2022, the applicable
6 forfeiture penalty shall be equal to one hundred percent
7 (100%) of the capital credits claimed in the year immediately
8 preceding the year in which the approved project entity fails
9 to maintain the employment and wage requirements of this
10 section. The forfeiture percentage shall be reduced to twenty
11 percent (20%) for each successive prior year in the five-year
12 forfeiture period.

13 Section 4. Section 40-18-19.1, Code of Alabama 1975,
14 is amended to read as follows:

15 "§40-18-19.1.

16 "(a) Effective for the 1997 state income tax year
17 and ~~each year thereafter~~ through tax year ending December 31,
18 2019, an amount up to twenty-five thousand dollars (\$25,000)
19 received as severance, unemployment compensation or
20 termination pay, or as income from a supplemental income plan,
21 or both, by an employee who, as a result of administrative
22 downsizing, is terminated, laid-off, fired, or displaced from
23 his or her employment, shall be exempt from any state, county,
24 or municipal income tax.

25 "(b) Effective for tax years beginning after
26 December 31, 2019, an amount up to fifty thousand dollars
27 (\$50,000) per tax year received as severance, unemployment

1 compensation or termination pay, or as income from a
2 supplemental income plan, or both, by an employee who, as a
3 result of administrative downsizing, is terminated, laid-off,
4 fired, or displaced from his or her employment, shall be
5 exempt from any state, county, or municipal income tax. The
6 exemption is limited to the amount of the actual payment(s),
7 but in no case shall exceed fifty thousand dollars (\$50,000)
8 per tax year.

9 "~~(b)~~ (c) An employee whose termination from
10 employment is due to misconduct shall not be allowed to take
11 the tax exemption provided in subsection (a).

12 "~~(c)~~ (d) The Department of Revenue shall promulgate
13 rules and regulations to administer this section."

14 Section 5. The Department of Revenue shall adopt
15 rules for the implementation and administration of this act.

16 Section 6. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or upon its otherwise becoming law.