

1 HB264
2 146853-5
3 By Representative DeMarco
4 RFD: Judiciary
5 First Read: 12-FEB-13

1 Revenue, including repealing Section 40-2A-9, Code of Alabama
2 1975.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. In order to increase public confidence in
5 the fairness of Alabama's tax system, the state shall provide
6 an independent agency, with tax expertise, to resolve disputes
7 between the Department of Revenue, or certain
8 self-administered counties and municipalities, and taxpayers
9 prior to requiring the payment of the amounts in issue or the
10 posting of a bond, but after the taxpayer has had a full
11 opportunity to attempt settlement with the Department of
12 Revenue or with a self-administered county or municipality
13 that has not elected out based, among other issues, on the
14 hazards of litigation. By establishing an independent tax
15 tribunal within the executive branch of government, this act
16 shall provide taxpayers with a means of resolving
17 controversies that ensures both the appearance and the reality
18 of due process and fundamental fairness. To that end, Chapter
19 2B of Title 40 of the Code of Alabama 1975, by this act shall
20 be known and may be cited as the Alabama Tax Appeals
21 Commission Act.

22 It is the intent of the Legislature to adopt in
23 large part the American Bar Association Model State
24 Administrative Tax Tribunal Act.

25 It is the intent of the Legislature that this act
26 foster the settlement or other resolution of tax disputes to
27 the greatest extent possible and, in cases in which litigation

1 is necessary, to provide taxpayers with a fair, independent,
2 pre-payment procedure to resolve a dispute with the Department
3 of Revenue or, in certain cases, a self-administered county or
4 municipality.

5 It is also the intent of the Legislature to amend
6 the existing Alabama Taxpayers' Bill of Rights provisions,
7 which apply to both the Department of Revenue and
8 self-administered counties and municipalities as a result of
9 the Local Tax Procedures Act of 1998, to conform more closely
10 to current federal law and to provide additional safeguards to
11 taxpayers during the audit and appeals process. To that end,
12 the provisions of this act and existing Chapter 2A of Title 40
13 of the Code of Alabama 1975, shall be known and may be cited
14 as the Alabama Taxpayers' Bill of Rights II.

15 Section 2. Chapter 2B is added to Title 40 of the
16 Code of Alabama 1975, to read as follows:

17 CHAPTER 2B

18 CREATION AND OPERATION OF THE ALABAMA TAX APPEALS
19 COMMISSION.

20 §40-2B-1. Alabama Tax Appeals Commission.

21 (a) As part of the executive branch of state
22 government, there is hereby created an independent commission
23 to be known as the Alabama Tax Appeals Commission, also
24 referred to herein as the "Tax Appeals Commission".

25 (b) The Tax Appeals Commission shall become fully
26 operational on October 1, 2013. The Tax Appeals Commission, in
27 cases within its jurisdiction:

1 (1) Is a commission of limited and special
2 jurisdiction.

3 (2) Possesses the same powers and may exercise all
4 ordinary and extraordinary legal and equitable remedies
5 available in the circuit courts with respect to tax cases, as
6 prescribed herein, including the interpretation and
7 application of constitutional principles and such additional
8 remedies as may be assigned to it by the Legislature, but may
9 not declare a statute or ordinance in violation of either a
10 federal or state constitutional provision.

11 (c) The Tax Appeals Commission shall have a seal
12 engraved with the words Alabama Tax Appeals Commission. The
13 Tax Appeals Commission shall authenticate all of its orders,
14 records, correspondence, and proceedings with the seal, and
15 the courts of this state shall take judicial notice of the
16 seal.

17 §40-2B-2. Definitions.

18 (a) The definitions provided for in Section 40-2A-3
19 shall also apply to this chapter, except as provided in this
20 section. For purposes of this chapter, the following terms
21 shall have the following meanings:

22 (1) The term "Department of Revenue" means the
23 Alabama Department of Revenue and does not include the
24 governing body of any self-administered county or
25 municipality.

26 (2) The term "U.S. mail with delivery confirmation"
27 means a delivery service available through the U.S. Postal

1 Service that provides the sender with the date, Zip Code, and
2 time the article was delivered or the time delivery was
3 attempted.

4 (b) For purposes of this chapter, if a
5 self-administered county or municipality has not elected out
6 of this chapter pursuant to Section 40-2B-25, the following
7 terms shall have the following meanings:

8 (1) The term "taxpayer" shall include a person, as
9 defined in Section 40-2A-3, when paying a sales, use, rental,
10 or lodgings tax to, or being assessed or examined by, a
11 self-administered county or municipality or its agent.

12 (2) The term "department" shall include the
13 governing body of each self-administered county or
14 municipality that has not elected out.

15 (3) The term "secretary" shall include the clerk of
16 the applicable self-administered county or municipality that
17 has not elected out.

18 (4) The term "tax" shall mean and refer to a sales,
19 use, rental, or lodgings tax levied by or on behalf of a
20 self-administered county or municipality that has not elected
21 out.

22 §40-2B-3. Jurisdiction and initial organization of
23 the Tax Appeals Commission.

24 (a) The Tax Appeals Commission shall have
25 jurisdiction to hear and determine all appeals pending before
26 the Department of Revenue's Administrative Law Division on
27 September 30, 2013, and all subsequent appeals filed with the

1 Tax Appeals Commission pursuant to Chapters 2A and 29 of this
2 title, Chapters 6, 7A, 8, 13, and 20 of Title 32, relating to
3 motor vehicles, or Section 40-2B-25, relating to
4 self-administered counties and municipalities, except as
5 follows:

6 (1) Appeals filed directly with the circuit court
7 either from a final assessment entered by the department or
8 from the department's denial in whole or in part of a claim
9 for refund.

10 (2) The determination and assessment of ad valorem
11 taxes on real and personal property, which is administered by
12 the various counties of the State of Alabama, except that
13 appeals from final assessments of value of property of public
14 utilities under Chapter 21 may be heard by the Tax Appeals
15 Commission in accordance with the procedures set forth in this
16 chapter.

17 (3) Any appeals regarding a sales, use, rental, or
18 lodgings tax levied or collected by or on behalf of a
19 self-administered county or municipality if the governing body
20 of the county or municipality has made an election under
21 Section 40-2B-25 to divest the Tax Appeals Commission of
22 jurisdiction over the dispute, challenge, or appeal. Such
23 appeals shall be heard by the employee or other agent of the
24 self-administered county or municipality serving in the
25 capacity of a hearings or appeals officer, subject to Section
26 40-2A-6.

1 (b) To provide for a proper transition from the
2 Administrative Law Division to the Tax Appeals Commission, the
3 Department of Revenue, on or before October 1, 2013, shall
4 transfer to the Tax Appeals Commission office furniture,
5 equipment, computers, and other tangible personal property
6 used by the Administrative Law Division, as well as all case
7 files, docket books, and all other documents and information,
8 in both tangible and intangible form, compiled, used, or
9 maintained by the Administrative Law Division. Further, any
10 appeals that are timely filed with the Administrative Law
11 Division after September 30, 2013, shall be deemed timely
12 filed with and transferred to the Tax Appeals Commission. The
13 Chief Administrative Law Judge of the Administrative Law
14 Division shall have and is hereby granted the power and
15 authority necessary to effect an orderly transition,
16 including, but not limited to, the power and authority to
17 execute binding contracts and commitments on behalf of the Tax
18 Appeals Commission with respect to employees, office space,
19 equipment, and other property, consistent with Sections
20 40-2B-16 and 40-2B-20.

21 §40-2B-4. Service of papers and process.

22 Except concerning notices to the Department of
23 Revenue from the Tax Appeals Commission, or as otherwise
24 provided in this chapter, the Tax Appeals Commission shall
25 mail any final order in which a judgment is entered or
26 affirmed or any notice of hearing by either U.S. mail with
27 delivery confirmation or certified U.S. mail, return receipt

1 requested, to the taxpayer's last known address or, if the
2 taxpayer has an authorized representative, to the authorized
3 representative's last known address. All other orders or
4 documents may, at the Tax Appeals Commission's discretion, be
5 mailed by first class U.S. mail.

6 §40-2B-5. Timely mailed document considered to be
7 timely filed.

8 Any notice of appeal, application for rehearing, or
9 other document required by law to be timely filed with the Tax
10 Appeals Commission shall be deemed timely filed if:

11 (1) Timely mailed or delivered in accordance with
12 Section 40-1-45 and Department of Revenue regulations
13 pertinent thereto;

14 (2) Received by the Tax Appeals Commission on or
15 before the date due; or

16 (3) Received by the Tax Appeals Commission in
17 legible form by facsimile or electronic transmission on or
18 before the due date, if the original, signed document is
19 mailed or delivered to the Tax Appeals Commission within seven
20 days after receipt of the facsimile or electronic
21 transmission.

22 §40-2B-6. Issuance of subpoenas; administration of
23 oaths.

24 (a) A judge of the Tax Appeals Commission shall have
25 the authority and the discretion to issue subpoenas, on his or
26 her own motion or at the request of a party, requiring any
27 person whose testimony may be relevant to an appeal to appear

1 and give testimony, at either a deposition or a hearing before
2 the judge. If a person is subpoenaed to testify at a
3 deposition or a hearing at the request of a party, that party
4 shall bear the cost of transcription of the deposition and the
5 fees and mileage provided in Section 40-2A-7(a)(4). The judge
6 shall also have discretion to issue subpoenas duces tecum
7 requiring the production of any document or other evidence
8 relevant to the appeal. Such subpoenas or subpoenas duces
9 tecum shall be issued in the name of the Tax Appeals
10 Commission, signed by a judge of the Tax Appeals Commission,
11 and may be served either in the same manner as subpoenas
12 issued by a circuit court or either by U.S. mail with delivery
13 confirmation or certified U.S. mail, return receipt requested.
14 If any person has been subpoenaed to appear and testify or
15 appear and produce documents or other information and fails or
16 refuses to appear or testify or to produce such documents or
17 other information, such person shall be subject to contempt
18 proceedings, if instituted by a petition for contempt issued
19 by a judge of the Tax Appeals Commission, in the circuit court
20 of the judicial circuit in which such person resides and, upon
21 proof of such fact to the circuit court, may be punished for
22 contempt as is provided in cases of contempt in circuit court.
23 Such proof of contempt may be evidenced by an affidavit of a
24 judge of the Tax Appeals Commission. Likewise, such circuit
25 court shall have jurisdiction to hear and, if appropriate, to
26 grant a motion to quash such subpoena.

1 (b) Any judge, or any employee of the Tax Appeals
2 Commission as designated in writing by the chief judge, may
3 administer oaths.

4 §40-2B-7. Hearings to be without a jury and de novo.

5 All appeals to the Tax Appeals Commission shall be
6 tried without a jury and shall be de novo.

7 §40-2B-8. Notice to taxpayer of right to appeal to
8 Tax Appeals Commission.

9 The department shall notify a taxpayer of the right
10 to appeal to the Tax Appeals Commission and the jurisdictional
11 requirements for perfecting the appeal. Such notice shall be
12 given with a final assessment, or with any notice by the
13 department informing the taxpayer that his or her claim for
14 refund has been denied in whole or in part, or any notice by
15 the department informing the taxpayer of any act, proposed
16 act, or refusal to act by the department from which the
17 taxpayer has a right to appeal to the Tax Appeals Commission.

18 §40-2B-9. Procedures concerning appeals.

19 (a) The purpose of this section is to establish
20 uniform procedures concerning appeals to the Tax Appeals
21 Commission and to establish the authority and responsibilities
22 of the judges of the Tax Appeals Commission concerning those
23 appeals. This section shall be liberally construed to provide
24 for the fair, efficient, and complete resolution of all
25 matters in dispute.

26 (b) Judges of the Tax Appeals Commission shall hear
27 and decide all appeals to the Tax Appeals Commission, as

1 assigned by the chief judge. A judge, without a hearing, may
2 dismiss any appeal, or grant appropriate relief to any party,
3 if a party fails or refuses to comply with any Tax Appeals
4 Commission regulation or statute concerning appeals before the
5 Tax Appeals Commission or if any party fails or refuses to
6 comply with any preliminary order issued by a judge. The
7 judge, for good cause, may reinstate an appeal dismissed under
8 this subsection or withdraw an order granting relief only if
9 an application to reinstate the appeal or withdraw the order
10 is filed within 15 days from the date on which the order
11 dismissing the appeal or granting the relief was entered or on
12 the judge's own motion within 90 days. A final order
13 dismissing an appeal or granting relief to a party may be
14 appealed to circuit court in the same manner and subject to
15 the same requirements as appeals from final or other
16 appealable orders of the Tax Appeals Commission.

17 (c) The notice of appeal filed with the Tax Appeals
18 Commission shall identify the final assessment, denied refund,
19 or other act or refusal to act by the department which is the
20 subject of the appeal, the position of the appealing party,
21 the basis on which relief should be granted, and the relief
22 sought. A notice of appeal that does not include all of the
23 above information shall be sufficient to invoke the
24 jurisdiction of the Tax Appeals Commission. The judge may
25 require a taxpayer to file an amended notice of appeal if more
26 information is deemed necessary.

1 (d) (1) Except as provided in subdivision (2), the
2 Tax Appeals Commission shall notify the legal division of the
3 Department of Revenue in writing that an appeal has been filed
4 and shall mail a copy of such notification to the taxpayer or
5 its authorized representative. The legal division shall file a
6 written answer with the Tax Appeals Commission within 60 days
7 from the date of issuance of the notice to the legal division.
8 The judge may allow the legal division additional time, not to
9 exceed 30 days, within which to file an answer only if the
10 legal division requests the extension within the 60-day period
11 provided by the preceding sentence. The answer shall state the
12 facts and the issues involved and the Department of Revenue's
13 position relating thereto. The judge may require the
14 Department of Revenue to file an amended answer if more
15 information is deemed necessary. A county or municipality may
16 consult with the legal division of the Department of Revenue
17 concerning any appeal that involves the county's or
18 municipality's tax that is administered by the Department of
19 Revenue.

20 (2) If the appeal involves a tax levied by or on
21 behalf of a self-administered county or municipality, the Tax
22 Appeals Commission shall promptly mail a copy of the notice of
23 appeal by either U.S. mail with delivery confirmation or
24 certified U.S. mail to the governing body of the affected
25 county or municipality and shall provide the taxpayer or its
26 authorized representative with written notification of the
27 date the copy was mailed to the governing body. The affected

1 county or municipality shall file a written answer with the
2 Tax Appeals Commission within 60 days of the date of mailing
3 the notice of appeal to the affected county or municipality.
4 The judge may allow the county or municipality additional
5 time, not to exceed 30 days, within which to file an answer,
6 but only if the county or municipality requests the extension
7 within the 60-day period provided by the preceding sentence.
8 The answer shall state the facts and the issues involved and
9 the county's or municipality's position relating thereto. The
10 judge may require the county or municipality to file an
11 amended answer if more information is deemed necessary. The
12 county or municipality and its authorized representatives may
13 consult with the legal division of the Department of Revenue
14 concerning the appeal.

15 (e) An appeal may be held in abeyance at the
16 discretion of the judge or may be submitted for decision on a
17 joint stipulation of facts without a hearing or as otherwise
18 agreed by the parties. Otherwise, except as provided in
19 Section 40-2B-9(b), a hearing shall be conducted by the judge.
20 Notice of the hearing shall be mailed to the taxpayer at the
21 taxpayer's last known address, by either U.S. mail with
22 delivery confirmation or certified U.S. mail, return receipt
23 requested, or to the taxpayer's representative, if any, at the
24 representative's last known address, by either U.S. mail with
25 delivery confirmation or certified U.S. mail, return receipt
26 requested. Except as provided in the next sentence, notice of
27 the hearing shall be mailed to the Department of Revenue by

1 first class U.S. mail, by intragovernmental hand mail, or
2 otherwise delivered as provided by regulation. If the appeal
3 involves a tax levied by or on behalf of a self-administered
4 county or municipality, the Tax Appeals Commission shall
5 instead promptly mail a copy of the notice of the hearing to
6 the governing body of the affected county or municipality by
7 either U.S. mail with delivery confirmation or certified U.S.
8 mail. The judge shall conduct the hearing substantially as
9 follows:

10 (1) Open the record and receive appearances.

11 (2) Receive testimony and exhibits presented by the
12 parties. All testimony shall be under oath, and any person
13 testifying under oath shall be subject to the perjury
14 provisions of Section 13A-10-102.

15 (3) Interrogate witnesses if deemed necessary.

16 (4) Require oral arguments and the submission of
17 briefs and other authorities if deemed necessary.

18 (5) Continue or reopen the hearing as deemed
19 necessary for a fair, efficient, and complete resolution of
20 the matter or matters in dispute.

21 (f) A judge may enter a preliminary order directing
22 one or more parties to take such action as deemed appropriate
23 or referring any issue or issues in dispute to the Department
24 of Revenue's Taxpayer Advocate for consideration if the issue
25 or issues relate to a tax administered by the Department of
26 Revenue. A judge, after a hearing or after a case is otherwise
27 submitted for decision, may issue an opinion and preliminary

1 order, which shall include findings of fact and conclusions of
2 law. The opinion and preliminary order may direct the
3 department to recompute a taxpayer's liability or the amount
4 of a refund due or for any party to take such action as
5 specified in the preliminary order.

6 (g) A final order shall be entered by the judge
7 which, if deemed appropriate by the judge, shall contain
8 findings of fact and conclusions of law. The final order shall
9 provide appropriate relief under the circumstances and, unless
10 altered or amended on appeal or rehearing, shall have the same
11 force and effect as a final order issued by a circuit court in
12 Alabama.

13 (h) If a preliminary order, an opinion and
14 preliminary order, or a final order involves a tax levied by
15 or on behalf of a self-administered county or municipality and
16 is within the jurisdiction of the Tax Appeals Commission, the
17 Tax Appeals Commission shall mail a copy of the order to the
18 governing body of the affected county or municipality and, if
19 applicable, its authorized representative, by either U.S. mail
20 with delivery confirmation or certified U.S. mail return
21 receipt requested, within three days of the date of entry.
22 However, the failure of the Tax Appeals Commission to timely
23 mail a copy of an order to the affected municipality or county
24 or the failure of the municipality or county to receive the
25 order shall not affect the validity of the order.

26 (i) Any party may apply for rehearing from any final
27 order or opinion and preliminary order, provided however, the

1 application must be filed within 15 days from the date of
2 entry of such order. The application for rehearing shall
3 specify the reasons and supporting arguments why such order is
4 incorrect and should be reconsidered. The timely filing of an
5 application for rehearing from a final order shall suspend the
6 time period for filing an appeal to circuit court. If an
7 application for rehearing is timely filed, the judge shall
8 thereafter issue a final or other order on rehearing, either
9 with or without a hearing on the application, at the
10 discretion of the judge. The time for filing a notice of
11 appeal to circuit court shall begin anew on the date of entry
12 of the final order on rehearing.

13 (j) All hearings before the Tax Appeals Commission
14 shall be recorded by a qualified court reporter. The
15 proceedings shall be transcribed at the request of the
16 department, the taxpayer, the affected self-administered
17 county or municipality, or the Tax Appeals Commission, with
18 the expense of transcription to be paid by the requesting
19 party. The record of the proceedings shall be maintained by
20 the Tax Appeals Commission for at least five years. Upon
21 appeal to circuit court, the Tax Appeals Commission shall
22 submit the record on appeal, including any transcript, to the
23 circuit court for use in the appeal.

24 (k) The rules of evidence applicable in civil
25 nonjury cases in the circuit courts of Alabama shall be
26 followed by the Tax Appeals Commission. However evidence not
27 admissible thereunder may be admitted in the discretion of the

1 judge, if relevant, not unfairly prejudicial to any party, and
2 necessary for the fair adjudication of the case. The judge may
3 announce before or during a hearing that it shall not be
4 necessary for either party to object to any testimony or
5 evidence offered by a party, and any objections shall be
6 preserved and may be made on appeal. The final order issued by
7 the judge shall be based only on such evidence as is relevant
8 and material. Documentary evidence may be received in copy
9 form if there is no objection thereto or in the discretion of
10 the judge. Official notice may be taken of any technical facts
11 within the specialized knowledge of the judge.

12 (l) A taxpayer or a self-administered county or
13 municipality may be represented before the Tax Appeals
14 Commission by an authorized representative. If a taxpayer or a
15 self-administered county or municipality or their authorized
16 representative fails to appear at a hearing after proper
17 service of notice, the judge may dismiss the appeal with
18 prejudice, reset the matter for a subsequent hearing, or
19 proceed with the hearing.

20 (m) Upon timely application, a taxpayer, herein
21 referred to as the "applicant," subject to the tax at issue in
22 an action before the Tax Appeals Commission, shall be
23 permitted to intervene, unless the applicant's interest is
24 adequately represented by the existing parties, (1) when the
25 applicant claims an interest relating to the property or
26 transaction that is the subject of the action and the taxpayer
27 is so situated that the disposition of the action may, as a

1 practical matter, impair or impede the taxpayer's ability to
2 protect that interest, or (2) when the judge determines that a
3 taxpayer's claim or defense and the main action have a
4 question of law or facts in common. An applicant who has been
5 permitted to intervene by the judge may also appeal to circuit
6 court from a final or other appealable order, as provided
7 herein for appeals. Parties interested in the outcome of any
8 case before the Tax Appeals Commission, with the permission of
9 the judge, may submit amicus briefs pursuant to Rule 29 of the
10 Alabama Rules of Appellate Procedure.

11 (n) All testimony, exhibits, documents, and other
12 materials submitted by a party or introduced into evidence at
13 a hearing before the Tax Appeals Commission, and all final and
14 other orders issued by the judge, shall be deemed public
15 information except:

16 (1) Information received from the Internal Revenue
17 Service that is restricted by law or agreement from
18 disclosure.

19 (2) Other information or records required by law not
20 to be disclosed or which are the subject of a protective order
21 issued pursuant to Section 40-2B-11(b).

22 (3) As otherwise ordered by the judge.

23 §40-2B-10. Burden of proof in Tax Appeals Commission
24 proceedings.

25 On appeal to the Tax Appeals Commission, a final
26 assessment shall be prima facie correct, and the burden of
27 proof shall be on the taxpayer to prove that the assessment is

1 incorrect. In cases involving denied refunds, the burden shall
2 be on the taxpayer to prove that a refund is due. The judge
3 shall have discretion to determine the party to proceed first
4 with the evidence in the case.

5 §40-2B-11. Hearings to be open to public; report of
6 proceedings; exception; confidential information.

7 (a) Hearings before the Tax Appeals Commission shall
8 be open to the public, except as provided in subsections (b)
9 and (c).

10 (b) A judge may close a hearing to the public if, in
11 the discretion of the judge, trade secrets, federal or other
12 tax information, confidential business records, or other
13 confidential information may be disclosed during the hearing.
14 A judge may also issue protective orders concerning any
15 evidence involving trade secrets, federal or other tax
16 information, confidential business records, or other
17 confidential information. In determining whether a hearing
18 should be closed or a protective order issued, the judge shall
19 weigh the harm that may be suffered by the disclosing party
20 against any benefit received by the public as a result of the
21 disclosure. If the judge closes a hearing or issues a
22 protective order as requested by a party or refuses to close a
23 hearing or to issue a requested protective order, the judge
24 shall issue an order to that effect. The order shall explain
25 the reasons why the request was granted or denied, as
26 applicable.

1 (c) An order closing a hearing or granting a
2 protective order or an order denying same shall be considered
3 a final order for purposes of appeal to circuit court. A party
4 may appeal such an order to circuit court in the same manner
5 and subject to the same requirements as appeals from final
6 orders of the Tax Appeals Commission, except that if the case
7 involves a disputed final assessment, the final assessment
8 need not be paid, nor a supersedeas bond or other security
9 filed, in connection with the appeal. The Tax Appeals
10 Commission may stay the case on the merits until the issue is
11 finally resolved on appeal.

12 §40-2B-12. Authority to issue regulations. The Tax
13 Appeals Commission, through the chief judge, is authorized to
14 issue regulations governing procedures and practice before the
15 Tax Appeals Commission and matters of internal organization
16 and operation. Such regulations shall be issued in accordance
17 with Chapter 22 of Title 41.

18 §40-2B-13. Appeals to circuit court; reviewing
19 authority and action on appeal.

20 (a) Other than an application for rehearing to the
21 Tax Appeals Commission, the exclusive remedy for review of any
22 final or other appealable order issued by the Tax Appeals
23 Commission shall be by appeal to the appropriate circuit
24 court.

25 (b) The taxpayer, an intervenor pursuant to Section
26 40-2B-9(m), a self-administered county or municipality whose
27 tax is within the jurisdiction of the Tax Appeals Commission,

1 or the Department of Revenue may appeal to circuit court from
2 a final or other appealable order issued by the Tax Appeals
3 Commission by filing a notice of appeal with the appropriate
4 circuit court within 60 days from the date the final or other
5 appealable order was entered. A copy of the notice of appeal
6 shall be submitted to the Tax Appeals Commission within the
7 60-day appeal period. The Tax Appeals Commission shall
8 thereafter prepare a record on appeal. The appeal shall be
9 filed in the following circuit courts:

10 (1) Any appeal by the Department of Revenue, a
11 self-administered county or municipality whose tax is within
12 the jurisdiction of the Tax Appeals Commission, or an
13 intervenor shall be filed with the circuit court of the county
14 in which the taxpayer resides or has a principal place of
15 business in Alabama.

16 (2) Any appeal by the taxpayer shall be filed with
17 the Circuit Court of Montgomery County, Alabama, or with the
18 circuit court of the county in which the taxpayer resides or
19 has a principal place of business in Alabama.

20 (3) Notwithstanding subdivisions (1) and (2), if the
21 taxpayer does not reside in Alabama or have a principal place
22 of business in Alabama, any appeal by the taxpayer, the
23 Department of Revenue, a self-administered county or
24 municipality whose tax is within the jurisdiction of the Tax
25 Appeals Commission, or an intervenor shall be filed with the
26 Circuit Court of Montgomery County, Alabama.

1 (c) If the appeal to circuit court pursuant to
2 subsection (b) is by a taxpayer from a final order involving a
3 final assessment, the taxpayer, within the 60-day appeal
4 period, shall do one of the following:

5 (1) Remit the amount of the final assessment
6 determined to be due by the final order to the Department of
7 Revenue, or to the self-administered county or municipality,
8 if applicable.

9 (2) Execute a supersedeas bond, which shall be
10 executed by a surety company licensed to do business in
11 Alabama, in an amount equal to 125 percent of the amount
12 determined to be due by the final order, plus applicable
13 interest and any court costs relating to the appeal, payable
14 to the Department of Revenue, or to the self-administered
15 county or municipality, if applicable, and conditioned to pay
16 the amount determined to be due by the final order.

17 (3) File an irrevocable letter of credit with the
18 circuit court in an amount equal to 125 percent of the amount
19 determined to be due by the final order. The irrevocable
20 letter of credit shall be issued by a financial institution
21 designated as a qualified public depository by the Board of
22 Directors of the Security for Alabama Funds Enhancement (SAFE)
23 Program pursuant to Chapter 14A of Title 41. The Department of
24 Revenue, or the self-administered county or municipality, if
25 applicable, shall be named the beneficiary of the irrevocable
26 letter of credit. The irrevocable letter of credit shall be
27 conditioned to pay the amount determined to be due by the

1 final order, plus applicable interest and any court costs
2 relating to the appeal. A taxpayer may not issue an
3 irrevocable letter of credit as to an appeal by the same
4 taxpayer.

5 (4) File a pledge or collateral assignment of
6 securities with the circuit court that constitute eligible
7 collateral under Chapter 14A of Title 41 in an amount equal to
8 200 percent of the amount determined to be due by the final
9 order. The pledge or collateral assignment shall be in favor
10 of the Department of Revenue, or the self-administered county
11 or municipality, if applicable, and conditioned to pay the
12 amount determined to be due by the final order, plus
13 applicable interest and any court costs relating to the
14 appeal.

15 (5) Show to the satisfaction of the clerk of the
16 circuit court to which the appeal is taken that the taxpayer
17 has a net worth, based on fair market value, of one hundred
18 thousand dollars (\$100,000), or less, including his or her
19 homestead.

20 (d) (1) Except as provided in subdivision (2), the
21 circuit court shall dismiss any appeal:

22 a. That is not timely filed with the circuit court
23 and the Tax Appeals Commission as herein provided.

24 b. That involves a final assessment, if either the
25 amount stated as due in the final order of the Tax Appeals
26 Commission is not timely paid in full or a supersedeas bond,
27 irrevocable letter of credit, or pledge or collateral

1 assignment of securities is not timely filed as required in
2 subsection (c).

3 (2) If the circuit court determines that the
4 taxpayer has not satisfied the requirements of subsection (b)
5 or (c), the circuit court shall order that the taxpayer
6 satisfy such requirements. The taxpayer may satisfy such
7 requirements at any time within 30 days after service of the
8 court order. No order of dismissal for lack of jurisdiction
9 shall be entered within 30 days after service of the court
10 order and no order of dismissal shall thereafter be entered if
11 such requirement is satisfied within such 30-day period.

12 (e) The appeal to circuit court from a final or
13 other appealable order issued by the Tax Appeals Commission
14 shall be a trial de novo, except that the order shall be
15 presumed prima facie correct and the burden shall be on the
16 appealing party to prove otherwise. The circuit court shall
17 hear the case by its own rules and shall decide all questions
18 of fact and law. The administrative record and transcript
19 shall be transmitted to the reviewing court as provided herein
20 and shall be admitted into evidence in the trial de novo,
21 subject to the rights of either party to object to any
22 testimony or evidence in the administrative record or
23 transcript. With the consent of all parties, judicial review
24 may be on the administrative record and transcript. The
25 circuit court shall affirm, modify, or reverse the order of
26 the Tax Appeals Commission, with or without remanding the case
27 for further hearing, as justice may require.

1 §40-2B-14.

2 Publication of Tax Appeals Commission decisions.

3 Subject to Section 40-2B-9, the decisions determined
4 to be of general public interest may be published and
5 distributed by the Tax Appeals Commission as prescribed by the
6 chief judge. A decision may not be published until either the
7 time period for appealing the decision has expired or the Tax
8 Appeals Commission has received a copy of the notice of appeal
9 pursuant to Section 40-2B-13(b), in which case the fact that
10 the decision has been appealed shall be noted on the first
11 page of the published decision. A reasonable fee may be
12 charged for the publication, as established from time to time
13 by the chief judge.

14 §40-2B-15. Appointment and term of judges; maximum
15 number; vacancy.

16 (a) The term of a judge of the Tax Appeals
17 Commission shall be six years, except as herein provided. The
18 term of the first chief judge shall begin on October 1, 2013.

19 (b) Additional or successor judges of the Tax
20 Appeals Commission shall be nominated by a committee of seven
21 persons, except as provided below. The nominating committee
22 shall provide the Governor with a list of five qualified
23 candidates for each open or newly created Tax Appeals
24 Commission judge's position. Within 45 days after receipt of
25 the list, the Governor may appoint a nominee from the list of
26 candidates or request that the nominating committee provide
27 another list of qualified candidates. The Governor shall

1 promptly thereafter appoint a nominee from the new list. The
2 term of any new or successor judge shall begin on the first
3 day of the month following the date that the Governor makes
4 the appointment.

5 (c) The nominating committee shall be organized
6 within six months of the effective date of this act and shall
7 consist of the following:

8 (1) One member in good standing with the Alabama
9 State Bar who has at least five years' experience in the
10 private practice of tax law in this state, to be appointed by
11 the State Bar President.

12 (2) The Commissioner of the Department of Revenue,
13 or his or her designee.

14 (3) Except as otherwise provided in this
15 subdivision, one member appointed by the Association of County
16 Commissions of Alabama, who shall be a representative of
17 county government. If more than 50 percent of the
18 self-administered counties in this state have elected to
19 divest the Tax Appeals Commission of jurisdiction pursuant to
20 Section 40-2B-25 as of October 1 of each year, the
21 representative of county government shall be removed and the
22 Director of Finance or his or her designee shall serve as a
23 member of the nominating committee.

24 (4) Except as otherwise provided in this
25 subdivision, one member appointed by the Alabama League of
26 Municipalities, who shall be a representative of municipal
27 government. If more than 50 percent of the self-administered

1 municipalities in this state have elected to divest the Tax
2 Appeals Commission of jurisdiction pursuant to Section
3 40-2B-25 as of October 1 of each year, the representative of
4 municipal government shall be removed and the Director of
5 Finance or his or her designee shall serve as a member of the
6 nominating committee. If more than 50 percent of the
7 self-administered counties and more than 50 percent of the
8 self-administered municipalities have elected to divest the
9 Tax Appeals Commission of jurisdiction pursuant to Section
10 40-2B-25 as of October 1 of each year, there shall be only
11 five members of the nominating committee.

12 (5) Two members appointed by the President of the
13 Alabama Circuit Judges Association, one who shall be a
14 representative of the individual taxpayers of the state and
15 one who shall be a representative of the business taxpayers of
16 the state. Neither member shall be a practicing attorney or
17 employee or former employee of the Department of Revenue or
18 municipal or county government.

19 (6) One member appointed by the Alabama Society of
20 Certified Public Accountants who shall be a representative of
21 the taxpayers of the state but who shall not be a practicing
22 attorney or employee or former employee of the Department of
23 Revenue or municipal or county government. The appointing
24 authorities should take into consideration the racial, gender,
25 geographic, urban/rural, and economic diversity of the state
26 when selecting representatives for the nominating committee.

1 (d) The appointing authorities shall submit to the
2 Governor's Office the name or names of the initial member or
3 members appointed to the nominating committee. The term of a
4 member of the nominating committee shall be six years and
5 shall begin on the first day of the month following the
6 submission of the member's appointment letter by the
7 appointing authority to the Governor's Office. An appointing
8 authority may remove a sitting member or members previously
9 appointed by such authority and appoint another member or
10 members before the term of the sitting member or members has
11 expired by filing notice of such action with the Governor's
12 Office. An appointing authority may also appoint a new or
13 replacement member if a sitting member dies, resigns, or is
14 otherwise unable to serve. The term of any new or replacement
15 member shall begin on the first day of the month following the
16 submission to the Governor's Office of the appointment letter
17 naming the new or replacement member to the committee. Members
18 of the nominating committee shall serve without compensation
19 or reimbursement for expenses. The nominating committee shall
20 appoint a chair and secretary from among themselves and adopt
21 rules and procedures for the conduct of its meetings and other
22 business of the nominating committee. The secretary shall
23 maintain the permanent records of the nominating committee. A
24 copy of all appointment letters submitted by an appointing
25 authority to the Governor's Office shall be mailed or
26 otherwise delivered to the secretary of the nominating
27 committee, once a secretary is appointed. The committee may

1 conduct private meetings, as deemed appropriate by the
2 committee, but only in compliance with applicable laws. The
3 nominating committee shall compile a list of three nominees by
4 majority vote and shall otherwise act by a majority vote at
5 any meeting at which a quorum is present either in person, by
6 written proxy, or by the written consent of all its members.
7 For the purposes of this section, a quorum shall consist of a
8 majority of the members of the nominating committee then
9 serving.

10 (e) Any sitting judge, at the end of his or her
11 term, shall be automatically appointed to a subsequent
12 six-year term unless the judge is recalled in accordance with
13 this subsection. A recall may be initiated by the Governor,
14 the Attorney General, or the Judicial Inquiry Commission by
15 submitting a petition for recall to the Chief Judge of the
16 Court of the Judiciary no more than 12 and no less than three
17 months before the end of a judge's current term. The petition
18 shall state the reasons why the judge should not serve another
19 six-year term. A copy of the petition for recall shall be
20 simultaneously submitted to the chair of the nominating
21 committee. In such case, the nominating committee shall
22 provide an objective, written appraisal of the performance of
23 the sitting judge to the Chief Judge of the Court of the
24 Judiciary for use in determining the competency and fitness of
25 the judge, including a recommendation by the committee. If the
26 Court of the Judiciary votes to recall the judge, the judge is
27 not reappointed to another six-year term, and a successor

1 judge shall be appointed as provided in subsection (b). The
2 term of the judge subject to the petition for recall shall be
3 extended during the pendency of the recall proceedings, and if
4 recalled, the judge shall continue to serve until a successor
5 judge is appointed as provided in subsection (b). If a
6 petition for recall is timely submitted but the Court of the
7 Judiciary does not vote to recall the judge, the judge shall
8 thereafter be automatically appointed to another six-year
9 term.

10 (f) There shall be no less than one nor more than
11 three judges serving at any one time. The initial judge of the
12 Tax Appeals Commission shall serve as chief judge. If the
13 chief judge determines that a second or third judge is
14 necessary, based on current and anticipated case load, the
15 chief judge shall so notify the Governor, and the Governor
16 shall thereafter determine whether a second or third judge is
17 necessary. If the Governor agrees with the chief judge's
18 determination, the Governor shall instruct the nominating
19 committee to commence proceedings under this section to fill
20 the additional position. The chief judge may, with the advice
21 and consent of the Governor, eliminate an associate judge
22 position if the current and anticipated case load does not
23 warrant the position.

24 (g) If a Tax Appeals Commission judge's position
25 becomes vacant, the vacancy shall be filled according to the
26 method set forth in subsection (b).

1 §40-2B-16. Qualifications of Tax Appeals Commission
2 judge; oath; Tax Appeals Commission employees.

3 (a) Each Tax Appeals Commission judge shall be a
4 United States citizen, domiciled in Alabama, and a member in
5 good standing of the Alabama State Bar Association. The chief
6 judge must have at least 10 years' experience and an associate
7 judge must have at least five years' experience, either in the
8 active practice of law in Alabama, whether in the governmental
9 or private sector, or in a judicial or quasi-judicial office
10 such as an administrative law judge. The judge shall possess
11 an acceptable judicial temperament and a high level of
12 knowledge and degree of experience in the area of state and
13 local taxation, as determined by the Governor and the
14 nominating committee.

15 (b) Before entering upon the duties of office, the
16 judge shall take and subscribe to an oath or affirmation for
17 the faithful discharge of his or her duties.

18 (c) Tax Appeals Commission judges shall be subject
19 to disciplinary proceedings before the Judicial Inquiry
20 Commission to the same extent as circuit judges. The Judicial
21 Inquiry Commission shall have the authority to remove any Tax
22 Appeals Commission judge from office, after notice and an
23 opportunity to be heard, for neglect of duty, inability to
24 perform duties, malfeasance in office, or other good cause.

25 (d) Tax Appeals Commission judges shall be
26 classified state employees as provided in Section 36-26-10. As
27 such, a judge, except for appointment, reconfirmation,

1 removal, and dismissal as provided in this chapter, shall be
2 entitled to all benefits and protections available to
3 classified state employees, including the right to participate
4 in any retirement benefit plan available to certain state
5 employees from time to time. A judge who is qualified and who
6 elects to participate in any such retirement plan, while
7 participating in the plan, shall retain the same status,
8 duties, authority, and rights as granted to Tax Appeals
9 Commission judges by this chapter. If a judge, while
10 participating in such plan, is not automatically reappointed
11 or not reappointed and reconfirmed to another term as herein
12 provided, the judge shall be considered as having been
13 involuntarily terminated for purposes of receiving any
14 retirement benefits and member contributions pursuant to the
15 retirement plan. If at the time of appointment, a judge is a
16 Merit System employee of the state, the judge shall be
17 entitled to carry over, continue, and retain any of the
18 benefits resulting from prior state employment. Tax Appeals
19 Commission judges shall also participate in the State
20 Employees' Retirement System.

21 (e) The chief judge may employ one Executive
22 Assistant III as an unclassified service state employee, as
23 provided in Section 36-26-10(c). All other Tax Appeals
24 Commission personnel shall be appointed or hired by the chief
25 judge, as necessary for the proper operation of the Tax
26 Appeals Commission, shall be state employees under the state
27 Merit System, and shall be entitled to all benefits and

1 protections available to state employees. The Executive
2 Assistant III employed in the Administrative Law Division as
3 of September 30, 2013, shall be transferred to the Tax Appeals
4 Commission, along with any other Merit System employees
5 employed by the Administrative Law Division on that date.

6 §40-2B-17. Judge's salary, expenses.

7 (a) The chief judge of the Tax Appeals Commission
8 shall receive such salary as is provided from time to time
9 within Pay Grade 88 of the compensation plan of the state
10 Merit System, as determined by the Governor with the advice of
11 the nominating committee. Associate judges shall receive such
12 salary as is provided from time to time within Pay Grade 84 of
13 the compensation plan of the state Merit System, as determined
14 by the chief judge with the advice of the Governor. The judges
15 shall receive no other monetary compensation for services
16 except as authorized by subsection (b). This subsection shall
17 neither increase nor decrease the salary received by the chief
18 administrative law judge of the Department of Revenue, who
19 shall become the initial chief judge of the Tax Appeals
20 Commission pursuant to Section 40-2B-18(a).

21 (b) When a judge or other Tax Appeals Commission
22 employee travels on Tax Appeals Commission business away from
23 the state capital, he or she shall be reimbursed as provided
24 for other state employees in Sections 36-7-20, 36-7-21,
25 36-7-22, and 36-7-24. The chief judge, at his or her
26 discretion, may direct and require any judge or other employee

1 of the Tax Appeals Commission to attend continuing legal
2 education or other training as necessary.

3 §40-2B-18. Chief judge; associate judges; functions.

4 (a) The initial chief judge of the Tax Appeals
5 Commission shall be the chief administrative law judge of the
6 Department of Revenue serving on September 30, 2013.

7 Thereafter, the individual who is appointed as chief judge by
8 the Governor, as provided in Section 40-2B-15(b), shall serve
9 as chief judge.

10 (b) The chief judge shall assign cases and otherwise
11 have authority over the operations of the Tax Appeals
12 Commission, including any associate judge. The chief judge
13 shall also have the discretion to order the Tax Appeals
14 Commission to hear cases en banc if there is more than one
15 judge sitting at that time.

16 (c) All judges of the Tax Appeals Commission, other
17 than the chief judge, shall be designated as associate judges
18 and shall have the same authority and powers of the chief
19 judge, except as specified in this chapter.

20 (d) If a judge of the Tax Appeals Commission dies,
21 retires, or resigns, or is unable to serve as judge, or is
22 removed from office for cause, the Governor may appoint a Tax
23 Appeals Commission judge pro tempore, who must meet the
24 qualifications for a Tax Appeals Commission judge set forth in
25 Section 40-2B-16(a). Such appointment shall become effective
26 the first day of the month following the submission of the
27 appointment letter by the chief justice to the Governor's

1 Office. Such judge pro tempore shall serve until such time as
2 a successor judge is appointed by the Governor, as provided
3 herein. If the judge pro tempore is appointed to fill the
4 position of chief judge, he or she shall be compensated at the
5 rate provided herein for the chief judge and shall have and
6 exercise all powers granted the chief judge. Otherwise, a
7 judge pro tempore shall be compensated at the rate of an
8 associate judge and shall have and exercise all the powers
9 granted an associate judge. Such compensation shall be paid
10 out of the appropriation for the Tax Appeals Commission. The
11 chief judge may also appoint a judge pro tempore to hear a
12 special case or cases, as assigned by the chief judge,
13 including in cases where a judge disqualifies himself or
14 herself on his or her own motion. Such judge pro tempore must
15 meet the qualifications set forth in Section 40-2B-16(a), and
16 shall be compensated at a rate specified by the chief judge,
17 but not at a rate that exceeds any rate paid to an associate
18 judge.

19 §40-2B-19. Offices of Tax Appeals Commission;
20 location of hearings.

21 The principal office of the Tax Appeals Commission
22 shall be in Montgomery and in a building that is separate and
23 apart from any building in which the Department of Revenue has
24 an office, as approved by the Finance Director. The Tax
25 Appeals Commission may hold hearings in any county seat, in
26 the discretion of the chief judge. If the appeal involves a
27 tax levied by or on behalf of a self-administered county or

1 municipality, the Tax Appeals Commission may hold the hearing
2 in the county seat of the affected county or the county seat
3 of the county in which the affected municipality is located.
4 The circuit court sitting in any county, without charge and
5 upon reasonable notice from a judge of the Tax Appeals
6 Commission, shall provide the Tax Appeals Commission with
7 suitable rooms and facilities within the courthouse space
8 assigned to the circuit court. The county commission shall
9 have no obligation or responsibility to provide space or
10 facilities. The Tax Appeals Commission may also hold hearings
11 in the Department of Revenue's service centers located
12 throughout the state.

13 §40-2B-20. Authority to contract and expend funds;
14 budget of Tax Appeals Commission; limitation on activities of
15 personnel.

16 (a) The Tax Appeals Commission, through the chief
17 judge, may contract or enter into agreements with any private
18 or governmental agency, upon approval of the Finance Director,
19 for the rental of office space and the rental or purchase of
20 equipment, administrative or other support services, supplies,
21 and all other property or services necessary for the operation
22 of the Tax Appeals Commission. The funds for the operation of
23 the Tax Appeals Commission shall be administered by the Tax
24 Appeals Commission, through the chief judge. With respect to
25 the fiscal year ending September 30, 2014, there shall be
26 transferred from the Revenue Department Administrative Fund to
27 the Tax Appeals Commission the amount of four hundred

1 twenty-five thousand dollars (\$425,000). The amount
2 transferred from the Revenue Department Administrative Fund
3 shall be disbursed to the Tax Appeals Commission in four equal
4 increments, at the beginning of each quarter of the fiscal
5 year. Thereafter, the Tax Appeals Commission, through the
6 chief judge, shall prepare an annual budget, and funds shall
7 be appropriated annually by the Legislature from the Revenue
8 Department Administrative Fund to be used exclusively for the
9 operation of the Tax Appeals Commission.

10 (b) No employee of the Tax Appeals Commission or
11 person serving as judge pro tempore shall act as an authorized
12 representative or representative of the department before the
13 Tax Appeals Commission while an employee or while serving as a
14 judge pro tempore. A former employee of the Tax Appeals
15 Commission or former judge pro tempore shall not act as an
16 authorized representative, representative of the department,
17 or otherwise participate in any case that was pending before
18 the Tax Appeals Commission on the date of termination of that
19 person's employment with or service on behalf of the Tax
20 Appeals Commission. A former Tax Appeals Commission judge may
21 represent a client before the Tax Appeals Commission in a
22 legal, non-lobbying capacity in a case that was not pending
23 before the Tax Appeals Commission when the judge left office,
24 to the same extent former members of the Alabama judiciary are
25 allowed by Section 36-25-13.

26 §40-2B-21. Records.

1 The Tax Appeals Commission shall maintain an
2 official docket, fee book, and other records as deemed
3 necessary by the chief judge. Such records may be maintained
4 in electronic format.

5 §40-2B-22. Filing fees prohibited.

6 No filing fee shall be imposed for any appeal filed
7 with the Tax Appeals Commission.

8 §40-2B-23. Fees and expenses of witnesses. Any
9 witness subpoenaed by the Tax Appeals Commission on its own
10 motion to testify or produce records at a hearing before the
11 Tax Appeals Commission shall be entitled to receive from the
12 Tax Appeals Commission the fees and mileage provided in
13 Section 40-2A-7(a)(4). Any witness subpoenaed by the Tax
14 Appeals Commission at the request of a party to testify or
15 produce records at such a hearing shall be entitled to receive
16 from the requesting party the fees and mileage provided in
17 Section 40-2A-7(a)(4).

18 §40-2B-24. Department of Revenue allowed to
19 acquiesce or nonacquiesce in Tax Appeals Commission and
20 circuit court decisions.

21 (a) The commissioner or deputy commissioner may
22 state and periodically publish the Department of Revenue's
23 acquiescence or nonacquiescence to indicate its position on
24 decisions of the Tax Appeals Commission or a circuit court.

25 (b) Acquiescence in a decision means acceptance by
26 the Department of Revenue of the conclusion reached, but does
27 not necessarily mean acceptance and approval of the reasons or

1 rationale of the Tax Appeals Commission or circuit court for
2 its conclusion.

3 §40-2B-25. Election by self-administered county or
4 municipality to divest jurisdiction of Tax Appeals Commission.

5 (a) Unless a self-administered county or
6 municipality elects, in the manner prescribed below, to divest
7 the Tax Appeals Commission of jurisdiction over appeals of
8 final assessments or denied refunds, in whole or in part, of
9 any sales, use, rental, or lodgings taxes levied or collected
10 from time to time by or on behalf of the self-administered
11 county or municipality, a taxpayer may appeal a final
12 assessment or denied refund involving any such tax to the Tax
13 Appeals Commission in accordance with the procedures and
14 requirements provided in Section 40-2A-7 and this chapter. For
15 purposes of any appeal filed by a taxpayer pursuant to this
16 section, the term "department" as used in Section 40-2A-7
17 means the governing body of the applicable self-administered
18 county or municipality and not the Department of Revenue, and
19 the term "secretary" as used in Section 40-2A-7 means the
20 clerk of the governing body of the applicable
21 self-administered county or municipality.

22 (b) Subject to the limitation imposed by subsection
23 (e), the election-out under this section shall be made by
24 serving a copy of the ordinance or resolution evidencing the
25 election-out, adopted by the governing body of the
26 self-administered county or municipality pursuant to this
27 section, with the Tax Appeals Commission. Service may be

1 accomplished by mailing a copy of the ordinance or resolution,
2 certified by an appropriate official, by either U.S. mail with
3 delivery confirmation or certified U.S. mail, return receipt
4 requested, by hand delivery, or by an expedited courier
5 service to the Tax Appeals Commission's office. The Tax
6 Appeals Commission shall promptly publish notice of the
7 election-out pursuant to subsection (d), and the election
8 shall be effective on the date that notice is published.
9 Notwithstanding the foregoing, appeals of final assessments or
10 denied refunds involving the electing county or municipality
11 that were pending before the Tax Appeals Commission on the
12 date that notice of the election-out is published shall
13 continue to be heard and decided by the Tax Appeals Commission
14 as if the election-out had not been made.

15 (c) Subject to the limitation imposed by subsection
16 (e), an election-out may be revoked, prospectively, by the
17 governing body of the self-administered county or municipality
18 at any time by resolution or ordinance, a certified copy of
19 which shall be served on the Tax Appeals Commission in the
20 manner prescribed above. The revocation of an election-out
21 vests jurisdiction in the Tax Appeals Commission over all
22 appeals of final assessments or denied refunds, in whole or in
23 part, of the county's or municipality's sales, use, rental,
24 and lodgings taxes that are entered or denied on or after the
25 date that notice of revocation is published by the Tax Appeals
26 Commission.

1 (d) At least once a month, the Tax Appeals
2 Commission shall provide the Department of Revenue with a list
3 of all self-administered counties and municipalities that have
4 elected out pursuant to subsection (b) or that have filed a
5 notice of revocation of their election-out pursuant to
6 subsection (c). The Department of Revenue shall publish the
7 list on its website and otherwise make available to the public
8 in the same manner that the rates and administrators of
9 certain county and municipal taxes are published by the
10 Department of Revenue. The Tax Appeals Commission may also
11 publish the list on its own website.

12 (e) A self-administered county or municipality may
13 make only one election-out under subsection (b) or one
14 revocation under subsection (c) during each calendar year. If
15 an appeal is timely filed with the Tax Appeals Commission
16 after the notice of an election-out by the self-administered
17 county or municipality is published by the Tax Appeals
18 Commission, the appeal shall be deemed timely filed with and
19 transferred to the self-administered county or municipality.
20 If an appeal is timely filed with a self-administered county
21 or municipality after the notice of revocation by the
22 self-administered county or municipality is published by the
23 Tax Appeals Commission, the appeal shall be deemed timely
24 filed with and transferred to the Tax Appeals Commission.

25 Section 3. The Code Commissioner shall review Titles
26 11 and 40 and shall substitute "Alabama Tax Appeals
27 Commission" for any reference to the Administrative Law

1 Division of the Department of Revenue and shall make any other
2 similar amendments consistent herewith.

3 Section 4. Sections 40-2A-3, 40-2A-4, 40-2A-5,
4 40-2A-7, 40-2A-8, 40-2A-11, and 40-18-27, Code of Alabama
5 1975, are amended to read as follows:

6 "§40-2A-3.

7 "For Except as otherwise specifically provided or
8 limited, for the purposes of this chapter and Chapter 2B, the
9 following terms shall have the following meanings:

10 "~~(1) ADMINISTRATIVE LAW JUDGE. The chief~~
11 ~~administrative law judge of the department, or any other~~
12 ~~individual acting in that capacity as appointed by the~~
13 ~~commissioner.~~

14 "~~(2) ADMINISTRATIVE LAW DIVISION. The administrative~~
15 ~~law division of the department.~~

16 "(1) ASSOCIATE TAX APPEALS COMMISSION JUDGE. An
17 associate judge, as defined in Section 40-2B-18(c), of the
18 Alabama Tax Appeals Commission.

19 "~~(3)~~(2) AUTHORIZED REPRESENTATIVE. Any individual
20 with written authority or power of attorney to represent a
21 taxpayer before the department or the Tax Appeals Commission;
22 provided however, that nothing herein shall be construed as
23 entitling any such individual who is not a licensed attorney
24 to engage in the practice of law.

25 "(3) CHIEF TAX APPEALS COMMISSION JUDGE or CHIEF
26 JUDGE. The chief judge, as defined in Section 40-2B-18(a), of
27 the Alabama Tax Appeals Commission.

1 "(4) COMMISSIONER. The commissioner of the
2 department or his or her delegate.

3 "(5) COMPTROLLER. The Comptroller of the State of
4 Alabama.

5 "(6) DELEGATE. When used with reference to the
6 commissioner means any officer or employee of the department
7 duly authorized by the commissioner, directly or indirectly,
8 by one or more redelegations of authority, to perform the
9 function described in the context.

10 "(7) DEPARTMENT or DEPARTMENT OF REVENUE. The
11 Alabama Department of Revenue.

12 "(8) GROSS RECEIPTS TAX IN THE NATURE OF A SALES
13 TAX. A privilege or license tax, imposed by a municipality or
14 county, measured by gross receipts or gross proceeds of sale
15 and which: (i) was in effect on or before February 25, 1997,
16 or is an amendment to a tax which was in effect on that date;
17 (ii) is levied against those selling tangible personal
18 property at retail, those operating public places of amusement
19 or entertainment, those making street deliveries, and those
20 leasing or renting tangible personal property; and (iii) is
21 due and payable to a county or municipality monthly or
22 quarterly.

23 "(9) FINAL ASSESSMENT. The final notice of value,
24 underpayment, or nonpayment of any tax administered by the
25 department.

1 "(10) INTEREST. That amount computed under Section
2 40-1-44, on any overpayment or underpayment of tax or under
3 Section 40-2A-18 on a final assessment.

4 "(11) INTERNAL REVENUE SERVICE. The agency of the
5 United States principally responsible for the determination,
6 assessment, and collection of taxes established by Title 26 of
7 the United States Code.

8 "(12) NOTICE OF APPEAL. Any written notice
9 sufficient to identify the name of the taxpayer or other party
10 appealing, the specific matter appealed from, the basis for
11 that appeal, and the relief sought.

12 "(13) PERSON. Any individual, association, estate,
13 trust, partnership, limited liability company, corporation,
14 real estate investment trust, or other entity of any kind.

15 "(14) PETITION FOR REFUND. Any written request for a
16 refund of any tax previously paid, including in the form of ~~an~~
17 any return or amended return. Unless otherwise provided by
18 law, the request shall include sufficient information to
19 identify the type and amount of tax overpaid, the taxpayer,
20 the period included, and the reasons for the refund.

21 "(15) PETITION FOR REVIEW. A written document filed
22 with the department in response to a preliminary assessment in
23 which the taxpayer sets forth reasonably specific objections
24 to the preliminary assessment.

25 "(16) PRELIMINARY ASSESSMENT. The preliminary notice
26 of value or underpayment or nonpayment of any tax administered
27 by the department.

1 "(17) PRIVATE ~~AUDITING~~ EXAMINING OR COLLECTING FIRM.
2 Any person in the business of collecting, through contract or
3 otherwise, local sales, use, rental, lodgings or other taxes
4 or license fees for any county or municipality, or auditing
5 any taxpayer, through the examination of books and records,
6 for any county or municipality. The term shall not include any
7 of the following:

8 "a. The Department of Revenue.

9 "b. A county or municipality that has entered into a
10 contract or other arrangement to collect local sales, use,
11 rental, lodgings or other taxes or license fees on behalf of
12 another county or municipality, or to audit a taxpayer,
13 through the examination of books and records, on behalf of
14 another county or municipality.

15 "c. A person or firm whose sole function and purpose
16 on behalf of a municipality or group of municipalities is to
17 collect delinquent insurance premium license fees levied by
18 that municipality or group of municipalities, and who has no
19 authority to determine the amount of license fee, interest,
20 court cost, or penalty owed to the municipality or group of
21 municipalities.

22 "(18) PUBLICATION 1A. A written pamphlet to be
23 distributed by the department to all taxpayers whose books and
24 records are being examined by the department, at or before the
25 commencement of an examination, explaining in simple and
26 nontechnical terms, the role of the department and the rights
27 of the taxpayer, ~~whose books and records are being examined by~~

1 ~~the department during the examination and which shall be~~
2 promptly revised from time to time to reflect any changes in
3 the applicable law or rules.

4 "(19) RETURN. Any report, document, or other
5 statement required to be filed with the department for the
6 purpose of paying, reporting, or determining the proper amount
7 of value or tax due.

8 "(20) SECRETARY. The secretary of the department.

9 "(21) SELF-ADMINISTERED COUNTY OR MUNICIPALITY. A
10 county or municipality that administers its own sales and use
11 taxes or other local municipal or county taxes levied or
12 authorized to be levied by a general or local act, or
13 contracts out all or part of that function to a private
14 ~~auditing~~ examining or collecting firm. The term does not
15 include any of the following:

16 "a. A county or municipality that allows the
17 department to administer a sales, use, rental, or lodgings tax
18 which is levied by or on behalf of that county or
19 municipality.

20 "b. A municipality or county that levies a gross
21 receipts tax in the nature of a sales tax, as defined in
22 subdivision (8). A county or municipality that both
23 self-administers a sales, use, rental, or lodgings tax and
24 allows the department to administer a sales, use, rental, or
25 lodgings tax that is levied by or on behalf of the county or
26 municipality is only a self-administered county or
27 municipality with respect to those sales, use, rental, or

1 lodgings taxes that the county or municipality administers
2 itself or for those taxes that it contracts for the
3 collection.

4 "(22) TAX. Any amount, including applicable penalty
5 and interest, levied or assessed against a taxpayer and which
6 the department or any county, municipality, or their designees
7 are required or authorized to administer under the provisions
8 of Alabama law.

9 "(23) TAX APPEALS COMMISSION, The Alabama Tax
10 Appeals Commission, as described in Chapter 2B (commencing
11 with Section 40-2B-1).

12 "~~(23)~~(24) TAXPAYER. Any person subject to or liable
13 for any state or local tax; any person required to file a
14 return with respect to, or to pay, or withhold and remit any
15 state or local tax or to report any information or value to
16 the department, a county, municipality, or its designee; or
17 any person required to obtain or holding any interest in any
18 license, permit, or certificate of title issued by the
19 department, a county, municipality, or its designee, or any
20 person that may be affected by any act or refusal to act by
21 the department, a county, municipality, or its designee, or to
22 keep any records required by this chapter.

23 "~~(24)~~(25) TAXPAYER ADVOCATE. The person so
24 designated from time to time by the commissioner to assist the
25 taxpayers of the State of Alabama with regard to tax issues
26 resulting from any taxes administered or collected by the
27 department.

1 "~~(25)~~(26) TAXPAYER ASSISTANCE ORDER. A written order
2 issued by the Taxpayer Advocate and approved by either the
3 commissioner or assistant commissioner which, among other
4 items, states the facts and grants relief to a taxpayer
5 concerning an issue in dispute with the department with regard
6 to tax issues resulting from any taxes administered or
7 collected by the department or grants a waiver of penalties
8 otherwise owed to the department by a defined class or group
9 of taxpayers who are the subject of a declaration of natural
10 disaster by the Governor.

11 "§40-2A-4.

12 "(a) Rights of the taxpayer.

13 "~~(1) For purposes of this section, the term~~
14 ~~"taxpayer" shall only mean a taxpayer whose books and records~~
15 ~~are subject to examination by the department, and shall not~~
16 ~~include any taxpayer regarding taxes collected or examined by~~
17 ~~a self-administered county or municipality.~~

18 "(1) For purposes of subsections (a), (c), and (d),
19 the term "department" shall include the Department of Revenue,
20 a self-administered county or municipality, or a private
21 examining or collecting firm, depending on whether the
22 Department of Revenue, a self-administered county or
23 municipality, or private examining or collecting firm is
24 conducting the examination of the taxpayer.

25 "(2) At or before the commencement of an examination
26 of the books and records of a taxpayer, the department shall
27 provide to the taxpayer the current version of Publication 1A.

1 Publication 1A shall provide, in simple and non-technical
2 terms, a statement of the taxpayer's rights. Those rights
3 include the right to be represented during an examination, an
4 explanation of their appeal rights, and the right to know the
5 criteria and procedures used to select taxpayers for an
6 examination.

7 "(3) At or before the issuance of a preliminary
8 assessment, the department shall provide to the taxpayer in
9 simple and non-technical terms:

10 "a. A written description of the basis for the
11 assessment and any penalty asserted with respect to the
12 assessment.

13 "b. A written description of the method by which the
14 taxpayer may request an administrative review of the
15 preliminary assessment.

16 "(4) ~~At or before~~ Together with the issuance of a
17 final assessment, the department shall inform the taxpayer by
18 a written statement of his or her right to appeal to the
19 ~~administrative law division~~ Tax Appeals Commission or to
20 circuit court and shall include the written description
21 required by subsection (3)a., as revised if necessary to
22 reflect any changes since the issuance of the preliminary
23 assessment.

24 "(5) Except in cases involving suspected criminal
25 violations of the tax law or other criminal activity, the
26 department shall conduct an examination of a taxpayer during
27 regular business hours after providing reasonable notice to

1 the taxpayer. A taxpayer who refuses a proposed time for an
2 examination on the grounds that the proposed examination would
3 cause inconvenience or hardship must offer reasonable
4 alternative times and dates for the examination.

5 "(6) At all stages of an examination or the
6 administrative review of the examination, and in any appeal to
7 the Tax Appeals Commission, a taxpayer is entitled to be
8 assisted or represented, at his or her own expense, by an
9 authorized representative. ~~The department shall prescribe a~~
10 ~~form by which the A taxpayer may designate a person to~~
11 ~~represent him or her in the conduct of any proceedings,~~
12 ~~including collection proceedings, resulting from actions of~~
13 ~~the department~~ execute a power of attorney, including by
14 executing such form prescribed by the department, designating
15 any individual or individuals as his or her authorized
16 representative. In the absence of this ~~form~~ power of attorney,
17 the department or the Tax Appeals Commission may accept such
18 other evidence that a person is the authorized representative
19 of a taxpayer as it considers appropriate. This provision
20 shall not, however, be construed as authorizing the practice
21 of law before the department, the Tax Appeals Commission, or
22 any court in this state by a person who is not a licensed
23 attorney.

24 "(7) A taxpayer shall be allowed to make an audio
25 recording of any in-person interview with any officer or
26 employee of the department relating to any examination or
27 investigation by the department, provided, however, the

1 taxpayer must give reasonable advance notice to the department
2 of his or her intent to record and the recording shall be at
3 the taxpayer's own expense and with the taxpayer's own
4 equipment. The department shall also be allowed to record any
5 interview if the taxpayer is recording the interview, or if
6 the department gives the taxpayer reasonable advance notice of
7 its intent to record the interview. The department shall
8 provide the taxpayer with a copy of the recording, but only if
9 the taxpayer provides reimbursement for the cost of the
10 transcript and reproduction of the copy. The cost shall be
11 reasonable as prescribed by regulations issued by the
12 department.

13 "(8) This section shall not apply to criminal
14 investigations or investigations relating to the integrity of
15 any officer or employee of the department.

16 "(b) Department responsibilities generally.

17 "(1) The commissioner shall appoint a Taxpayer
18 Advocate from among the employees of the department. This
19 officer shall receive and review inquiries or complaints
20 concerning matters that have been pending before the
21 department for an unreasonable length of time, or matters
22 where the taxpayer has been unable to obtain a reasonable
23 response after several attempts to communicate with the
24 department employee assigned to the taxpayer's case, or his or
25 her immediate superiors. In addition, this officer shall
26 review and have the authority to waive a penalty for
27 reasonable cause as provided in subsection (h) of Section

1 40-2A-11, shall promptly review inquiries concerning release
2 of property levied upon, the erroneous filing of liens, the
3 failure to release a lien for good cause, or other matters
4 complained of by a taxpayer or other affected party, or
5 matters referred to him or her by a judge of the Tax Appeals
6 Commission. The review process shall include consultation with
7 the taxpayer or his or her authorized representative and the
8 self-administered county or municipality, if applicable,
9 regarding the background for the inquiry, complaint, or
10 request for waiver of penalty or other relief sought. The
11 Taxpayer Advocate shall have no authority nor issue any ruling
12 with regard to any taxes collected by or on behalf of a
13 self-administered county or municipality.

14 "a. The Taxpayer Advocate shall, subject to the
15 approval of the commissioner or the assistant commissioner,
16 issue taxpayer assistance orders in the form and manner
17 prescribed herein and by department regulations.

18 "b. Notwithstanding any statute of limitation or
19 other provision in this title, a taxpayer assistance order may
20 declare that any tax, including a final assessment, was
21 erroneously assessed or reported and is not a liability due
22 the state, or that a petition for refund was erroneously
23 denied by the department.

24 "c. A taxpayer assistance order shall grant relief
25 as deemed appropriate, including the voiding of any
26 erroneously issued final assessment for a tax which was not a
27 debt due the state, granting of any refund due the taxpayer,

1 or abating an assessment of interest that has accrued because
2 of undue delay by department personnel.

3 "d. At the request of the Tax Appeals Commission,
4 the Taxpayer Advocate shall review a final order issued by the
5 Tax Appeals Commission that was not appealed pursuant to
6 Section 40-2B-13, if there is newly discovered evidence which
7 by due diligence could not have been discovered in time to
8 file an application for rehearing pursuant to Section
9 40-2B-9(i), and may grant such relief as the Taxpayer Advocate
10 deems appropriate.

11 "d.e. All taxpayer assistance orders shall be dated
12 and signed by the Taxpayer Advocate and approved either by the
13 commissioner or the assistant commissioner, and shall state
14 the underlying facts, the reasons for granting relief, and the
15 relief granted. Any taxpayer assistance order may, for good
16 cause, be modified or rescinded in writing by the Taxpayer
17 Advocate and either the commissioner or the assistant
18 commissioner.

19 "e.f. The Taxpayer Advocate shall have full access
20 to department personnel, books, and records subject, however,
21 to the confidentiality restrictions imposed by this chapter.

22 "f.g. Taxpayer assistance orders shall not be
23 subject to the confidentiality provisions of this title, and
24 shall be maintained by the secretary of the department and
25 shall be open to review upon written request. The Taxpayer
26 Advocate shall have no authority nor issue any ruling with

1 regard to any taxes collected by or on behalf of a
2 self-administered county or municipality.

3 g.h. The commissioner shall make an annual report
4 to the Legislature of all taxpayer assistance orders approved
5 in accordance with the provisions of this section and Sections
6 40-2A-2 and 40-2A-3. Such report shall contain the total
7 amount of relief granted and the types of taxes for which
8 relief was granted.

9 "(2) The department shall maintain a continuing
10 education program to train employees of the department and to
11 provide them with a current knowledge of state and applicable
12 federal tax laws.

13 "(3) In addition to any other information provided
14 by law, the commissioner shall include in the department's
15 annual report information about the number or kind of audits
16 or assessments conducted in the year covered by the report.

17 "(4) The department shall not use the amounts of
18 taxes assessed by an employee of the department as:

19 "a. The basis of a production quota system for
20 employees; or

21 "b. The basis for evaluating an employee's
22 performance.

23 "(5) The department shall establish procedures for
24 monitoring the performance of department employees which may
25 include the use of evaluations obtained from taxpayers.

26 "(6) INSTALLMENT PAYMENTS.

1 "a. The commissioner is authorized to enter into
2 written agreements to allow any taxpayer to pay any tax in
3 installment payments if the commissioner determines that such
4 agreement will facilitate collection of such tax.
5 Notwithstanding the preceding sentence, such agreements shall
6 be entered into only regarding a tax ~~that has been finally~~
7 ~~assessed by the department and not appealed~~ liability
8 resulting from a final assessment from which an appeal can no
9 longer be taken, unless the right to appeal is waived by the
10 taxpayer in writing, and such agreements shall not extend for
11 a period exceeding 12 months, provided, that any such
12 agreement may be renewed at the discretion of the commissioner
13 for succeeding periods not to exceed 12 months. The
14 commissioner shall only be authorized to enter such an
15 agreement with regard to a tax administered or collected by
16 the department.

17 "b. The commissioner may terminate, alter, or modify
18 any agreement entered into hereunder if:

19 "1. Information provided by the taxpayer to the
20 commissioner prior to the date of such agreement was
21 inaccurate or incomplete;

22 "2. The taxpayer fails to pay any installment at the
23 time such installment payment is due under such agreement;

24 "3. The taxpayer fails to pay any other tax
25 liability due the department at the time such liability is
26 due, unless the taxpayer has appealed such other liability
27 pursuant to the terms of this chapter;

1 "4. The financial condition of the taxpayer has
2 significantly changed;

3 "5. The taxpayer fails to provide a financial
4 condition update as requested by the commissioner; or

5 "6. The commissioner believes that collection of any
6 tax to which an agreement under this provision relates is in
7 jeopardy.

8 "c. The commissioner shall have sole authority or
9 discretion to enter into or amend, modify, or terminate any
10 installment payment agreement provided for herein. The
11 commissioner shall promulgate regulations necessary for the
12 implementation of this provision.

13 "d. Any self-administered county or municipality or
14 any private examining or collecting firm, acting with the
15 approval of a self-administered county or municipality, shall
16 have the same authority as provided to the commissioner by
17 this subdivision relating to installment payments with respect
18 to taxes administered or collected by the self-administered
19 county or municipality or the private examining or collecting
20 firm.

21 "(c) Department failure to comply with this section.
22 The failure of the department to comply with any provision of
23 this section shall not prohibit the department from assessing
24 any tax as provided in this chapter, nor excuse the taxpayer
25 from timely complying with any time limitations under this
26 chapter. However, if the department fails to substantially
27 comply with the provisions of this section, the commissioner

1 shall, upon application by the taxpayer or other good cause
2 shown, abate any penalties otherwise arising from the
3 examination or assessment.

4 "(d) Abatement of penalty. The department shall
5 abate any penalty attributable to erroneous written advice
6 furnished to a taxpayer by an employee of the department.
7 However, this section shall apply only if the department
8 employee provided the written advice in good faith while
9 acting in his or her official capacity, the written advice was
10 reasonably relied on by the taxpayer and was in response to a
11 specific written request of the taxpayer, and the penalty did
12 not result from the taxpayer's failure to provide adequate or
13 accurate information.

14 "§40-2A-5.

15 "(a) The commissioner may, in addition to all other
16 powers and authority now granted by law, issue "revenue
17 rulings" describing the substantive application of any law or
18 regulation administered by the department. Revenue rulings may
19 also govern procedures applicable to the department, and in
20 that event, shall be called "revenue procedures." Revenue
21 rulings shall be binding on the department and the state, its
22 political subdivisions, and taxing authorities only with
23 respect to the taxpayer making the request and only with
24 respect to the facts contained in the request. The department
25 attorney assigned to review the request for a revenue ruling
26 shall consult with the taxpayer or their authorized
27 representative, if requested by the taxpayer or their

1 authorized representative, prior to issuing the revenue
2 ruling. A revenue ruling shall constitute the department's
3 interpretation of the law or regulations as applied to the
4 facts contained in the request, but only pertaining to the
5 particular facts described in the request, and only to the
6 taxpayer making the request.

7 "(b) Revenue rulings may be issued only if no taxes
8 have accrued with respect to the transactions, events, or
9 facts contained in the request at the time of the issuance of
10 the ruling.

11 "(c) Revenue rulings may be revoked or modified by
12 the commissioner at any time; but any revocation or
13 modification shall not be effective retroactively unless one
14 of the following has occurred:

15 "(1) The person making the request misstated or
16 omitted facts material to the ruling.

17 "(2) The ruling was issued with respect to a matter
18 involving the computation or payment of a tax that was due and
19 payable at the time the ruling was requested.

20 "(3) The law applied by the commissioner in the
21 revenue ruling is changed in a manner to alter the
22 commissioner's conclusions in the ruling and the change in the
23 law is made effective as of the date of the ruling.

24 "The taxpayer may petition for a hearing with the
25 ~~Administrative Law Division~~ Tax Appeals Commission to
26 determine the propriety, under ~~subsections~~ subsection (a),
27 (b), or (c), of any retroactive revocation of a ruling.

1 "(d) All revenue rulings issued by the department
2 shall be published, maintained as a public record, and made
3 available by the department for public inspection and copying,
4 within a reasonable time following their issuance, at a
5 reasonable cost to be determined by the department. Prior to
6 publication, the department shall delete from the text of the
7 ruling all names, addresses, titles, figures, dates, and other
8 information which may identify the particular taxpayer who
9 requested the ruling. If a revenue ruling contains trade
10 secrets or other confidential information, the department
11 shall, upon written request of the taxpayer, delete that
12 information prior to publication.

13 "(e) Requests for revenue rulings shall be submitted
14 in writing to the secretary in the form and manner as
15 prescribed by department regulations, accompanied by a fee of
16 two hundred dollars (\$200). The commissioner shall either
17 issue or refuse to issue a ruling within 120 days after
18 receipt of the request unless the taxpayer consents to an
19 extension of time. If the commissioner refuses to issue a
20 ruling within the time prescribed, the two hundred dollar
21 (\$200) fee shall be refunded to the taxpayer. A request may be
22 withdrawn at any time prior to the issuance of the requested
23 ruling, in which case there shall be no refund of the two
24 hundred dollar (\$200) fee. A taxpayer may request an expedited
25 revenue ruling in the form and manner prescribed by department
26 regulations, accompanied by a fee of three thousand dollars
27 (\$3,000), which the commissioner shall issue within 30 days

1 after receipt of the request or shall promptly refund the
2 filing fee to the taxpayer.

3 "(f) Revenue rulings shall be issued in the name of
4 the commissioner.

5 "(g) Subject to the provisions of this section, the
6 commissioner may also issue a revenue ruling in response to a
7 written request by a governing body of a self-administered
8 county or municipality, or by a taxpayer, regarding the
9 substantive application of a sales, use, rental, or lodgings
10 tax levied by or on behalf of the self-administered
11 municipality or county; provided, however, that the
12 commissioner may not (i) issue a revenue ruling interpreting
13 any tax levied by or on behalf of a self-administered
14 municipality or county which levies a gross receipts tax in
15 the nature of a sales tax, as defined in Section 40-2A-3(8),
16 or (ii) issue a revenue ruling that would establish a rule of
17 nexus determining the locality to which sales and use taxes,
18 or gross receipts taxes in the nature of a sales tax as
19 defined by Section 40-2A-3(8), are due if the locality is a
20 self-administered county or municipality, as defined by
21 Section 40-2A-3(20). Revenue rulings shall be binding on a
22 self-administered county or municipality only with respect to
23 the specific taxpayer making the request and only with respect
24 to the specific facts contained in the request. Any ruling
25 shall, if the other requirements of this section are met, be
26 issued within 45 days of receipt of the request, and if the
27 requesting party is a self-administered municipal or county

1 governing body, the fee for issuance of the ruling shall be
2 waived. If the requesting party is a taxpayer, the department
3 shall, promptly upon receipt, forward a copy of the ruling
4 request to the appropriate municipal or county governing body
5 and shall consult with and accept written comments from
6 representatives of the municipality or county prior to
7 issuance of the ruling.

8 "§40-2A-7.

9 "(a) Maintenance of records; audit and subpoena
10 authority; authority to issue regulations.

11 "(1) In addition to all other recordkeeping
12 requirements otherwise set out in this title, taxpayers shall
13 keep and maintain an accurate and complete set of records,
14 books, and other information sufficient to allow the
15 department to determine the correct amount of value or correct
16 amount of any tax, license, permit, or fee administered by the
17 department, or other records or information as may be
18 necessary for the proper administration of any matters under
19 the jurisdiction of the department. The books, records, and
20 other information shall be open and available for inspection
21 by the department upon request at a reasonable time and
22 location.

23 "(2) The department may examine and audit the
24 records, books, or other relevant information maintained by
25 any taxpayer or other person for the purpose of computing and
26 determining the correct amount of value or correct amount of
27 any tax, license, or fee administered by the department, or

1 for any other purpose necessary for the proper administration
2 of any matter under the jurisdiction of the department.

3 "(3) A taxpayer, or any officer of a corporation or
4 association, or partner of a partnership, manager of a
5 manager-managed limited liability company, member of a
6 member-managed limited liability company, or fiduciary of a
7 trust, or other responsible individual of any entity under a
8 duty to maintain books and records pursuant to this subsection
9 who fails or refuses to maintain such records and books, or
10 permit inspection, shall be subject to contempt proceedings in
11 the circuit court of the judicial circuit in which the person
12 resides or has a principal place of business, and upon proof
13 of the fact to the court, may be punished for contempt as
14 provided in cases of contempt in circuit court.

15 "(4) The department may summon any witness to appear
16 and give testimony, and summon by subpoena duces tecum any
17 records, books, or other information of any kind relating to
18 any matter which the department has authority to administer.
19 The witness may be summoned by subpoena issued by the
20 secretary of the department, any circuit judge, any
21 magistrate, or any district judge, in the name of the
22 department, directed to any sheriff of Alabama and returnable
23 to the department. The subpoena may be served in like manner
24 as subpoenas issued out of any circuit court, or the subpoena
25 may be served by an authorized employee of the department or
26 by either U.S. mail with delivery confirmation or certified
27 mail, return receipt requested. A fee shall be paid to banking

1 institutions, other similar entities, or any other person
2 except the taxpayer, for copying, searching for, reproducing,
3 and transporting any records, books, papers, or other
4 documents requested or subpoenaed by the department and to
5 persons who are required to appear as a witness equal to the
6 fee authorized to be paid by the Internal Revenue Service for
7 similar services or appearances pursuant to ~~Section 7610 of~~
8 ~~the Internal Revenue Code of 1986~~ 26 U.S.C. § 7610, as amended
9 from time to time. If any witness has been subpoenaed to
10 appear and testify or appear and produce records, books, or
11 other information, and fails or refuses to appear or testify
12 or to produce the books, records, or other information, that
13 witness shall be subject to contempt proceedings in the
14 circuit court of the judicial circuit in which the witness
15 resides, and upon proof of the fact to a circuit court may be
16 punished for contempt as is provided in cases of contempt in
17 circuit court. The circuit court shall also have jurisdiction
18 to hear and, if appropriate, to grant a motion to quash the
19 subpoena. This subdivision shall not apply to any appeal
20 pending before the Tax Appeals Commission.

21 "(5) The department may issue forms and make
22 reasonable regulations concerning any matter administered by
23 the department. Regulations promulgated by the department
24 shall be issued in accordance with the procedures set forth in
25 the Alabama Administrative Procedure Act, Chapter 22 of Title
26 41.

1 "(b) Procedures governing entry of preliminary and
2 final assessments; appeals therefrom.

3 "(1) ENTRY OF PRELIMINARY ASSESSMENT; FINAL
4 ASSESSMENT OF UNCONTESTED TAX; EXECUTION OF PRELIMINARY AND
5 FINAL ASSESSMENTS.

6 "a. If the department determines that the amount of
7 any tax as reported on a return is incorrect, or if no return
8 is filed, or if the department is required to determine value,
9 the department may calculate the correct tax or value based on
10 the most accurate and complete information reasonably
11 obtainable by the department. The department may thereafter
12 enter a preliminary assessment for the correct tax or value,
13 including any applicable penalty and interest.

14 "b. Where the amount of tax or value reported on a
15 return is undisputed by the department, or the taxpayer
16 consents in writing to the amount of any deficiency,
17 determination of value, or preliminary assessment ~~in writing~~
18 as provided by regulation, the department may immediately
19 enter a final assessment for the amount of the tax or value,
20 plus applicable penalty and interest; provided, the department
21 may at any time enter a final jeopardy assessment pursuant to
22 Sections 40-17A-12, 40-29-90, and 40-29-91.

23 "c. All preliminary and final assessments issued by
24 the department shall be executed as provided by regulations
25 promulgated by the department.

26 "(2) TIME LIMITATION FOR ENTERING PRELIMINARY
27 ASSESSMENT. Any preliminary assessment shall be entered within

1 three years from the due date of the return, or three years
2 from the date the return is filed with the department,
3 whichever is later, or if no return is required to be filed,
4 within three years of the due date of the tax, except as
5 follows:

6 "a. A preliminary assessment may be entered at any
7 time if no return is filed as required, or if a false or
8 fraudulent return is filed with the intent to evade tax.

9 "b. A preliminary assessment may be entered within
10 six years from the due date of the return or six years from
11 the date the return is filed with the department, whichever is
12 later, if the taxpayer omits from the taxable base an amount
13 properly includable therein which is in excess of 25 percent
14 of the amount of the taxable base stated in the return.

15 "For purposes of this paragraph:

16 "1. The term "taxable base" means the gross income,
17 gross proceeds from sales, gross receipts, ~~capital employed~~
18 net worth, or other amounts on which the tax ~~paid with~~
19 reported on the return is computed measured; provided, that
20 for a corporation subject to the income tax imposed by Chapter
21 18 of this title, the term "taxable base" means the
22 corporation's federal gross income multiplied by its Alabama
23 apportionment factor for the same tax year, calculated
24 pursuant to Chapter 27 of this title; and

25 "2. In determining the amount omitted from the
26 taxable base, there shall not be taken into account any amount
27 which is omitted from the taxable base stated in the return if

1 the amount is disclosed in the return, or in a statement
2 attached to the return, in a manner adequate to apprise the
3 department of the nature and amount of the item. With respect
4 to a corporation subject to the income tax imposed by Chapter
5 18 of this title, an amount omitted from the taxable base
6 shall not include any amounts for which the taxpayer has
7 substantial authority supporting its position. For purposes of
8 this subparagraph, the term "substantial authority" shall be
9 defined by reference to 26 U.S.C. § 6662, as in effect from
10 time to time, as may be modified by department rule to conform
11 to Alabama tax law.

12 "c. A preliminary assessment entered pursuant to
13 Sections 40-29-72 and 40-29-73, may be entered within five
14 years from the due date of the return on which the underlying
15 tax is required to be reported or within five years of the
16 date the return is filed, whichever is later.

17 "d.1. In the case of income received during the
18 lifetime of a decedent, or by his or her estate during the
19 period of administration, the preliminary assessment of any
20 income tax shall be entered within 18 months after written
21 request therefor, filed after the return is made, by the
22 executor, administrator, or other fiduciary representing the
23 estate of the decedent, but not after the expiration of three
24 years from the due date of the return or three years from the
25 date the return is filed with the department, whichever is
26 later.

1 "2. In the case of income received by a corporation
2 contemplating dissolution, a preliminary assessment of any
3 income tax shall be entered within 18 months after written
4 request, by the corporation, filed after the return is made,
5 but not after the expiration of three years from the due date
6 of the return or three years from the date the return is filed
7 with the department, whichever is later. This subparagraph
8 shall not apply to any corporation unless dissolution is
9 completed within 18 months of the date of the written notice.

10 "e. If a taxpayer has made the election provided in
11 subsection (d) ~~or (e)~~ of Section 40-18-8, a preliminary
12 assessment based on the gain realized as a result of the
13 involuntary conversion ~~[in the case of subsection (d) of~~
14 ~~Section 40-18-8]~~ or a rollover of gain on the sale of a
15 personal residence ~~[as provided in subsection (e) of Section~~
16 ~~40-18-8]~~ may be entered within three years from the date the
17 taxpayer notified the department of the replacement of the
18 property in accordance with subsection (d) ~~or (e)~~ of Section
19 40-18-8, ~~as the case may be,~~ or of his or her intention not to
20 replace the property.

21 "~~f. If a taxpayer has validly elected to have the~~
22 ~~provisions of subdivision (a) (7) of Section 40-18-6 and~~
23 ~~subsection (l) of Section 40-18-8 apply to an acquisition of~~
24 ~~stock before January 1, 1985, any liability of the taxpayer~~
25 ~~under this title, solely from amendment of its returns to be~~
26 ~~consistent with that election may be assessed at any time~~

1 ~~within five years from the date on which the taxpayer filed~~
2 ~~the amended returns with the department.~~

3 "g.1.f. Reporting federal audit changes; time
4 limitations for assessments. When the Internal Revenue Service
5 changes the amount of federal income tax or federal estate tax
6 ~~in any manner owed by the taxpayer,~~ and the change results in
7 an increase in additional income tax or estate tax owed under
8 this title, ~~the department may, at any time~~ the taxpayer shall
9 be required to file an amended return with the department
10 ~~within one year~~ 180 days after the department is notified or
11 ~~otherwise learns~~ date that the change ~~has become~~ becomes
12 ~~final,~~ enter a preliminary assessment for and pay the
13 additional tax and interest due with the amended return. For
14 purposes of this subdivision, an amended return includes an
15 amended income or estate tax return on a form prescribed by
16 the department, along with reasonably detailed documentation
17 to verify the taxpayer's computation of the tax due and
18 identification of the federal changes. The department shall
19 prescribe a form or schedule that a taxpayer, or an affiliated
20 group of taxpayers, may file electronically that complies with
21 the amended return requirement of this subdivision. The
22 department shall be allowed to ~~assess the tax within the time~~
23 ~~period otherwise allowed by this section.~~ enter a preliminary
24 assessment for any additional tax due as a result of this
25 subdivision by the later of the following periods:

26 "1. Within the time period otherwise allowed by this
27 section.

1 "2. If the taxpayer files an amended return as
2 prescribed by and within the time specified in this
3 subdivision, within one year following the date the amended
4 return, as prescribed in this subdivision, was filed.

5 "3. If the taxpayer fails to file an amended return
6 as prescribed by and within the time specified in this
7 subdivision, within one year following the date the taxpayer
8 actually files such amended return with the department.

9 "4. If the taxpayer failed to file an amended return
10 as prescribed by and within the time specified in this
11 subdivision, within one year following the date when the
12 department is notified or otherwise learns that the federal
13 change has become final, provided that the taxpayer has not
14 filed an amended return to report the federal changes prior to
15 the department's receipt of such notification.

16 "Any tax assessed within the appropriate additional
17 one year time period allowed by this subdivision shall be
18 limited to those items changed on the federal income tax
19 return or federal estate tax return that affect the income tax
20 liability or the estate tax liability imposed by this title.

21 ~~"2. When a federal income tax return or federal~~
22 ~~estate tax return is changed in any manner after it has been~~
23 ~~filed with the Internal Revenue Service, other than by an~~
24 ~~amended return, and the change results in an overpayment of~~
25 ~~taxes imposed by this title, a petition for refund of the~~
26 ~~overpayment may be filed within the later of one year after~~
27 ~~the federal changes become final, or within the time allowed~~

1 ~~for the filing of a petition for refund as provided in this~~
2 ~~chapter. The refund shall be limited to those items changed on~~
3 ~~the federal income tax return or federal estate tax return~~
4 ~~that affect the income tax liability or estate tax liability~~
5 ~~imposed by this title.~~

6 "3.5. For purposes of this subdivision and
7 subsection (c) (2)c., the date that a federal change becomes
8 final is the date on which the taxpayer and the Internal
9 Revenue Service formally agree to the changes, or the date ~~of~~
10 on which any administrative or judicial order, judgment, or
11 decree ~~from which no further appeal was or may be taken~~ can no
12 longer be appealed due to the lapse of time.

13 "h.g. The running of the period of limitations
14 provided herein for entering a preliminary assessment shall be
15 suspended for the period that:

16 "1. The taxpayer or the assets of the taxpayer are
17 involved in a case under Title 11 of the United States Code,
18 Bankruptcy, and for a period of six months thereafter; or

19 "2. The assets of the taxpayer are in the control or
20 custody of a court in any proceeding, and for a period of six
21 months thereafter.

22 "i.h. The department and the taxpayer may, prior to
23 the expiration of the period for entering a preliminary
24 assessment or the filing of a petition for refund, agree in
25 writing to extend the time provided for entering the
26 assessment or filing the petition in this chapter. The tax may
27 be assessed, or the petition for refund may be filed, at any

1 time prior to the expiration of the period agreed upon. The
2 period agreed upon may be extended by subsequent agreements in
3 writing made before the expiration of the period previously
4 agreed upon.

5 "j.i. Additional tax may be assessed by the
6 department within any applicable period allowed above, even
7 though a preliminary or final assessment has been previously
8 entered by the department against the same taxpayer for the
9 same or a portion of the same tax period. No taxpayer,
10 however, shall be subject to unnecessary examination or
11 investigation, and only one inspection of a taxpayer's books
12 and records relating to each type of tax administered by the
13 department shall be made for each taxable year, unless the
14 taxpayer requests otherwise or unless the commissioner after
15 investigation, notifies the taxpayer in writing that an
16 additional inspection is necessary. The commissioner shall
17 promulgate regulations consistent with those followed by the
18 Internal Revenue Service with respect to second inspection of
19 a taxpayer's books and records.

20 "j. The three-year statute of limitations provided
21 by this subdivision for entering a preliminary assessment
22 shall be extended by 60 days for the benefit of a
23 self-administered county or municipality, in cases where the
24 department has audited a taxpayer and additional sales, use,
25 rental, or lodgings tax was found to be due, and the taxpayer
26 likewise owes tax to the self-administered county or
27 municipality for the same tax period or periods.

1 "(3) SERVICE OF PRELIMINARY ASSESSMENT UPON
2 TAXPAYER. The preliminary assessment entered by the
3 department, or a copy thereof, shall be promptly mailed by the
4 department to the taxpayer's last known address by either
5 first class U.S. mail or certified mail with return receipt
6 requested, but at the option of the department, the
7 preliminary assessment may be delivered to the taxpayer by
8 personal delivery or by U.S. mail with delivery confirmation.

9 "(4) PROCEDURE FOR REVIEW OF DISPUTED PRELIMINARY
10 ASSESSMENTS; ENTRY AND NOTICE OF FINAL ASSESSMENT.

11 "a. If a taxpayer disagrees with a preliminary
12 assessment as entered by the department, the taxpayer may file
13 a written petition for review with the department within ~~30~~ 60
14 days from the date of entry of the preliminary assessment
15 setting out the specific objections to the preliminary
16 assessment. If a petition for review is timely filed, or if
17 the department otherwise deems it necessary, the department
18 shall schedule a conference with the taxpayer for the purpose
19 of allowing the taxpayer and the department to present their
20 respective positions, discuss any omissions or errors, and to
21 attempt to agree upon any changes or modifications to their
22 respective positions.

23 "b. If a written petition for review:

24 "1. Is not timely filed, or

25 "2. Is properly filed, and upon further review the
26 department determines the preliminary assessment is due to be
27 upheld in whole or in part, the department may make the

1 assessment final in the amount of tax due as computed by the
2 department, with applicable interest and penalty computed to
3 the date of entry of the final assessment.

4 "c. If a preliminary assessment is not made final by
5 the department within three years from the date of entry, the
6 taxpayer may appeal the preliminary assessment to the Tax
7 Appeals Commission or to the appropriate circuit court as
8 provided by subsection (b) (5) for an appeal of a final
9 assessment. Any preliminary assessment that is outstanding as
10 of October 1, 2013, and that was entered five or more years
11 prior to that date, is void unless the preliminary assessment
12 is made final or the department and the taxpayer agree in
13 writing to extend the time period for entering a final
14 assessment prior to October 1, 2013.

15 "c.d. The final assessment entered by the
16 department, or a copy thereof, shall promptly upon entry be
17 mailed by the department to the taxpayer's last known address
18 (i) by either first class U.S. mail or certified mail with
19 return receipt requested in the case of assessments of tax of
20 ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000) or
21 less or (ii) by certified U.S. mail with return receipt
22 requested in the case of assessments of tax of more than ~~five~~
23 ~~hundred dollars (\$500)~~ one thousand dollars (\$1,000). In
24 either case and at the option of the department, the final
25 assessment, or a copy thereof, may instead be delivered to the
26 taxpayer by personal delivery or by U.S. mail with delivery
27 confirmation.

1 "(5) PROCEDURE FOR APPEAL FROM FINAL ASSESSMENT.

2 "a. A taxpayer may appeal to the Tax Appeals
3 Commission from any final assessment entered by the department
4 by filing a notice of appeal ~~with the Administrative Law~~
5 ~~Division~~ with the Tax Appeals Commission within ~~30~~ 60 days
6 from the date of entry of the final assessment, and the
7 appeal, if timely filed, shall proceed as ~~herein~~ provided in
8 Chapter 2B for appeals to the ~~Administrative Law Division~~ Tax
9 Appeals Commission.

10 "b.1. In lieu of the appeal under paragraph a., at
11 the option of the taxpayer, the taxpayer may appeal from any
12 final assessment entered by the department to the Circuit
13 Court of Montgomery County, Alabama, or to the circuit court
14 of the county in which the taxpayer resides or has a principal
15 place of business in Alabama, as appropriate, by filing a
16 notice of appeal within ~~30~~ 60 days from the date of entry of
17 the final assessment with both the secretary of the department
18 and the clerk of the circuit court in which the appeal is
19 filed.

20 "2. If the appeal is to circuit court, the taxpayer,
21 also within the ~~30-day~~ 60-day period allowed for appeal, shall
22 do one of the following:

23 "(i) Pay the tax, interest, and any penalty shown on
24 the final assessment.

25 "(ii) File a supersedeas bond with the court ~~for~~ in
26 an amount equal to 125 percent of the amount of the tax,
27 interest, and any penalty shown on the final assessment. The

1 supersedeas bond shall be executed by a surety company
2 licensed and authorized to do business in Alabama and shall be
3 conditioned to pay the amount of tax, interest, and any
4 penalties shown on the final assessment, plus applicable
5 interest and any court costs relating to the appeal, payable
6 to the department, or the self-administered county or
7 municipality, if applicable.

8 "(iii) File an irrevocable letter of credit with the
9 circuit court in an amount equal to 125 percent of the amount
10 of the tax, interest, and any penalty shown on the final
11 assessment. The irrevocable letter of credit shall be issued
12 by a financial institution designated as a qualified public
13 depository by the Board of Directors of the Security for
14 Alabama Funds Enhancement (SAFE) Program pursuant to Chapter
15 14A, Title 41. ~~The State of Alabama~~ department or the
16 self-administered county or municipality, if applicable, shall
17 be named the beneficiary of the irrevocable letter of credit.
18 The irrevocable letter of credit shall be conditioned to pay
19 the assessment plus applicable interest and any court costs
20 relating to the appeal. The taxpayer may not issue an
21 irrevocable letter of credit as to a final assessment entered
22 against the same taxpayer.

23 "(iv) File a pledge or collateral assignment of
24 securities with the circuit court that constitute eligible
25 collateral under Chapter 14A, Title 41, in an amount equal to
26 200 percent of the amount of the tax, interest, and penalty
27 shown on the final assessment. The pledge or collateral

1 assignment shall be in favor of the department or the
2 self-administered county or municipality, if applicable, and
3 conditioned to pay the assessment plus applicable interest and
4 any court costs relating to the appeal.

5 "(v) Show to the satisfaction of the clerk of the
6 circuit court to which the appeal is taken that the taxpayer
7 has a net worth, on the basis of fair market value, of one
8 hundred thousand dollars (\$100,000) or less, including his or
9 her homestead.

10 "3. A taxpayer may appeal a final assessment to
11 either the ~~Administrative Law Division~~ Tax Appeals Commission
12 or to circuit court as provided herein, even though the
13 taxpayer has paid the tax in issue prior to taking the appeal.

14 "c.1. The filing of the notice of appeal with the
15 ~~Administrative Law Division~~ Tax Appeals Commission or, in the
16 case of appeals to the circuit court, the filing of the notice
17 of appeal with both the secretary of the department and the
18 clerk of the circuit court in which the appeal is filed and
19 also the payment of the assessment in full ~~and applicable~~
20 ~~interest~~ or the filing of a supersedeas bond, an irrevocable
21 letter of credit, or a pledge or collateral assignment of
22 securities as provided herein, are jurisdictional. Except as
23 set forth in subparagraph 2., if such prerequisites are not
24 satisfied within the time provided for appeal, the appeal
25 shall be dismissed for lack of jurisdiction.

26 "2. Notwithstanding subparagraph 1., should the
27 circuit court determine that the taxpayer has not satisfied

1 the requirements of subparagraph b.2., the circuit court shall
2 order that the taxpayer satisfy such requirements. The
3 taxpayer may satisfy such requirements at any time within 30
4 days after service of the court order. No order of dismissal
5 for lack of jurisdiction shall be entered within 30 days after
6 service of the court order, and no order of dismissal shall
7 thereafter be entered if such requirement is satisfied within
8 such 30-day period.

9 "3. On appeal to the circuit court or to the
10 ~~Administrative Law Division~~ Tax Appeals Commission, the final
11 assessment shall be prima facie correct, and the burden of
12 proof shall be on the taxpayer to prove the assessment is
13 incorrect.

14 "d.1. The ~~Administrative Law Division~~ Tax Appeals
15 Commission, circuit court, or the appellate court on appeal
16 may increase or decrease the assessment to reflect the correct
17 amount due.

18 "2. If a final assessment is reduced on appeal, any
19 overpayment of tax paid by the taxpayer shall immediately be
20 refunded to the taxpayer by the state, county, municipality,
21 or other entity to which the overpayment was distributed.

22 "3. No court shall have the power to enjoin the
23 collection of any taxes due on an assessment so appealed or to
24 suspend the payment thereof.

25 "(6) 30-DAY APPEAL PERIODS FOR INDIVIDUALS WHO FAIL
26 TO FILE AN ALABAMA INCOME TAX RETURN. Notwithstanding the
27 60-day appeal periods for preliminary assessments and final

1 assessments provided by subdivisions (4) and (5), in the case
2 of an individual who is subject to Alabama income tax and who
3 fails to file timely the return required by Chapter 18 for a
4 particular tax year, if the department enters a preliminary
5 assessment against the taxpayer based on information received
6 from the Internal Revenue Service with respect to that same
7 tax year, the taxpayer shall have only 30 days to file a
8 petition for review pursuant to subdivision (4), and if the
9 preliminary assessment is made final, the taxpayer shall have
10 only 30 days to file a notice of appeal pursuant to
11 subdivision (5).

12 "(7) 30-DAY APPEAL PERIOD FOR PUBLIC UTILITIES.

13 Notwithstanding the 60-day appeal period for final assessments
14 provided by subdivision (5), in the case of a final assessment
15 of value of property of public utilities under Chapter 21 of
16 this title, the taxpayer shall have only 30 days to file a
17 notice of appeal pursuant to subdivision (5).

18 "(c) Procedure governing petitions for refund;
19 appeals therefrom.

20 "(1) PETITION FOR REFUND ALLOWED, GENERALLY. Any
21 taxpayer may file a petition for refund with the department
22 for any overpayment of tax or other amount erroneously paid to
23 the department or concerning any refund which the department
24 is required to administer. If a final assessment for the tax
25 has been entered by the department, a petition for refund of
26 all or a portion of the tax may be filed only if the final
27 assessment plus applicable interest has been paid in full

1 prior to or with the filing of the petition for refund. The
2 department may also issue automatic refunds pursuant to
3 Section 40-29-71. In the case of a petition for refund of
4 sales or use taxes pursuant to Chapter 23, public utilities
5 taxes pursuant to Chapter 21, and any transient occupancy tax
6 pursuant to Chapter 26, the petition shall be filed jointly by
7 the taxpayer who collected and paid over the tax to the
8 department and the consumer/purchaser who paid the tax to the
9 taxpayer. A direct petition may be filed by the taxpayer if
10 the taxpayer never collected the tax from the
11 consumer/purchaser, or if the tax has been credited or repaid
12 to the consumer/purchaser by the taxpayer.

13 "(2) TIME LIMITATION FOR FILING PETITION FOR REFUND;
14 AUTOMATIC REFUND.

15 "a. Generally. A petition for refund shall be filed
16 with the department or an automatic refund issued pursuant to
17 Section 40-29-71, or a credit allowed, within (i) three years
18 from the date that the return was filed, or (ii) two years
19 from the date of payment of the tax, whichever is later, or,
20 ~~if no return was timely filed, two years from the date of~~
21 payment of the tax if an individual income tax return required
22 by Section 40-18-27 is not timely filed for a particular year,
23 a petition for refund of individual income tax paid by
24 withholding or estimated payment with respect to that year
25 shall be filed, or a credit allowed, within three years from
26 the original due date of the return. For purposes of this
27 paragraph, taxes paid through withholding or by estimated

1 ~~payment shall be deemed paid on the original due date of the~~
2 ~~return.~~

3 "b. Net operating loss carryback. In lieu of the
4 periods provided in paragraph a., in the case of a net
5 operating loss carryback, the period for filing a petition for
6 refund, the department making an automatic refund or allowing
7 a credit shall be the period prescribed in 26 U.S.C. ~~Section §~~
8 6511(d) (2) for the claiming of a credit or refund.

9 "c. Federal audit changes. When a federal income tax
10 return or federal estate tax return is changed after it has
11 been filed with the Internal Revenue Service, other than by an
12 amended return, and the change results in an overpayment of
13 income tax or estate tax imposed by this title, a petition for
14 refund of the overpayment must be filed within the later of
15 one year after the federal changes become final or the time
16 otherwise allowed for the filing of a petition for refund as
17 provided in this chapter. The refund shall be limited to the
18 tax overpaid as a result of those items changed on the federal
19 income tax return or federal estate tax return that affect the
20 income tax liability or estate tax liability imposed by this
21 title. For purposes of this subdivision, the date that a
22 federal change becomes final shall be determined as provided
23 in Section 40-2A-7(b) (2) f.5.

24 "(3) DEPARTMENT REQUIRED TO GRANT OR DENY REFUNDS;
25 TIME LIMITATIONS. The department shall either grant or deny a
26 petition for refund within six months from the date the
27 petition is filed, unless the period is extended by written

1 agreement of the taxpayer and the department. The taxpayer and
2 his or her authorized representative, if applicable, shall be
3 notified of the department's decision concerning the petition
4 for refund by either first class ~~United States~~ U.S. mail, or
5 by certified U.S. mail, return receipt requested, or by U.S.
6 mail with delivery confirmation, sent to the taxpayer's or the
7 authorized representative's last known address. If the
8 department fails to grant a refund within the time provided
9 herein, the petition for refund shall be deemed to be denied.

10 "(4) PROCEDURES IF REFUNDS GRANTED; CREDIT OF
11 REFUND; PAYMENT OF OTHER TAXES; PAYMENT OF INTEREST. If a
12 petition is granted in whole or in part, or the department,
13 the ~~Administrative Law Division~~ Tax Appeals Commission, or a
14 court otherwise determines that a refund is due, the
15 overpayment shall be refunded to the taxpayer by the state,
16 county, municipality, or other entity to which the overpayment
17 was distributed. If the department determines that a refund is
18 due, the amount of the overpayment plus accrued interest may
19 first be credited by the department against any outstanding
20 ~~final tax liabilities due and owing by the taxpayer to the~~
21 ~~department~~ tax due as reported by a taxpayer on a return, any
22 outstanding tax liability resulting from a final assessment
23 from which an appeal can no longer be taken, or any
24 outstanding tax liability that has been affirmed on appeal by
25 the Tax Appeals Commission or by a circuit or appellate court
26 in Alabama and from which no further appeal can be taken, and
27 the balance of any overpayment shall, subject to the setoff

1 provisions of Article 3 of Chapter 18, be refunded to the
2 taxpayer. If any refund or part thereof is credited to any
3 other tax by the department, the department shall provide a
4 written detailed statement to the taxpayer showing the amount
5 of overpayment, the amount credited for payment to other
6 taxes, and the amount refunded.

7 "(5) PROCEDURES IF REFUND DENIED; APPEAL.

8 "a. A taxpayer may appeal from the denial in whole
9 or in part of a petition for refund by filing a notice of
10 appeal with the ~~Administrative Law Division~~ Tax Appeals
11 Commission within two years from the date the petition is
12 denied, ~~and the appeal, if .~~ If timely filed, the appeal shall
13 proceed as ~~hereinafter~~ provided in Chapter 2B for appeals to
14 the ~~Administrative Law Division~~ Tax Appeals Commission.

15 "b. In lieu of appealing to the ~~Administrative Law~~
16 ~~Division~~ Tax Appeals Commission, the taxpayer may appeal from
17 the denial, in whole or in part, of a petition for refund by
18 filing a notice of appeal with the Circuit Court in Montgomery
19 County, Alabama, or the circuit court of the county in which
20 the taxpayer resides or has a principal place of business in
21 Alabama, as appropriate, by filing the notice of appeal within
22 two years from the date the petition is denied. The circuit
23 court shall hear the appeal according to its own rules and
24 procedures and shall determine the correct amount of refund
25 due, if any.

26 "c. If an appeal is not filed with the
27 ~~Administrative Law Division~~ Tax Appeals Commission or the

1 appropriate circuit court within two years of the date the
2 petition is denied, ~~then~~ the appeal shall be dismissed for
3 lack of jurisdiction.

4 "(d) The Department of Revenue shall revise existing
5 regulations or administrative guidance, or issue new
6 regulations or administrative guidance, as appropriate, in
7 conformance with this section.

8 "(e) ~~This~~ The amendments made to this section by Act
9 2007-504 shall apply to all appeals filed after June 15, 2007.
10 Notwithstanding the prior sentence, in any appeal to a circuit
11 court which ~~is~~ was pending on June 15, 2007, and in which a
12 supersedeas bond was filed pursuant to, and in compliance
13 with, the requirements of this section, for double the amount
14 of the tax, interest, and any penalty shown on the final
15 assessment, or for double the amount of the final order of the
16 administrative law judge, such bond may be reduced to 125
17 percent of such amount shown on the final assessment or in the
18 final order of the administrative law judge.

19 "§40-2A-8.

20 "(a) The department shall notify a taxpayer in
21 writing of any act or proposed act or refusal to act
22 concerning the denial or revocation of a license, permit, or
23 certificate of title concerning which the taxpayer has any
24 interest. The notice must be mailed by either first-class U.S.
25 mail or certified U.S. mail or U.S. mail with delivery
26 confirmation to the taxpayer's last known address, or to the
27 last known address of the taxpayer's authorized

1 representative, if applicable. Any taxpayer aggrieved by any
2 act or proposed act or refusal to act concerning the denial or
3 revocation of a license, permit, or certificate of title by
4 the department shall be entitled to file a notice of appeal
5 from such act or proposed act or refusal to act with the
6 ~~Administrative Law Division~~ Tax Appeals Commission. Such
7 notice of appeal must be filed within ~~30~~ 60 days of the date
8 notice of such act or refusal to act is mailed to the
9 taxpayer, and such appeal, if timely filed, shall proceed as
10 herein provided for appeals to the ~~Administrative Law Division~~
11 Tax Appeals Commission. Any taxpayer aggrieved by any act,
12 proposed act, or refusal to act by the department, who is not
13 issued written notice by the department of his or her right to
14 appeal, shall have 60 days from actual notice of such act,
15 proposed act, or refusal to act in which to appeal to the Tax
16 Appeals Commission. The burden shall be on the taxpayer in
17 such cases to prove that the appeal was filed within 60 days
18 of actual notice. If any matter is timely appealed to the Tax
19 Appeals Commission pursuant to this section, the commission,
20 in its discretion, may remand or refer the matter to the
21 department or the department's Taxpayer Advocate for review
22 before proceeding with the appeal.

23 "(b) A taxpayer may elect to file a notice of appeal
24 with the Tax Appeals Commission regarding a notice of proposed
25 adjustment issued by the department affecting the taxpayer's
26 net operating loss deductions or carryovers for purposes of
27 the taxes imposed by Chapters 16 and 18 of this title. Such

1 notice of appeal shall be filed within the time period
2 prescribed in subsection (a), and the Tax Appeals Commission
3 shall have jurisdiction to determine the amount of the
4 taxpayer's net operating loss deductions or carryovers for the
5 tax periods in question.

6 ~~"(b)(c)~~ The department may proceed with the intended
7 action if no appeal is filed by the taxpayer with the
8 ~~Administrative Law Division~~ Tax Appeals Commission within 30
9 ~~days of the mailing of the notice by the department to the~~
10 ~~taxpayer~~ the time allowed under subsection (a). If a
11 designated agent has failed to provide the department with a
12 bond and any qualifying license as provided in Section
13 32-8-34, the revocation of designated agent status by the
14 department shall be effective immediately upon electronic
15 notice through the system the designated agent uses to process
16 applications for certificates of title or receipt of written
17 notice of revocation, whether by U.S. mail or hand delivery.
18 Otherwise, the revocation of a designated agent status shall
19 be effective after the time for appeal under this section has
20 expired. If a new or used motor vehicle dealer, motor vehicle
21 wholesaler, motor vehicle reconditioner, or motor vehicle
22 rebuilder licensee has failed to provide the department with
23 or maintain the required bond or insurance, the revocation of
24 the regulatory license shall be effective immediately upon
25 electronic notice through the system the licensee uses to
26 apply for or renew the regulatory license or upon written
27 notice of revocation, whether by U.S. mail or hand delivery.

1 Otherwise, the revocation of the regulatory license shall be
2 effective after the time for appeal under this section has
3 expired. The revocation of any motor vehicle certificate of
4 title or license by the department shall not be final until
5 either the titled owner and lien holder, if any, consent to
6 the revocation or the time for filing an appeal to the Tax
7 Appeals Commission has expired. The department may obtain an
8 injunction in the appropriate circuit court at any time
9 enjoining a licensee or designated agent from continuing to
10 operate under a disputed license or designated agent
11 authority, if the continued operation may cause substantial
12 loss of revenue, would cause substantial harm to the state or
13 public, or for such other good reason as determined by the
14 circuit court. The department may suspend the designated
15 agent's access to process new applications for certificate of
16 title until such time as any outstanding title applications
17 not properly filed by the designated agent are properly filed
18 with the department.

19 ~~"(c)~~(d) This section shall not apply to the
20 procedures governing assessments and refunds which are
21 otherwise provided for by this chapter, or to
22 intradepartmental personnel actions or any matter which is the
23 subject of any action then pending in state or federal court,
24 or to the collection of any liability due the department.

25 ~~"(d)~~(e) A taxpayer may appeal any matter governed by
26 this section to the circuit court only after exhausting his
27 appeal rights provided under this section. Any appeal to the

1 circuit court must be from a final or other appealable order
2 issued by the ~~administrative law judge~~ Tax Appeals Commission.

3 "§40-2A-11.

4 "(a) Failure to timely file ~~return~~ certain returns.
5 Except in the case of an individual income tax return filed
6 with no tax or refund due at the time of filing, or as
7 otherwise provided below, if a taxpayer fails to file any
8 return required to be filed with the department on or before
9 the date prescribed therefor, determined with regard to any
10 extension of time for filing, there shall be assessed as a
11 penalty the greater of an amount equal to 10 percent of any
12 additional the correct amount of tax required to be paid with
13 the return or fifty dollars (\$50). If the taxpayer is not
14 required to pay any additional tax due with the return, the
15 penalty imposed by this subsection shall not be assessed
16 unless the department has first provided 30 days' written
17 notice to the taxpayer, at the last known address of the
18 taxpayer, that the return has not been filed and the taxpayer
19 fails or refuses to file the delinquent return within that
20 time period; provided, however, that the penalty may be
21 assessed if the taxpayer has been given written notice of a
22 delinquent return for the same type of tax within the 12
23 months preceding the due date of the second delinquent return.

24 "(b) Failure to timely pay tax.

25 "(1) If a taxpayer fails to pay to the department
26 the amount of tax shown as due on a return required to be
27 filed on or before the date prescribed for payment of the tax,

1 determined with regard to any extension of time for payment,
2 there shall be added as a penalty one percent of the net
3 amount of the tax due if the failure to pay is for not more
4 than one month, with an additional one percent for each
5 additional month or fraction thereof during which failure to
6 pay continues, not exceeding 25 percent in the aggregate. In
7 lieu of the penalty provided in the immediately preceding
8 sentence, for any tax for which a monthly or quarterly return
9 is required, or for which no return is required, the
10 department shall add a failure to timely pay penalty of 10
11 percent of the unpaid amount shown as tax due on the return or
12 the amount stated in the notice and demand.

13 "(2) If a taxpayer fails to pay to the department
14 any amount in respect of any tax required to be shown on any
15 return, which is not so shown, within 30 calendar days from
16 the date of the first written notice and demand therefore,
17 there shall be added as a penalty one percent of the net
18 amount of the tax due if the failure to pay is for not more
19 than one month, with an additional one percent for each
20 additional month or fraction thereof during which failure to
21 pay continues, not exceeding 25 percent in the aggregate. In
22 lieu of the penalty provided in the immediately preceding
23 sentence, for any tax for which a monthly or quarterly return
24 is required, or for which no return is required, the
25 department shall add a failure to timely pay penalty of 10
26 percent of the unpaid amount stated in the notice and demand

1 unless payment is received within 30 calendar days from the
2 date of the first written notice and demand.

3 "(3) This subsection shall not apply to any failure
4 to pay any estimated tax required to be paid by Sections
5 40-18-80 and 40-18-80.1.

6 "(c) Underpayment due to negligence. If any part of
7 any underpayment of tax is due to negligence or disregard of
8 rules or regulations, there shall be added to the tax an
9 amount equal to ~~five~~ 20 percent of that part of the tax
10 attributable to negligence or disregard of rules or
11 regulations.

12 "For purposes of this subsection, the term
13 "negligence" includes any failure to make a reasonable attempt
14 to comply with ~~Title 40~~ this title or other statutes
15 administered by the department, and the term "disregard"
16 includes any careless, reckless, or intentional disregard of
17 valid rules and regulations.

18 "(d) Underpayment due to fraud. If any part of any
19 underpayment of tax required to be shown on a return is due to
20 fraud, there shall be added to the tax an amount equal to ~~50~~
21 75 percent of that portion of the underpayment which is
22 attributable to fraud.

23 "For purposes of this section, the term "fraud"
24 shall have the same meaning as ascribed to the term under 26
25 U.S.C. ~~Section §~~ 6663, as in effect from time to time, except
26 that the reference therein to the secretary shall instead mean
27 the commissioner.

1 "(e) Frivolous return penalty. If a taxpayer files a
2 "frivolous return," as that term is used in 26 U.S.C. ~~Section~~
3 § 6702, that taxpayer may be liable for a penalty of up to ~~two~~
4 ~~hundred fifty dollars (\$250)~~ five hundred dollars (\$500).

5 "(f) Frivolous appeal penalty. If any appeal to the
6 ~~administrative law division~~ Tax Appeals Commission or circuit
7 court is determined to be frivolous or primarily for the
8 purpose of delay or to impede collection of any tax, a penalty
9 of ~~two hundred fifty dollars (\$250)~~ five hundred dollars
10 (\$500) or, at the discretion of the Tax Appeals Commission or
11 circuit judge, up to 25 percent of the tax in question,
12 whichever is greater, shall be assessed in addition to any tax
13 due.

14 "(g) Failure to file partnership or Alabama S
15 corporation returns. If a pass-through entity, as defined in
16 Section 40-18-24.2, or an Alabama S corporation, as defined in
17 Section 40-18-160(b)(1), fails to file the applicable
18 information return required by Section 40-18-28 or 40-18-39
19 for any taxable year within the time prescribed therefor, the
20 pass-through entity or corporation shall be liable for a
21 penalty equal to the product of fifty dollars (\$50) multiplied
22 by the number of members of the pass-through entity or
23 shareholders of the Alabama S corporation, whichever is
24 applicable, for each month, or fraction thereof, during which
25 such failure continues, but not to exceed 12 months. In no
26 case, however, shall the penalty exceed one thousand dollars
27 (\$1,000) per return.

1 "(h) Failure to pay by electronic funds transfer. If
2 a taxpayer fails to timely pay a tax by means of electronic
3 funds transfer as required by Section 41-1-20, there may be
4 assessed a penalty equal to the greater of one hundred dollars
5 (\$100) or five percent of the required payment.

6 "~~(g)~~ (i) Penalties not exclusive. The penalties
7 provided in this section for failure to timely file a return,
8 failure to timely pay tax, filing a frivolous return, filing a
9 frivolous appeal, or underpayment of tax due to negligence may
10 be asserted against the same taxpayer for the same tax period.
11 If the fraud penalty is asserted, however, no other penalties
12 shall be asserted.

13 "~~(h)~~ (j) Waiver of penalties. Notwithstanding the
14 foregoing, any penalty under this title or Section ~~10-2B-15.02~~
15 10A-2-15.02 shall be waived upon a determination of reasonable
16 cause. Reasonable cause shall include, but not be limited to,
17 those instances in which the taxpayer has acted in good faith.
18 The burden of proving reasonable cause shall be on the
19 taxpayer.

20 "~~(i)~~ (k) Discount sustained for ~~just causes~~
21 reasonable cause. All other provisions of tax laws
22 notwithstanding, either the ~~Commissioner of the Department of~~
23 ~~Revenue~~ commissioner or the Taxpayer Advocate of the
24 department, upon review of the circumstances involved, may
25 authorize the continuance or reinstatement of a
26 ~~statute-allowable~~ an otherwise allowable discount for timely

1 payment or filing when timely payment is made, ~~but~~ or filing
2 ~~is~~ was delayed for ~~just causes~~ reasonable cause.

3 ~~"(j)(1)~~ Penalty and interest assessed as tax. All
4 penalties and interest administered by the department shall be
5 assessed and collected in the same manner as taxes.

6 ~~"(k)(m)~~ Penalty not to apply to registration and
7 titling of motor vehicles. The penalties provided herein shall
8 not apply to the registration or titling of motor vehicles.

9 "§40-18-27.

10 "(a) Effective for tax years beginning after
11 December 31, 1997, every taxpayer having an adjusted gross
12 income for the taxable year of more than one thousand eight
13 hundred seventy-five dollars (\$1,875) if single or if married
14 and not living with spouse, and of more than three thousand
15 seven hundred fifty dollars (\$3,750) if married and living
16 with spouse, shall each year file with the Department of
17 Revenue a return stating specifically the items of gross
18 income, the deductions and credits allowed by this chapter,
19 the place of residence, and post office address. If a husband
20 and wife living together have an adjusted gross income of more
21 than three thousand seven hundred fifty dollars (\$3,750), each
22 shall file a return unless the income of each is included in a
23 single joint return. If the taxpayer is unable to file a
24 return, the return shall be filed by a duly authorized agent,
25 a guardian, or other person charged with the care of the
26 person or property of the taxpayer.

1 "(b) A taxpayer other than a resident shall not be
2 entitled to the deductions authorized by Sections 40-18-15 and
3 40-18-15.2 unless the taxpayer files a complete return showing
4 the gross income of the taxpayer both from within and outside
5 the state. Included on every income tax return shall be the
6 name, address, and Social Security number or Preparer Taxpayer
7 Identification Number of the person who prepared the return.
8 The taxpayer shall be held liable for any statement made by an
9 agent of the taxpayer with reference to any information
10 required by law to be furnished in connection with that tax
11 return.

12 "(c) Returns filed on the basis of the calendar year
13 shall be filed on or before April 15 following the close of
14 the calendar year. Returns filed on the basis of a fiscal year
15 shall be filed on or before the fifteenth day of the fourth
16 month following the close of the fiscal year. The department
17 may grant a reasonable extension of time for filing returns,
18 under rules and regulations as it shall prescribe. Except in
19 the case of taxpayers who are abroad, no extension shall be
20 for more than six months. If the taxpayer has requested an
21 extension of time for the filing of a return, the period
22 during which the return will be considered timely filed shall
23 not expire until 10 days after the Department of Revenue mails
24 to the taxpayer a rejection of the request for an extension of
25 time for filing the return. The return must be signed or
26 otherwise validated by both the taxpayer(s) and, if
27 applicable, the tax return preparer under rules or regulations

1 of the Department of Revenue and must contain a printed
2 declaration that the return is filed under the penalties of
3 perjury.

4 "(d) Every individual who willfully files and signs
5 or otherwise validates under rules or regulations of the
6 Department of Revenue a return which the individual does not
7 believe to be true and correct as to every material particular
8 shall be guilty of perjury and, upon conviction thereof, shall
9 be imprisoned in the penitentiary for not less than one, nor
10 more than five years.

11 "(e) In the event a husband and wife file a joint
12 return, the husband and wife shall be jointly and severally
13 liable for the income tax shown on the return or as may be
14 determined by the Department of Revenue to be due by them to
15 the State of Alabama. Notwithstanding the foregoing, a husband
16 or wife shall be relieved of certain liabilities to the same
17 extent and in the same manner as allowed by the Internal
18 Revenue Code for federal income tax purposes, including Title
19 26 U.S.C. §§ 6015(b), 6015(c), and 6015(f), as amended from
20 time to time."

21 Section 5. All laws or parts of laws which conflict
22 with this act are repealed; and Section 40-2A-9, Code of
23 Alabama 1975, is specifically repealed.

24 Section 6. The provisions of this act are severable.
25 If any part of this act is declared invalid or
26 unconstitutional, that declaration shall not affect the part
27 which remains.

1 Section 7. It is the intent of the Legislature that
2 the existence, authority, and powers of the Administrative Law
3 Division of the Department of Revenue shall remain in full
4 force and effect until the Tax Appeals Commission created
5 herein becomes fully operational on October 1, 2013, and that
6 all appeals filed pursuant to Sections 40-2A-7 and 40-2A-8
7 shall continue to be filed with and handled by the
8 Administrative Law Division until that date. To that end, the
9 repeal of Section 40-2A-9, and those portions of other
10 sections of Titles 11 and 40 relating to the powers,
11 authority, and duties of the Administrative Law Division and
12 the administrative law judge, and the right of a taxpayer to
13 appeal to the Administrative Law Division, shall not become
14 effective until October 1, 2013. Notwithstanding the
15 foregoing, the Tax Appeals Commission shall not have
16 jurisdiction over any appeals regarding taxes levied by or on
17 behalf of a self-administered county or municipality until
18 October 1, 2014. The amendments made by this act to Section
19 40-2A-7(b)(2)f., Code of Alabama 1975, relating to amended
20 returns due to federal audit changes, Section 40-2A-7(b)(2)b.,
21 Code of Alabama 1975, relating to the six-year statute of
22 limitations for corporate income tax purposes, and Section
23 40-2A-11, Code of Alabama 1975, relating to civil penalties,
24 shall only apply to tax periods beginning on or after January
25 1, 2014.

1 Section 8. This act shall become effective upon its
2 passage and approval by the Governor, or its otherwise
3 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 Judiciary 12-FEB-13

Read for the second time and placed
on the calendar 1 amendment 21-FEB-13

Read for the third time and passed
as amended..... 04-APR-13

Yeas 96, Nays 2, Abstains 0

Jeff Woodard
Clerk