

1 HB227
2 214310-2
3 By Representative Lovvorn
4 RFD: Ways and Means Education
5 First Read: 02-FEB-21
6 PFD: 02/01/2021

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ENROLLED, An Act,

Relating to taxation; to provide an income tax credit for the construction, acquisition, or installation of a qualified storm shelter; and to provide that federal restaurant revitalization grants are excluded from Alabama income taxation to the same extent as under federal income tax law.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) As used in this act, the following terms shall have the following meanings:

(1) MANUFACTURED HOME. Any structure built to the Manufactured Home Construction and Safety Standards which displays a red certification label on the exterior of each transportable section.

(2) PRIMARY RESIDENCE. Any manufactured home or single family residence building that is the full-time legal residence of the taxpayer and is used for purposes of the taxpayer's income tax calculation.

(3) QUALIFIED STORM SHELTER. A storm shelter or safe room to which all of the following apply:

a. The design is capable of withstanding an EF5 tornado.

b. The shelter or room is placed in service as an attachment to the taxpayer's primary residence, or on the same

1 lot or parcel as the primary residence, and no other qualified
2 storm shelter is attached to the primary residence or on the
3 lot.

4 c. The shelter or room meets or exceeds the most
5 recent Federal Emergency Management Agency minimum criteria
6 for the design, construction, and operation of residential
7 safe rooms.

8 d. The shelter or room is built on the site of the
9 taxpayer's primary residence or is manufactured offsite and
10 installed on the site of the taxpayer's primary residence.

11 (4) SINGLE FAMILY RESIDENCE BUILDING. A structure
12 designed according to the International Residential Codes or
13 its predecessor codes.

14 (b) An Alabama income tax credit is established for
15 eligible taxpayers who incur costs for the construction,
16 acquisition, or installation of a qualified storm shelter at
17 their primary residence in the state. The tax credit shall
18 equal three thousand dollars (\$3,000) or 50 percent of the
19 total cost of the construction, acquisition, and installation
20 of the qualified storm shelter at the primary residence,
21 whichever is less. The total costs for purposes of the tax
22 credit calculation under this subsection shall exclude any
23 costs reimbursed or expected to be reimbursed by any other
24 entity including, but not limited to, insurance
25 reimbursements, grants, or other government subsidies or

1 incentives. The tax credit must be taken in the tax year in
2 which the taxpayer was issued a tax credit certificate under
3 subsection (f).

4 (c) The tax credit issued under this act may not
5 decrease a taxpayer's tax liability to less than zero. If the
6 tax liability of the taxpayer is less than the tax credit
7 issued under this act, the taxpayer may only utilize the
8 amount of the credit that reduces the taxpayer liability to
9 zero. The tax credit is not refundable nor transferable and
10 may not be carried forward. A taxpayer applying for the tax
11 credit shall only apply for the tax credit for the year in
12 which the qualified storm shelter was acquired, constructed,
13 or installed, regardless of the tax liability of the taxpayer.

14 (d) The Department of Revenue shall grant the tax
15 credit against the state income tax that is due by the
16 taxpayer holding the tax credit certificate issued under
17 subsection (f) in the amount stated on the tax credit
18 certificate, subject to the limitations of subsection (c). The
19 department may audit and reassess any credit improperly
20 obtained by the taxpayer, in accordance with the Alabama
21 Taxpayers' Bill of Rights and Uniform Revenue Procedures Act
22 under Chapter 2A of Title 40, Code of Alabama 1975.

23 (e) The tax credit authorized by this act is limited
24 to an aggregate amount for all taxpayers of two million
25 dollars (\$2,000,000) annually.

1 (f) Prior to claiming the income tax credit
2 authorized under subsection (b), the taxpayer shall file an
3 annual informational report in a manner prescribed by the
4 Alabama Emergency Management Agency, which includes
5 information reflecting the costs for construction,
6 acquisition, or installation of the qualified storm shelter at
7 the primary residence, along with additional information as
8 required by the Alabama Emergency Management Agency. Following
9 the receipt of all information required by this subsection,
10 the Alabama Emergency Management Agency shall issue a tax
11 credit certificate to the taxpayer seeking the credit. Tax
12 credit certificates shall be issued on a first come, first
13 served basis until the annual cap provided by subsection (e)
14 is met. In the event the reservations of tax credits equal the
15 total amount available for reservations during the tax year,
16 all eligible taxpayers with applications then awaiting
17 approval or thereafter submitted shall be notified in a manner
18 as prescribed by the Alabama Emergency Management Agency that
19 no additional tax credits shall be granted during that tax
20 year and, notwithstanding subsection (b), shall be allowed to
21 seek a tax credit certificate in the next tax year, subject to
22 the limitations of subsection (c).

23 (g) The Alabama Emergency Management Agency shall
24 prepare a report detailing the number of qualified storm
25 shelters constructed, acquired, and installed and the amount

1 of tax credits claimed under this act. The information on the
2 report shall be consistent with the information required under
3 Section 40-1-50, Code of Alabama 1975, and rules adopted by
4 the Department of Revenue. Information provided under this
5 section is exempt from the confidentiality provisions of
6 Section 40-2A-10, Code of Alabama 1975, and shall be provided
7 by the Alabama Emergency Management Agency to the Legislature
8 in accordance with Section 40-1-50, Code of Alabama 1975, and
9 rules adopted by the Department of Revenue.

10 (h) The Alabama Emergency Management Agency may
11 adopt rules to implement and administer this act.

12 (i) The tax credit allowed under this section shall
13 be effective January 1, 2022, for the 2022 tax year, and shall
14 continue through the 2025 tax year, unless continued by an act
15 of the Legislature.

16 Section 2. For tax years ending after the enactment
17 of the federal American Rescue Plan Act, any amount received
18 from the Administrator of the Small Business Administration in
19 the form of a restaurant revitalization grant under Section
20 5003 of the American Rescue Plan Act shall be all of the
21 following:

22 (1) Exempt from the income taxes imposed by Chapter
23 18 of Title 40, Code of Alabama 1975, to the same extent as
24 the amount is exempt from federal income tax under Section
25 9673 of the American Rescue Plan Act.

1 (2) Not considered in determining deductibility of
2 otherwise deductible expenses allowed to be paid with the
3 exempt funds, including, but not limited to, payroll,
4 utilities, mortgage interest, or rent, to the same extent as
5 the expenses remain deductible in calculating federal income
6 tax under Section 9673 of the American Rescue Plan Act.

7 (3) Excluded from any and all calculations in
8 determining a taxpayer's federal income tax deduction pursuant
9 to Chapter 18 of Title 40, Code of Alabama 1975.

10 Section 3. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 03-MAR-21.

Jeff Woodard
Clerk

Senate

17-MAY-21

Amended and Passed
Passed, as amended
by Conference Com-
mittee Report

House

17-MAY-21

Passed, as amended
by Conference Com-
mittee Report

Senate

17-MAY-21