

1 HB451
2 175727-1
3 By Representative Robinson
4 RFD: Financial Services
5 First Read: 22-MAR-16

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8 SYNOPSIS: Under existing law, a financial institution
9 that has income from business activity that is
10 taxable both inside and outside Alabama allocates
11 and apportions its net income pursuant to
12 regulations promulgated by the Department of
13 Revenue. Existing law also requires that these
14 particular rules be substantially the same as the
15 allocation and apportionment formula recommended
16 from time to time by the Multistate Tax Commission,
17 which is a multi-state intergovernmental entity
18 that develops model tax policies for states to
19 consider.

20 This bill would eliminate the requirement
21 that the allocation and apportionment formula
22 prescribed by the Department of Revenue for
23 financial institutions be substantially the same as
24 the allocation and apportionment formula
25 recommended by the Multistate Tax Commission.
26

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to financial institution excise tax; to
5 amend Section 40-16-4, Code of Alabama 1975; to eliminate the
6 requirement that the allocation and apportionment formula
7 prescribed by the Department of Revenue for financial
8 institutions be substantially the same as the allocation and
9 apportionment formula recommended by the Multistate Tax
10 Commission.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 40-16-4, Code of Alabama 1975, is
13 amended to read as follows:

14 "§40-16-4.

15 "(a) (1) Every such financial institution engaging in
16 any of the following businesses:

17 "(i) Banking;

18 "(ii) Conducting the business of a financial
19 institution as defined in this chapter;

20 "(iii) Conducting a credit card business through the
21 issuance of credit cards to Alabama residents or businesses;
22 or

23 "(iv) Conducting a business employing moneyed
24 capital coming into competition with the business of national
25 banks

26 shall pay to the state annually for each taxable year an
27 excise tax measured by its net income allocated and

1 apporportioned for the taxable year at the rate of six and
2 one-half percent of the net income.

3 "(2) For purposes of the excise tax imposed by this
4 chapter, any financial institution which has income from
5 business activity that is taxable both within and without this
6 state shall allocate and apportion its net income as provided
7 in regulations which shall be prescribed by the Department of
8 Revenue ~~and which shall be substantially the same as the~~
9 ~~allocation and apportionment formula for financial~~
10 ~~institutions recommended from time to time by the Multistate~~
11 ~~Tax Commission~~, provided that such regulations shall not
12 conflict with any provision of this chapter. The Department of
13 Revenue shall proceed expeditiously to adopt such regulations
14 after the foregoing provisions of this subsection shall become
15 law. Until such regulations are adopted and effective, the
16 apportionment formula for financial institutions recommended
17 by the Multistate Tax Commission shall be used to the extent
18 not inconsistent with the provisions hereof.

19 "(3) The amount of the excise tax shall not be in
20 excess of any limit fixed thereon by any present or future
21 federal statute relating to the taxation of national banks by
22 this state. Under no circumstances will any dividends paid
23 from a financial institution to the common parent corporation
24 of a controlled group of corporations, as defined in Section
25 40-16-3, be subject to excise tax.

26 "(b) The excise tax provided in this chapter shall
27 be reported in the form to be prescribed by the Department of

1 Revenue. The amount shown to be due by the taxpayer's return
2 shall constitute and create a prima facie liability for the
3 amount on which taxes shall be paid. Where the Department of
4 Revenue determines that the amount due is different from that
5 shown by the taxpayer's return or where no return is filed,
6 the department may determine the correct amount due pursuant
7 to the procedures set forth in Chapter 2A of this title."

8 Section 2. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.