

1 HB82
2 216172-3
3 By Representative Garrett
4 RFD: Ways and Means Education
5 First Read: 11-JAN-22

1
2 ENROLLED, An Act,

3 Relating to the Small Business Relief and
4 Revitalization Act of 2022; to provide that for tax years
5 ending after the enactment of the federal American Rescue Plan
6 Act of 2021, any amount of cancellation of indebtedness income
7 resulting from a loan forgiven under Section 1005 of the
8 American Rescue Plan Act shall be exempt from income taxes
9 imposed by Chapter 18 of Title 40, Code of Alabama 1975; to
10 provide for an extension of the due date for financial
11 institution excise tax and corporate income tax taxpayers; to
12 provide an exemption of up to \$40,000 of the market value of
13 business tangible personal property from state ad valorem tax;
14 to provide a county and municipal election of the exemption;
15 to provide for a deposit of certified funds in lieu of a
16 one-time surety bond; to provide for an increase in the amount
17 of the average monthly sales tax liability for required
18 estimated payments.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and cited as the
21 Small Business Relief and Revitalization Act of 2022.

22 Section 2. For tax years ending after the enactment
23 of the federal American Rescue Plan Act of 2021, any amount of
24 cancellation of indebtedness income resulting from a loan

1 forgiven under Section 1005 of the federal American Rescue
2 Plan Act shall be all of the following:

3 (1) Exempt from income taxes imposed by Chapter 18
4 of Title 40, Code of Alabama 1975, to the same extent as the
5 amount is exempt from federal income tax under Section 1005 of
6 the federal American Rescue Plan Act of 2021.

7 (2) Not considered in determining the deductibility
8 of otherwise deductible expenses allowed to be paid with the
9 exempt funds, including, but not limited to, payroll,
10 utilities, mortgage interest, or rent, to the same extent as
11 the expenses remain deductible in calculating federal income
12 tax under Section 1005 of the federal American Rescue Plan Act
13 of 2021.

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

17 Section 3. Sections 40-16-3.1 and ~~40-18-39.1~~
18 40-18-39.2 are added to the Code of Alabama 1975, to read as
19 follows:

20 §40-16-3.1.

21 (a) (1) For tax years beginning on or after January
22 1, 2021, a financial institution excise taxpayer shall be
23 allowed one month following the due date of the corresponding
24 federal income tax return, including applicable extensions, to

1 file the Alabama financial institution excise tax return as
2 required by Section 40-16-3, Code of Alabama 1975.

3 (2) For tax years beginning on or after January 1,
4 2020, but prior to January 1, 2021, the department may allow a
5 financial institution excise taxpayer one additional month
6 following the due date of the corresponding federal income tax
7 return, including applicable extensions, to file the Alabama
8 financial institution excise tax return, upon request by the
9 taxpayer and approval by the department.

10 (b) The extension provided in this section shall not
11 allow a taxpayer to defer payment of a financial institution
12 excise tax liability beyond the original due date provided in
13 Section 40-16-3, Code of Alabama 1975.

14 ~~§40-18-39.1.~~ 40-18-39.2

15 (a) (1) For tax years beginning on or after January
16 1, 2021, a corporate income taxpayer shall be allowed one
17 month following the due date of the corresponding federal
18 income tax return, including applicable extensions, to file
19 the Alabama corporate income tax return as required by Section
20 40-18-39, Code of Alabama 1975.

21 (2) For tax years beginning on or after January 1,
22 2020, but prior to January 1, 2021, the department may allow a
23 corporate income taxpayer one additional month following the
24 due date of the corresponding federal income tax return,
25 including applicable extensions, to file the Alabama corporate

1 income tax return, upon request by the taxpayer and approval
 2 by the department.

3 (b) The extension provided in subsection (a) shall
 4 not allow a taxpayer to defer payment of a corporate income
 5 tax liability beyond the original due date provided in Section
 6 40-18-39, Code of Alabama 1975.

7 Section 4. Section 40-9-1, Code of Alabama 1975, is
 8 amended to read as follows:

9 "§40-9-1.

10 "The following property and persons shall be exempt
 11 from ad valorem taxation and none other:

12 "(1) All bonds of the United States and this state
 13 and all county and municipal bonds issued by counties and
 14 municipalities in this state, all property, real and personal,
 15 of the United States and this state and of county and
 16 municipal corporations in this state; all cemeteries, all
 17 property, real and personal, used exclusively for religious
 18 worship, for schools or for purposes purely charitable;
 19 provided, that property, real or personal, owned by any
 20 educational, religious or charitable institution, society or
 21 corporation let for rent or hire or for use for business
 22 purposes shall not be exempt from taxation, notwithstanding
 23 that the income from such property shall be used exclusively
 24 for education, religious or charitable purposes; all
 25 mortgages, together with the notes, debts and credits secured

1 thereby on real and personal property situated in this state,
2 which mortgages have been filed for record and the privilege
3 tax paid thereon; all security agreements and security
4 interests under the Uniform Commercial Code, together with the
5 notes, debts and credits secured thereby; all money on deposit
6 in any bank or banking institution and all other solvent
7 credits; all warrants issued by county boards of education and
8 city boards of education for the purpose of erecting,
9 repairing, furnishing school buildings or for other school
10 purposes;

11 "(2) All property, real or personal, used
12 exclusively for hospital purposes, to the amount of \$75,000,
13 where such hospitals maintain wards for charity patients or
14 give treatment to such patients; provided, that the treatment
15 of charity patients constitutes at least 15 percent of the
16 business of such hospitals; provided further, that such
17 hospital need not be assessed for taxation if the owner or
18 manager shall file with the county tax assessor wherein such
19 hospital is located within the time allowed for assessing such
20 property for taxation a certificate that such hospital has
21 done 15 percent charity work in the preceding tax year; and
22 further provided, that such hospital through its owner or
23 manager shall have until the expiration of the preceding tax
24 year to class its work and ascertain whether or not such

1 hospital has done 15 percent of its treatment of patients as
2 charity work;

3 "(3) The shares of the capital stock of any
4 corporation owning and operating a hospital, to the extent of
5 \$75,000 in value; provided, that said corporation maintains
6 wards for charity patients and gives treatment to such
7 patients, which treatment constitutes at least 15 percent of
8 the business of the hospital of said corporation; provided,
9 that the total exemption granted to any such corporation shall
10 not exceed \$75,000, taking into consideration its real and
11 personal property and the value of its shares of capital
12 stock;

13 "(4) All property owned by the American Legion or by
14 Veterans of Foreign Wars or by the Disabled American Veterans,
15 or any post thereof; provided, that such property is used and
16 occupied exclusively by said organization;

17 "(5) All the property of literary and scientific
18 institutions and literary societies, when employed or used in
19 the regular business of such institutions;

20 "(6) The libraries of ministers of the gospel, all
21 libraries other than those of a professional character and all
22 religious books kept for sale by ministers of the gospel and
23 colporteurs;

1 "(7) The property of deaf mutes and insane persons
2 to the extent of \$3,000 and the property of blind persons to
3 the extent of \$12,000;

4 "(8) All family portraits;

5 "(9) All cotton, livestock or agricultural products
6 which have been raised or grown in the State of Alabama and
7 which shall remain in the hands of the producer thereof, or
8 his landlord, or in the hands of a cooperative association for
9 all time, and for a period of one year in the hands of the
10 purchaser or the manufacturer;

11 "(10) All cotton, wherever grown, stored in licensed
12 warehouses in the State of Alabama for a period not exceeding
13 12 months;

14 "(11) Provisions and supplies on hand for the
15 current year for the use of the family and the making of
16 crops; all wearing apparel; farming tools; tools and
17 implements of mechanics to the value of \$200; all livestock,
18 including mules, studs, jacks and jennets, cattle, horses,
19 cows, calves, hogs, sheep and goats; household and kitchen
20 furniture and one sewing machine;

21 "(12) No license or taxation of any character,
22 except franchise taxes provided by Section 229 of the
23 Constitution of the State of Alabama, shall be collected or
24 required to be paid to the state or any county or municipality
25 therein by any state or county fair, agricultural association,

1 stock, kennel or poultry show. Athletic stadiums owned and
2 controlled by universities, schools or colleges and which are
3 used exclusively for the purpose of promoting intercollegiate
4 or interschool athletics; provided, that the revenue received
5 from athletic stadiums, when admission is charged, shall be
6 used for the benefit of athletic associations of such
7 universities, colleges or schools. Nothing contained in this
8 subdivision shall be construed to prohibit any municipality,
9 county or state from imposing any license tax upon or for the
10 privilege of engaging in the business of supplying services
11 for hire or reward or selling commodities other than
12 livestock, farm products or farm implements or conducting or
13 operating devices or games of skill or amusements or other
14 games or devices, or conducting or operating shows, displays
15 or exhibits other than shows, displays or exhibits of
16 agricultural implements, farm products, livestock and athletic
17 prowess;

18 "(13) All material, including without limitation
19 coke, to be compounded or further manufactured, when stocked
20 at any plant or furnace for manufacturing purposes in Alabama;

21 "(14) All articles manufactured in Alabama,
22 including pig iron, in the hands of the producer or
23 manufacturer thereof, for 12 months after its production or
24 manufacture;

1 "(15) All property, both real and personal, owned by
2 any unit or organization of the Alabama National Guard
3 officially recognized as such by the federal government and
4 organized and maintained by the state, and all property owned
5 by shares and used exclusively by and kept exclusively in the
6 possession of any such unit or organization of the Alabama
7 National Guard, the annual rent or hire of which is not in
8 excess of the annual state, county and municipal taxes on said
9 property shall be exempt from taxation by the state, and the
10 county and municipality in which the same may be situated;

11 "(16) All poultry;

12 "(17) The property of all incompetent veterans to
13 the value of \$3,000;

14 "(18) The following items of personal property when
15 owned by individuals for personal use in the home or usually
16 kept at the home of the owner and not carried as stocks of
17 merchandise, namely: Libraries; phonographs; pianos and other
18 musical instruments; paintings; precious stones, jewelry,
19 plate silverware, ornaments and articles of taste; watches and
20 clocks; wagons, buggies, bicycles, guns, pistols, canes, golf
21 sticks, golf bags and sporting goods; money hoarded; radios;
22 mechanical and electrical refrigerators; electrical
23 appliances;

24 "(19) All property owned by the Benevolent and
25 Protective Order of Elks, Fraternal Order of Police, Fraternal

1 Order of Eagles or Loyal Order of Moose, or lodge thereof;
2 provided, that such property is used and occupied exclusively
3 by such organization;

4 "(20) All devices, facilities or structures, and all
5 identifiable components thereof or materials for use therein,
6 acquired or constructed primarily for the control, reduction
7 or elimination of air or water pollution;

8 "(21) Tobacco leaf stored in hogsheads;

9 "(22) All farm tractors, as that term is defined in
10 subdivision (19) of Section 32-1-1.1; and all farming
11 implements, as that term is used in subdivision (b) (5) of
12 Section 40-11-1, as amended, when used exclusively in
13 connection with agricultural property as defined in
14 subdivision (b) (3) of Section 40-8-1, as amended;

15 "(23) All stocks of goods, wares and merchandise
16 described in subdivision (b) (4) of Section 40-11-1, as
17 amended; and

18 "(24) All aircraft, replacement parts, components,
19 systems, supplies and sundries affixed or used on said
20 aircraft, and ground support equipment and vehicles used by or
21 for the aircraft, when used by a certificated or licensed air
22 carrier with a hub operation within this state, for use in
23 conducting intrastate, interstate or foreign commerce for
24 transporting people or property by air. For the purpose of

1 this subdivision, the words "hub operation within this state"
2 shall be construed to have all of the following criteria:

3 "a. There originates from the location 15 or more
4 flight departures and five or more different first-stop
5 destinations five days per week for six or more months during
6 the calendar year; and

7 "b. Passengers and/or property are regularly
8 exchanged at the location between flights of the same or a
9 different certificated or licensed air carrier.

10 "(25) All property described in Title 12 U.S.C.
11 §1701(Q), commonly known as HUD 202 property, is hereby exempt
12 from any and all ad valorem taxes.

13 "(26) All vessels and equipment thereon, used
14 predominantly in the business of commercial shrimping by the
15 owners thereof.

16 "(27)a. The tangible personal property owned by a
17 business and reported in accordance with the provisions of
18 Article 1 of Chapter 7, Title 40, to the extent of forty
19 thousand dollars (\$40,000) in market value is hereby exempt
20 from the state levied ad valorem tax.

21 "b. Any county or municipality may, by resolution or
22 ordinance, adopt the exemption provided in subdivision (27)a.
23 for county or municipal ad valorem taxes levied on tangible
24 personal property. Such ordinance or resolution must be
25 adopted at least 90 days prior to October 1 of the effective

1 date of this act or 90 days prior to October 1 of the electing
2 year."

3 Section 5. Sections 40-23-6, 40-23-6.1, and 40-23-7,
4 Code of Alabama 1975, are amended to read as follows:

5 "§40-23-6.

6 "(a) If any person shall engage in or continue in
7 any business for which a privilege tax is imposed by Section
8 40-23-2 as a condition precedent to engaging or continuing in
9 such business, the person shall apply for and obtain from the
10 Department of Revenue a license to engage in and to conduct
11 such business for the current tax year upon the condition that
12 the person shall pay the taxes accruing to the State of
13 Alabama under the provisions of this division; provided, that
14 no license shall be issued under the provisions of this
15 division to any person who has not complied with the
16 provisions of this division, and no provision of this division
17 shall be construed as relieving any person from the payment of
18 any license or privilege tax now or hereafter imposed by law.

19 "(b) (1) Any person applying for an initial license
20 or the renewal of an expired or cancelled license on or after
21 January 1, 2020, who is in the business of selling at retail
22 products that may be purchased from a seller, as defined in
23 Section 40-23-260, shall be required to purchase and maintain
24 a one-time surety bond for a two-year period, executed by the
25 applicant as principal and by a corporate surety company

1 qualified to do business in this state as surety, in the
2 amount of twenty-five thousand dollars (\$25,000). The bond
3 shall be in a form to be approved by the commissioner and
4 shall be conditioned upon the licensee collecting and
5 remitting sales tax pursuant to this chapter and any rules
6 promulgated thereunder. The bond shall be payable to the
7 commissioner and to his or her successors in office.

8 "(2) Any person required to purchase and maintain a
9 one-time surety bond as provided for in subdivision (1) may,
10 in lieu of purchasing the surety bond, deposit with the
11 department certified funds equivalent to the amount of the
12 surety bond.

13 ~~"(2)~~ (3) The department shall provide a waiver for
14 the surety bond as required pursuant to subdivision (1) where
15 the person applying for an initial license or the renewal of
16 an expired or cancelled license and a current licensee are
17 related parties as defined in Section 40-23-190(b), or members
18 of a controlled group of corporations as defined in 26 U.S.C.
19 § 1563, or with respect to any other business, whether or not
20 incorporated, which would be members of a controlled group if
21 similar rules applied to the business, and the related party's
22 current licensee has been compliant over the previous two-year
23 period.

24 "(c) (1) Any licensee who becomes non-compliant in
25 the collection and remittance of sales tax during any period

1 occurring on or after January 1, 2020, shall be required to
2 purchase and maintain a one-time surety bond for a two-year
3 period in the amount of the actual sales tax liability for the
4 three months immediately preceding the non-compliant period,
5 however not less than the amount as prescribed in subsection
6 (b) (1). For the purpose of this section, a licensee shall be
7 deemed non-compliant when a final assessment that has been
8 entered against the licensee is no longer subject to appeal
9 and the licensee has not paid or otherwise satisfied the
10 liability associated with the final assessment within 30 days
11 from the date on which the final assessment was no longer
12 subject to appeal. The surety bond shall be in a form to be
13 approved by the commissioner and shall be conditioned upon the
14 licensee collecting and remitting sales tax pursuant to this
15 chapter and any rules promulgated thereunder. The bond shall
16 be payable to the commissioner and to his or her successors in
17 office.

18 "(2) Any licensee required to purchase and maintain
19 a one-time surety bond as provided for in subdivision (1) may,
20 in lieu of purchasing the surety bond, deposit with the
21 department certified funds equivalent to the amount of the
22 surety bond.

23 ~~"(2)~~ (3) The department shall notify a licensee at
24 his or her last known address by first class U.S. mail or by
25 certified mail, return receipt requested, when a bond is being

1 required pursuant to subdivision (1). The licensee, within 30
2 days from the date the notice is mailed by the department,
3 shall file the bond or make a deposit of certified funds as
4 requested by the department or file a notice of appeal with
5 the Alabama Tax Tribunal as allowed under Section 40-2A-8(a).
6 The department may immediately cancel a license upon the
7 expiration of the 30-day period set out above if the licensee
8 fails to either provide the required surety bond, make a
9 deposit of certified funds, or timely appeal to the Alabama
10 Tax Tribunal. Furthermore, a cancelled license shall not be
11 renewed until the licensee provides the required surety bond
12 or deposit of certified funds.

13 "(d) After two years of continuous compliance, a
14 licensee shall be exempt from the surety bond requirement so
15 long as the licensee collects and timely remits sales tax
16 pursuant to this chapter and any rules promulgated thereunder.

17 "§40-23-6.1.

18 "(a) The commissioner, subject to the appeal
19 provisions allowed in Chapter 2A, may suspend or revoke a
20 license, or deny a license application or renewal, issued
21 under Section 40-12-221, 40-23-6, or 40-23-66 for reasonable
22 cause including the following:

23 "(1) Fraud practiced or any material misstatement in
24 the license application.

1 "(2) Changes of conditions in ownership or business
2 structure after a license is granted or the failure to engage
3 in or continue to engage in business for which the license is
4 issued.

5 "(3) Failure to comply with Chapter 12 and this
6 chapter, or any rule adopted thereunder.

7 "(4) Failure to provide or maintain a surety bond or
8 in lieu of purchasing the surety bond, deposit with the
9 department certified funds equivalent to the amount of the
10 surety bond, as required in Section 40-23-6.

11 "(b) The Department of Revenue may adopt rules to
12 administer this section.

13 "§40-23-7.

14 "(a) The taxes levied under this division, except as
15 otherwise provided in subsection (d), shall be due and payable
16 in monthly installments on or before the 20th day of the month
17 next succeeding the month in which the tax accrues.

18 "(b) Except as otherwise provided in subsection (d),
19 on or before the 20th day of each month, every person on whom
20 the taxes levied by this division are imposed shall report to
21 the department, on a form prescribed by the department, a true
22 and correct statement showing such information as the
23 department may require, and shall pay to the department the
24 amount of taxes shown to be due.

1 "(c) Any taxpayer liable for taxes under this
2 division whose average monthly state sales tax liability was
3 ~~two thousand five hundred dollars (\$2,500)~~ five thousand
4 dollars (\$5,000) or greater during the preceding calendar year
5 shall make estimated payments to the department on or before
6 the 20th day of the month in which the liability occurs as
7 follows:

8 "(1) The amount of the first estimated payment shall
9 be 66 2/3 percent of the taxpayer's actual tax liability for
10 the month of October 1983; thereafter the amounts of the
11 payment shall be the lesser of 66 2/3 percent of the
12 taxpayer's actual tax liability for the same calendar month of
13 the preceding year or 66 2/3 percent of the current month's
14 estimated liability.

15 "(2) Any outstanding credit or deficit arising from
16 the taxpayer's overpayment or underpayment of his or her final
17 liability shall be applied to either increase or reduce that
18 month's final tax liability which shall be reported and paid
19 not later than the 20th day of the month next succeeding the
20 month in which the tax accrues.

21 "(3) This subsection shall not apply to Sections
22 11-51-180, 11-51-200, 40-12-4, nor to any municipal or county
23 taxes levied by past or future special or local acts of the
24 Legislature.

1 "(d) Taxpayers meeting the criteria set forth in
2 this subsection may elect to file quarterly, semi-annually, or
3 annually. Any election to file quarterly, semi-annually, or
4 annually shall be made in writing no later than February 20 of
5 each year and shall be filed with the department in the manner
6 prescribed by the department. Qualifying taxpayers electing to
7 file quarterly, semi-annually, or annually, shall report to
8 the department, on a form prescribed by the department, a true
9 and correct statement showing such information as the
10 department may require. Qualifying taxpayers shall pay to the
11 department the amount of tax shown to be due on or before the
12 applicable deadlines, under any rules as may be prescribed, as
13 follows:

14 "(1) When the total state sales tax for which any
15 person is liable under this division is less than \$2,400
16 during the preceding calendar year, the person may elect to
17 file quarterly returns. Quarterly returns and payments of the
18 amount of tax shown to be due shall be due on or before the
19 20th day of the month next succeeding the end of the quarter
20 for which the tax is due.

21 "(2) When the total state sales tax for which any
22 person is liable under this division is less than \$1,200
23 during the preceding calendar year, or the person liable for
24 the tax has made retail sales in this state during no more
25 than two, 30 consecutive day periods during the preceding

1 calendar year, the person may file semi-annual returns. The
2 semi-annual returns and payment of the amount of the tax shown
3 to be due shall be due on or before July 20 and January 20
4 following the end of the six-month period for which the tax is
5 due.

6 "(3) When the total state sales tax for which any
7 person is liable under this division during the preceding
8 calendar year is less than six hundred dollars (\$600), or the
9 person liable for the tax has made retail sales in this state
10 during no more than one, 30 consecutive day period during the
11 preceding calendar year, the person may elect to file an
12 annual return. The annual return and payment of the tax shown
13 to be due shall be due on or before January 20 following the
14 end of the annual period for which the tax is due.

15 "(e) The department, for good cause, may extend the
16 time for making any state or state-administered return
17 required under this division, but the time for filing any such
18 return shall not be extended for a period greater than 30 days
19 from the date such return is due to be made."

20 Section 6. The Department of Revenue may adopt rules
21 for the implementation and administration of this act.

22 Section 7. Section 4 of this act shall become
23 effective October 1, 2023. Section 5 of this act shall be
24 effective on the first day of the third month, following its
25 passage and approval by the Governor, or its otherwise

1 becoming law. All other sections of this act shall be
2 effective immediately, following its passage and approval by
3 the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 03-FEB-22, as amended.

Jeff Woodard
Clerk

Senate

17-FEB-22

Passed