STATE OF ALABAMA

Department of Revenue

REQUEST FOR PROPOSAL

EVALUATION OF ECONOMIC IMPACT OF ALABAMA TAX INCENTIVE PROGRAMS

PROPOSALS DUE: AUGUST 5, 2016, no later than 5 p.m. CST

REQUEST FOR PROPOSAL FOR PROFESSIONAL

ECONOMIC ANALYSIS OF ALABAMA TAX INCENTIVE PROGRAMS

1. Purpose.

The Alabama Department of Revenue (herein sometimes referred to as ADOR or the State) is requesting proposals from qualified individuals or firms interested in providing professional evaluation of several of Alabama's tax expenditure programs (for example tax credits, reimbursements or deductions). Qualified individuals or firms will have experience in economic impact modeling and evaluation of tax expenditures.

This Request for Proposal (RFP) is issued in accordance with the requirements of Section 41-16-72, Ala. Code. This RFP is not an offer to contract but seeks the submission of proposals from interested professional service providers which may form the basis for negotiation of a professional service contract or contracts. Specific terms and requirements in this RFP may be waived or modified by the State of Alabama as it deems necessary and appropriate. The State has no liability for any costs incurred by a prospective provider for the preparation and production of a proposal or for any work performed prior to the issuance of a contract. The State reserves the right to reject any and all proposals and to solicit additional proposals if that is determined to be in the best interests of the State of Alabama.

2. RFP Coordinator.

Upon release of this Request for Proposal, request for copies of the RFP, written questions, and final submission of proposals must be directed to the RFP Coordinator listed below.

Cameran Clark
Alabama Department of Revenue
Tax Policy and Research Division
50 North Ripley Street, Suite 4130
Montgomery, AL 36104
Telephone: (334) 242-1380
Primary email address: cameran.clark@revenue.alabama.gov
Carbon Copy email address: taxpolicy@revenue.alabama.gov

Correspondence submitted through email should include both the primary email address and carbon copy email address.

3. Scope of Services.

A. The ADOR seeks general guidance as to best practices for measuring state tax incentive programs and an analysis applying those best practices to certain existing Alabama tax incentive programs. The requested services must be divided into three separate reports, or documents.

I. Report I. Tax Incentive Best Practices Report (due January 6, 2017). The selected vendor must provide ADOR with a report detailing the best practices of state tax incentive programs. The report must:

- Be designed to inform legislators and other policy makers as to the factors to consider and weigh when considering whether to enact or renew specific tax incentive programs.

- Explain and discuss the cost and benefits of different types of tax incentives including income tax deductions and credits, sales and property tax abatements, and other common tax benefits offered to incentivize business investment or job creation.
- Explain the cost and benefits of monetizing tax credits by making the credits transferable or refundable.
- Discuss how best to estimate the tax incentive's impact on current and future tax revenues.
- Explain how to estimate the tax incentive's net impact on the local and state economy, including how to estimate the extent to which the tax incentive influenced business decisions.
- Compare tax incentives and their costs and benefits to other methods of economic development.
- Compare tax incentives to direct state budget expenditures.

II. Report II (due January 27, 2017). Based on the factors identified and explained in the Tax Incentive Best Practices Report (Report I), the selected vendor must analyze the following tax incentive programs: the Alabama CapCo Credit and the Alabama Historic Rehabilitation Tax Credit Program.

The analysis of each program must contain two sections. The first section must compare the general structure and operation of the incentive to the best practice factors (as disclosed in Report I). The second section must analyze historic data collected from various sources relative to each program that will, in hindsight, measure the economic impact and effectiveness of each program compared to its intended purpose. In measuring the net economic impact and effectiveness of each program, the analysis should consider the extent to which the incentive influenced business decisions and how the results compare to policy alternatives such as direct budget expenditures or other methods of economic development.

III. Report III (due March 10, 2017). Based on the factors identified and explained in the Tax Incentive Best Practices Report (Report I), the selected vendor must analyze the following tax incentive programs: the Alabama Entertainment Industry Incentive Program and the Alabama New Markets Development Program.

The analysis of each program must contain two sections. The first section must compare the general structure and operation of the incentive to the best practice factors (as disclosed in Report I). The second section must analyze historic data collected from various sources relative to each program that will, in hindsight, measure the economic impact and effectiveness of each program. The analysis should consider the extent to which the incentive influenced business decisions and how the results compare to policy alternatives such as direct budget expenditures or other methods of economic development.

B. Tax credits to be evaluated:

- Alabama CapCo Credit *
    - Summary of Credit: Appendix A.1
    - Code of Alabama: Appendix A.2
    - Administrative Code: Appendix A.3
- Alabama Historic Rehabilitation Tax Credit **
    - Summary of Credit: Appendix B.1
    - Code of Alabama: Appendix B.2
    - Administrative Code: Appendix B.3
- Entertainment Industry Incentive Act *
    - Summary of Credit: Appendix C.1
    - Code of Alabama: Appendix C.2
    - Administrative Code: Appendix C.3
- Alabama New Markets Development Act *
    - Summary of Credit: Appendix D.1

- Code of Alabama: Appendix D.2
- Administrative Code: Appendix D.3

* Administered by the Alabama Department of Commerce
** Administered by the Alabama Historical Commission

C. Support Reference for Tax Credits.

Upon award of the contract, ADOR will provide the vendor with points of contact at the Alabama Department of Commerce, the Alabama Historical Commission, and ADOR for the purpose of receiving detailed information relative to the credits being evaluated.

4. Qualifications.

ADOR is specifically seeking individuals or firms with the following qualifications:

- Demonstrated, substantial knowledge of:
  - Economic models;
  - Revenue forecasting techniques;
  - Economic impact and cost-benefit analysis techniques; and
  - Economic factors that affect business decisions.

Vendor must provide to ADOR:

A. A detailed description of the individual's or firm's qualifications, training, and capabilities in light of the **Scope of Services**, including any previously published or contracted analysis of tax expenditures.
B. If applicable, a brief history, from the inception, of the firm and any parent organization(s).
C. If applicable, a description of the ownership structure of the firm, giving specific details regarding any parent or affiliate organization(s).
D. A description of any previous work related directly or indirectly to tax credits as referenced in **Scope of Services**, including any work done by your employer.

Each of the above areas must be specifically and separately addressed by the individual or an authorized representative of the firm seeking to contract with ADOR. Failure to respond in this manner may result in the vendor's response to the request for proposal being disregarded.

5. Experience.

- Vendor must have experience in:
  - Evaluating the direct and indirect economic impact of state tax expenditure programs;
  - Communicating highly technical tax policy and economic impact information in a manner understandable for lay people; and
  - Working with state governments and regulatory entities.
- Ability to maintain full objectivity and confidentiality in supporting this review, including:
  - Assuring there are no impairments (in fact and/or appearance) to the individual or firm's independence; and
  - Assuring work performed, and counsel given, is strictly non-partisan.

Each of the above areas must be specifically and separately addressed by the individual or an authorized representative of the firm seeking to contract with ADOR. Failure to respond in this manner may result in the vendor's response to the request for proposal being disregarded.

6. Duration of Assignment.

The project will begin during calendar year 2016. Report I (as noted in Scope of Services) must be completed by January 6, 2017. Report II (as noted in Scope of Services) must be completed by January 27, 2017. Report III (as noted in Scope of Services) must be completed by March 10, 2017.

The actual contract start date will be established by a completed and approved contract.

7. Questions.

It is the responsibility of the vendor to examine the entire RFP and to seek clarification, in writing, if the vendor does not understand any information or instructions.

Questions regarding this Request for Proposal must be submitted in writing to the RFP Coordinator, listed in Section 2, no later than July 15, 2016.

Questions submitted by email to the RFP Coordinator must contain the name of the person submitting the questions, their email address, name of the company and title "Tax Incentive Program Evaluation" in the subject field.

All of the questions along with ADOR's responses will be sent by mail or email to all prospective vendors on or about July 22, 2016. The exact day the answers will be sent may depend on the quantity and complexity of the questions received from potential bidders.

Questions and responses will become part of the RFP. In the event that a response is in possible conflict with the language within the original RFP, the response will be controlling. The RFP Coordinator shall be the sole point of contact regarding this RFP. Other personnel are NOT authorized to discuss this request for proposal with responders, before the proposal submission deadline. Contact regarding this RFP with any personnel not listed below may result in disqualification.

The RFP, submitted questions and responses will be available for viewing on the ADOR website at http://revenue.alabama.gov/analysis/ . Click on the tab titled "RFP – Evaluation of Tax Credits".

8. Submission of Proposal.

A. Proposals must be received by the Alabama Department of Revenue **no later than 5 p.m., Central Standard Time, Friday, August 5, 2016.**

Late responses will not be considered. Therefore it is suggested that a proposal be sent in a manner that ensures it arrives on time, for example: overnight delivery, local courier, or in person. All costs incurred, including development, in responding to this RFP will be borne by the responder.

Responses submitted to ADOR must include a cover letter containing:
Project Title: "Tax Incentive Program Evaluation"
The name of the person submitting the response
Their email address
Their phone number
Name and address of the company they represent (if applicable)

Proposals must be submitted to the RFP Coordinator listed in Section 2.

The State reserves the right to refrain from making an award if it is determined to be in the States' best interest. In such a case, the State shall not be liable for any costs related to this RFP that is incurred by any party.

9. Organizational Conflicts of Interest.

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other person, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, a possible conflict of interest is discovered, an immediate and full disclosure in writing must be made to the RFP Coordinator, listed in Section 2, which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to still exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract", "contractor", and "contracting officer" modified appropriately to preserve the States' rights.

10. Subcontracting.

No arrangement shall be made by the vendor with any other party or subcontractor for furnishing any of the services contracted for within this Request for Proposal without the consent and approval from ADOR. Any sub-agreement entered into subsequent to the execution of a contract must be approved by ADOR. This will not be taken as requiring the approval of contracts of employment between the vendor and its employees assigned for completing the services of this Request for Proposal.

11. Fees.

Proposals must disclose and include any and all fees, costs or expenses to be charged for the services described in the **Scope of Services**. If applicable, the fees described and disclosed must include all charges for governmental accounting and consulting services, and the method by which such fees and expenses are determined. Failure to provide a complete listing of all fees, costs and expenses to be charged will result in the disqualification of the professional service provider submitting the proposal.

In addition, the vendor must provide a quote regarding an hourly charge rate, in the event it is determined that additional reports or information are required which fall outside the original Scope of Services.

12. Selection and Award.

A list of recommended qualified vendors will be provided by ADOR to the Senate Pro Tem, the Speaker of the House, and the Fiscal Committee of the Legislative Council. The Senate Pro Tem, the Speaker of the House, and the Fiscal Committee of the Legislative Council will make the determination regarding the vendor to be awarded the contract. Such determination will be based upon cost, vendor's experience, knowledge, and ability to meet the requirements of the RFP.

Potential vendors may be requested to provide a presentation regarding their proposal prior to the award of contract; such presentation can be made in person or by remote video conferencing.

Issuance of this RFP in no way constitutes a commitment by ADOR to award a contract, to pay costs incurred in the preparation of a response to this request, or to pay costs incurred in procuring or contracting for services, supplies, physical space, personnel or any other costs incurred by the vendor.

Notification of vendor selection or non-selection will be made in writing by ADOR. ADOR reserves the right to reject any and all proposals and ADOR may solicit additional proposals.

13. Contract Terms and Approvals.

The vendor selected to provide the services specified in this RFP must register with the State STAARS Vendor Self Service (VSS) Portal prior to the award of the contract. To register or activate an account with the State STAARS/VSS portal the vendor must visit https://procurement.staars.alabama.gov/.

The vendor selected to provide the services specified in this RFP must enter into a written contractual agreement with ADOR. The terms and conditions of such an agreement will be subject to review and approval by legal counsel for ADOR. Vendor proposals will become part of the final contract. No work should commence under this RFP or the resulting contract until the vendor is directed to do so by the appropriate ADOR contact.

14. Alabama Immigration Law Requirements.

If selected to provide the services described in this RFP, vendor and any sub-contractors used must meet the requirements of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act of Alabama, as amended, if applicable. Failure to comply with the requirements of this law will prohibit the vendor from being awarded a contract with the State of Alabama.

Appendix A.1

Alabama CapCo Credit Program

Overview:

The Alabama CAPCO program is currently administered by the Alabama Department of Commerce, formerly the Alabama Development Office, and was enacted by Act 2002-429, codified at Title 40, Chapter 14B of the Code of Alabama 1975 and amended by Act 2007-472. The program provides $100 million in premium tax credits, the first $100 million authorized in 2002 and an additional $100 million authorized in 2007.

The Certified Capital Company program, or CAPCO, provides state "premium tax credits" to insurance companies who invest in CAPCOs, typically a venture capital firm with local knowledge and industry expertise. The funds invested in CAPCOs by insurance companies are in turn invested into growing in-state companies that typically have difficulty finding financing from traditional sources.

CAPCOs invest the certified capital in Alabama "Qualified Technology Businesses" and "Qualified Diversity Businesses" subject to the following statutory criteria:
(1) CAPCO must make qualified investment in amount cumulatively equal to at least 35 percent of its certified capital before the third anniversary of its allocation date.
(2) CAPCO must make qualified investments in qualified technology business in amount equal to at least 50 percent of its certified capital before the fifth anniversary of its allocation date.
(3) Premium tax credits may be forfeited for failure to meet investment timeline.
(4) Distributions cannot be made until 100 percent of the certified capital is invested.
(5) Qualified companies must be based in Alabama, have less than 100 employees and cannot be in retail sales, real estate, insurance, banking or provide professional services such as attorneys, accountants, or physicians.
(6) Qualified companies must have a reasonable expectation of creating new permanent jobs in Alabama.

There are currently six authorized CAPCOs in Alabama:

- Aegis Alabama Venture Fund, LP
  c/o Impact Partners
- Advantage Capital Alabama Partners I, LP
  Advantage Capital Alabama Partners II, LP
  c/o Southeastern Technology Fund
- Enhanced Alabama Issuer, LLC
  Enhanced Capital Alabama Fund II, LLC
  c/o Redmont Venture Partners
- Stonehenge Capital Fund Alabama, LLC
  Stonehenge Capital Fund Alabama II, LLC
  c/o Jemison Investment Co., Inc.
- Waveland NCP Alabama Ventures, LLC
  Waveland NCP Alabama Ventures II, LLC
  c/o New Capital Partners
- Whitecap Alabama Growth Fund I, LLC
  Whitecap Alabama Growth Fund II, LLC
- Wilshire Alabama Partners, LLC
  c/o ALACOM Finance

Appendix A.2

Title 40, Chapter 14B, Code of Alabama 1975

Section 40-14B-1
Definitions.
As used in this chapter, the following terms shall have the following meanings:
(1) AFFILIATE. An affiliate of another person shall include any of the following:
a. A person who directly or indirectly either:
1. Beneficially owns 15 percent or more of the outstanding voting securities or other voting ownership interests of the other person, whether through rights, options, convertible interests, or otherwise; or
2. Controls or holds power to vote 15 percent or more of the outstanding voting securities or other voting ownership interests of the other person.
b. A person owning 15 percent or more of the outstanding voting securities or other voting ownership interests of which are directly or indirectly either:
1. Beneficially owned by the other person, whether through rights, options, convertible interests, or otherwise; or
2. Controlled or held with power to vote by the other person.
c. A partnership or limited liability company in which the other person is a general partner, managing member or manager, as the case may be.
d. An officer, director, employee, or agent of the other person, or an immediate family member of the officer, director, employee, or agent.

(2) ALLOCATION DATE. The date on which the certified investors of a certified capital company are allocated certified capital by the Alabama Development Office under this chapter.
(3) CERTIFIED CAPITAL. An investment of cash by a certified investor in a certified capital company that fully funds the purchase price of an equity interest in the company or a qualified debt instrument issued by the certified capital company.
(4) CERTIFIED CAPITAL COMPANY. A partnership, corporation, or trust or limited liability company, whether organized on a profit or not-for-profit basis, that has as its primary business activity the investment of cash in qualified technology businesses and that is certified as meeting the criteria of this chapter.
(5) CERTIFIED INVESTOR. An insurance company or other person that has state premium tax liability, that contributes certified capital pursuant to an allocation of premium tax credits under this chapter.
(6) PERSON. A natural person or entity, including a corporation, general or limited partnership, or trust or limited liability company.
(7) PREMIUM TAX CREDIT ALLOCATION CLAIM. A claim for allocation of premium tax credits.
(8) QUALIFIED DEBT INSTRUMENT. A debt instrument issued by a certified capital company, at par value or a premium, that:
a. Has an original maturity date of at least five years after the date of issuance.
b. Has a repayment schedule that is not faster than a level principal amortization over five years.
c. Has no interest, distribution, or payment features that are related to the profitability of the certified capital company or the performance of the certified capital company's investment portfolio.
(9) QUALIFIED DISTRIBUTION. Any distribution or payment from certified capital by a certified capital company in connection with the following:
a. The reasonable costs and expenses of forming, syndicating, managing, and operating the company, including reasonable and necessary fees paid for professional services, including legal and accounting services, related to the formation and operation of the company, and an annual management fee in an amount that does not exceed two and one-half percent of the certified capital of the company; provided that no distribution or payment authorized by this paragraph a. be made directly or indirectly to a certified investor, except for distributions or payments made in consideration for a guaranty, indemnity, bond, insurance policy, or other payment undertaking described by subsection (b) of Section 40-14B-4.
b. Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of the company resulting from the earnings or other tax liability of the company to the extent that the increase is related to the ownership, management, or operation of the company.
(10) QUALIFIED INVESTMENT. The investment of cash by a certified capital company in a qualified technology business for the purchase of any debt, debt participation, equity, or hybrid security of any nature or description, including a debt instrument or security that has the characteristics of debt but that provides for conversion into equity or equity participation instruments such as options or warrants.
(11) QUALIFIED TECHNOLOGY BUSINESS. A business that, at the time of a certified capital company's first investment in the business:

a. Is headquartered in this state and intends to remain in this state after receipt of the investment by the certified capital company, or is headquartered in another state and intends to relocate its headquarters to this state after receipt of the investment by the certified capital company.
b. Has its principal business operations located in this state and intends to maintain business operations in this state after receipt of the investment by the certified capital company, or has its principal business operations located in another state, and intends to relocate business operations to this state within 90 days after receipt of investment by the certified capital company.
c. Has agreed to use the qualified investment primarily to either support business operations in this state, or in the case of a start-up company, establish and support business operations in this state, except in each case, advertising, sales and promotional operations which may be conducted outside of this state.
d. Has not more than 100 employees and either employs at least 80 percent of its employees in this state, or pays at least 80 percent of its payroll to employees in this state.
e. Is primarily engaged in any of the following:
1. Manufacturing, processing, or assembling products.
2. Conducting research and development.
3. Providing services.
f. Is not primarily engaged in any of the following:
1. Retail sales.
2. Real estate development.
3. The business of insurance, banking, or lending.
4. The provision of professional services provided by accountants, attorneys, or physicians.
(12) STATE PREMIUM TAX LIABILITY. Includes:
a. Any liability incurred by any person under Chapter 4A of Title 27, the Alabama Insurance Code.
b. If the tax liability imposed under Chapter 4A of Title 27, the Alabama Insurance Code, on January 1, 2002, is eliminated or reduced, any tax liability imposed on an insurance company or other person that had premium tax liability under Chapter 4A of Title 27, the Alabama Insurance Code, on that date.

Section 40-14B-2
Administration of chapter.
The Alabama Development Office shall administer this chapter and may adopt rules and forms as necessary to implement this chapter.
(Act 2002-429, p. 1108, §2.)

Section 40-14B-3
Application for certification.
(a) The Director of the Alabama Development Office by rule shall establish the application procedures for certified capital companies.
(b) An applicant must file an application in the form prescribed by the Alabama Development Office accompanied by a nonrefundable application fee of seven thousand five hundred dollars ($7,500). The application must include an audited balance sheet of the applicant, with an unqualified opinion from an independent certified public accountant, as of a date not more than 35 days before the date of the application.
(c) To qualify as a certified capital company all of the following must apply:

(1) The applicant must have, at the time of application for certification, an equity capitalization of at least five hundred thousand dollars ($500,000) in the form of cash or cash equivalents. The applicant must maintain this equity capitalization until it receives an allocation of certified capital pursuant to Section 40-14B-17.
(2) At least two principals or persons employed or engaged to manage the funds of the applicant must have at least four years of experience making venture capital investments in small businesses on behalf of or as an institutional or accredited investor.
(3) The applicant must satisfy any additional reasonable informational requirement imposed by the Alabama Development Office by rule.
(4) The applicant must have incorporated or organized within the State of Alabama no later than 15 days before applying for certification.
(5) The applicant must have established an office within the State of Alabama before or within 60 days of certification.
(d) The Director of the Alabama Development Office shall review the application, organizational documents, and business history of each applicant and shall ensure that the applicant satisfies the requirements of this chapter.
(e) Not later than the 30th day after the date an application is filed, the Director of the Alabama Development Office shall either issue the certification or refuse to issue the certification and communicate in detail to the applicant the grounds for the refusal, including suggestions for the removal of these grounds. If an applicant submits an amended application within 15 days of receipt of refusal from the office, the office shall have 15 days from the receipt of such amended application by which to communicate its approval or refusal of such amended application to the applicant. The office shall review and approve or reject applications in the order submitted, and in the event more than one application is received by the office on any date, all such applications shall be reviewed and approved simultaneously, except in the case of incomplete applications or applications for which additional information is requested by the office and is not supplied by the applicant within the allowable time limits established by the office.
(Act 2002-429, p. 1108, §3.)

Section 40-14B-4
Prohibited activities.
(a) An insurance company or other persons who may have state premium tax liability or the affiliates of the insurance companies or other persons may not, directly or indirectly, do any of the following:
(1) Manage a certified capital company.
(2) Beneficially own, whether through rights, options, convertible interests, or otherwise, more than 15 percent of the outstanding voting securities of a certified capital company.
(3) Control the direction of investments for a certified capital company.
(b) Not more than one certified investor in any certified capital company or affiliates thereof, may provide a guaranty, indemnity, bond, insurance policy, or other payment undertaking in favor of all of the certified investors of the certified capital company and its affiliates.
(c) Subsection (a) applies without regard to whether the insurance company or other person or the affiliate of the insurance company or other person is licensed by or transacts business in this state.
(d) This chapter does not preclude a certified investor, an insurance company, or any other person from exercising its legal rights and remedies, including interim management of a certified

capital company, if authorized by law, with respect to a certified capital company that is in default of its statutory or contractual obligations to the certified investor, insurance company, or other person, or establishing controls to ensure that the certified capital company satisfies the requirements of this chapter.
(e) Nothing in this section shall limit an insurance company's ownership of nonvoting equity interests in a certified capital company.
(Act 2002-429, p. 1108, §4.)

Section 40-14B-5

Statement included with offering.

Any offering material involving the sale of securities of the certified capital company must include the following statement: "By authorizing the formation of a certified capital company, the State of Alabama does not endorse the quality of management or the potential for earnings of the company and is not liable for damages or losses to a certified investor in the company. Use of the word "certified" in an offering does not constitute a recommendation or endorsement of the investment by the Alabama Development Office of public accounts. If applicable provisions of law are violated, the State of Alabama may require forfeiture of unused premium tax credits and repayments of used premium tax credits."

(Act 2002-429, p. 1108, §5.)

Section 40-14B-6

Qualified investments.

(a) To continue to be certified, a certified capital company shall make qualified investments according to the following schedule:

(1) Before the third anniversary of its allocation date, a company must have made qualified investments in an amount cumulatively equal to at least 35 percent of its certified capital.

(2) Before the fifth anniversary of its allocation date, a company must have made qualified investments in an amount cumulatively equal to at least 50 percent of its certified capital.

(b) The aggregate cumulative amount of all qualified investments made by the certified capital company after its allocation date shall be considered in the computation of the percentage requirements under this chapter. Any proceeds received from a qualified investment may be invested in another qualified investment and count toward any requirement in this chapter with respect to investments of certified capital.

(c) A business that is classified as a qualified technology business at the time of the first investment in the business by a certified capital company remains classified as a qualified

technology business and may receive follow-on investments from any certified capital company. Except as provided by this subsection, a follow-on investment made under this subsection is a qualified investment even though the business may not meet the definition of a qualified technology business at the time of the follow-on investment. A follow-on investment does not qualify as a qualified investment if, at the time of the follow-on investment, the qualified technology business no longer has its headquarters in this state.

(d) A qualified investment may not be made at a cost to a certified capital company greater than 15 percent of the total certified capital of the company.

(e) If, before the 180th day after the date that a certified capital company makes an investment in a qualified technology business, the qualified technology business moves its principal business operations from this state, the investment may not be considered a qualified investment for purposes of the percentage requirements under this chapter.

(f) A certified capital company shall invest any certified capital not invested in qualified investments only as follows:

(1) Cash deposited with a federally insured financial institution.

(2) Certificates of deposit in a federally insured financial institution.

(3) Investment securities that are obligations of the United States or its agencies or instrumentalities or obligations that are guaranteed fully as to principal and interest by the United States.

(4) Debt instruments rated at least "A" or its equivalent by a nationally recognized credit rating organization, or issued by, or guaranteed with respect to payment by, an entity whose unsecured indebtedness is rated at least "A" or its equivalent by a nationally recognized credit rating organization, and which indebtedness is not subordinated to other unsecured indebtedness of the issuer or the guarantor.

(5) Obligations of this state or any municipality or political subdivision of this state.

(6) Any other investments approved in advance and in writing by the Alabama Development Office.

(Act 2002-429, p. 1108, §6.)

Section 40-14B-7

Development Office opinion as to proposed investments.

(a) A certified capital company may, before making an investment in a business, request from the Alabama Development Office a written opinion as to whether the business in which it proposes to invest is a qualified technology business.

(b) The Alabama Development Office shall, not later than the 15th business day after the date of the receipt of a request under subsection (a), determine whether the business meets the definition of a qualified technology business, and notify the certified capital company of the determination and an explanation of its determination or notify the certified capital company that an additional 15 days will be needed to review and make the determination.

(c) If the Alabama Development Office fails to notify the certified capital company with respect to the proposed investment within the period specified by subsection (b), the business in which the company proposes to invest is considered to be a qualified technology business.

(Act 2002-429, p. 1108, §7.)

Section 40-14B-8

Report upon receipt of certified capital; annual report; financial statement.

(a) Each certified capital company shall report to the Alabama Development Office as soon as practicable after the receipt of certified capital the following:

(1) The name of each certified investor from whom the certified capital was received, including the certified investor's insurance premium tax identification number.

(2) The amount of each certified investor's investment of certified capital and premium tax credits.

(3) The date on which the certified capital was received.

(b) Not later than January 31 of each year, each certified capital company shall report to the Alabama Development Office all of the following:

(1) The amount of the company's certified capital at the end of the preceding year.

(2) Whether or not the company has invested more than 15 percent of its total certified capital in any one business.

(3) Each qualified investment that the company made during the preceding year and, with respect to each qualified investment, the number of employees of the qualified technology business at the time the qualified investment was made.

(4) Any other information required by the Alabama Development Office.

(c) Not later than April 1 of each year, the company shall provide to the Alabama Development Office an annual audited financial statement that includes the opinion of an independent certified public accountant. The audit or other review by the certified public accountant shall address the methods of operation and conduct of the business of the company to determine whether:

(1) The company is complying with this chapter and the rules adopted under this chapter.

(2) The funds received by the company have been invested as required within the time provided by subsection (a) of Section 40-14B-6.

(3) The company has invested the funds in qualified technology businesses.

(Act 2002-429, p. 1108, §8.)

Section 40-14B-9

Renewal fee.

(a) Not later than January 31 of each year, each certified capital company shall pay a nonrefundable renewal fee of five thousand dollars ($5,000) to the Alabama Development Office. If a certified capital company fails to pay its renewal fee on or before that date, the company must pay, in addition to the renewal fee, a late fee of five thousand dollars ($5,000) to continue its certification.

(b) Notwithstanding subsection (a), a renewal fee is not required within six months of the date on which the company's certification is issued pursuant to Section 40-14B-3.

(Act 2002-429, p. 1108, §9.)

Section 40-14B-10

Qualified distributions.

(a) A certified capital company may make a qualified distribution at any time. To make a distribution or payment, other than a qualified distribution, a company must have made qualified investments in an amount cumulatively equal to at least 100 percent of its certified capital.

(b) Notwithstanding subsection (a), a company may make payments of principal and interest on its indebtedness without any restriction, including payments of indebtedness of the company on which certified investors earned premium tax credits.

(c) The State of Alabama shall receive a 10 percent share of any distributions other than qualified distributions and payments with respect to indebtedness from the certified capital company to its equity holders above and beyond the amount of distributions that would result in an internal rate of return on the total amount of certified capital allotted to the certified capital company plus any additional capital contribution to the certified capital company in excess of 15 percent.

(d) Once a certified capital company has made qualified investments in an amount cumulatively equal to 100 percent of the certified capital allocated to it, the certified capital company shall no longer be subject to regulation under this chapter.

(Act 2002-429, p. 1108, §10.)

Section 40-14B-11

Annual review; decertification.

(a) The Alabama Development Office shall conduct an annual review of each certified capital company to:

(1) Ensure that the company continues to satisfy the requirements of this chapter and that the company has not made any investment in violation of this chapter.

(2) Determine the eligibility status of its qualified investments.

(b) The cost of the annual review shall be paid by each certified capital company according to a reasonable fee schedule adopted by the Alabama Development Office.

(c) A material violation of Sections 40-14B-6, 40-14B-8, or 40-14B-9 is grounds for decertification of the certified capital company. If the Alabama Development Office determines that a company is not in compliance with Sections 40-14B-6, 40-14B-8, or 40-14B-9, the director shall notify the officers of the company in writing that the company may be subject to decertification after the 120th day after the date of mailing of the notice, unless the deficiencies are corrected and the company returns to compliance with those sections.

(d) The Director of the Alabama Development Office may decertify a certified capital company, after opportunity for hearing, if the director finds that the company is not in compliance with Sections 40-14B-6, 40-14B-8, or 40-14B-9 at the end of the period established by subsection (c). Decertification under this subsection is effective on receipt of notice of decertification by the company. The Alabama Development Office shall notify any appropriate state agency of the decertification.

(Act 2002-429, p. 1108, §11.)

Section 40-14B-12

Recapture of forfeiture of premium tax credits.

(a) Decertification of a certified capital company may cause the recapture of premium tax credits previously claimed and the forfeiture of future premium tax credits to be claimed by certified investors with respect to the company, as follows:

(1) Except as set forth in subdivision (2), decertification of a company on or before the third anniversary of its allocation date causes the recapture of any premium tax credit previously claimed and the forfeiture of any future premium tax credit to be claimed by a certified investor with respect to the company.

(2) For a company that meets the requirements for continued certification under subdivision (1) of subsection (a) of Section 40-14B-6 and subsequently fails to meet the requirements for continued certification under subdivision (2) of subsection (a) of Section 40-14B-6, any premium tax credit that has been or will be taken by a certified investor on or before the third anniversary of the allocation date is not subject to recapture or forfeiture, but any premium tax credit that has

been or will be taken by a certified investor after the third anniversary of the allocation date of the company is subject to recapture or forfeiture.

(3) For a company that has met the requirements for continued certification under subdivisions (1) and (2) of subsection (a) of Section 40-14B-6 and is subsequently decertified, any premium tax credit that has been or will be taken by a certified investor on or before the fifth anniversary of the allocation date is not subject to recapture or forfeiture, but any premium tax credit to be taken after the fifth anniversary of the allocation date is subject to forfeiture only if the company is decertified on or before the fifth anniversary of its allocation date.

(4) For a company that has invested an amount cumulatively equal to 100 percent of its certified capital in qualified investments, any premium tax credit claimed or to be claimed by a certified investor is not subject to recapture or forfeiture under this chapter.

(b) The Alabama Development Office shall send written notice to the address of each certified investor whose premium tax credit is subject to recapture or forfeiture, using the address shown on the last premium tax filing.

(Act 2002-429, p. 1108, §12.)

Section 40-14B-13

Indemnification, etc., of certified investors.

The certified capital company may agree to indemnify, or purchase a guaranty, indemnity, bond, insurance policy, or other payment undertaking for the benefit of a certified investor for losses resulting from the recapture or forfeiture of premium tax credits under Section 40-14B-12.

(Act 2002-429, p. 1108, §13.)

Section 40-14B-14

Vested premium tax credit - Generally.

(a) A certified investor who makes an investment of certified capital shall in the year of investment earn a vested credit against state premium tax liability equal to 100 percent of the certified investor's investment of certified capital, subject to the limits imposed by this chapter. A certified investor may take up to 12.5 percent of the vested premium tax credit in any taxable year of the certified investor, beginning in the second calendar year after the investment.

(b) The credit to be applied against state premium tax liability in any one year may not exceed the state premium tax liability of the certified investor for the taxable year. Any unused credit against state premium tax liability may be carried forward indefinitely until the premium tax credits are used.

(c) A certified investor claiming a credit against state premium tax liability earned through an investment in a company is not required to pay any additional retaliatory tax levied by law as a

result of claiming that credit. An investment made under this chapter is an "Alabama investment" for purposes of this chapter.

(Act 2002-429, p. 1108, §14.)

Section 40-14B-15

Vested premium tax credit - Claim.

(a) A premium tax credit allocation claim must be prepared and executed by a certified investor on a form provided by the Alabama Development Office. The certified capital company must file the claim with the Alabama Development Office not later than October 1, 2002. The premium tax credit allocation claim form must include an affidavit of the certified investor under which the certified investor becomes legally bound and irrevocably committed to make an investment of certified capital in a certified capital company in the amount allocated even if the amount allocated is less than the amount of the claim, subject only to the receipt of an allocation under Section 40-14B-19.

(b) A certified investor may not claim a premium tax credit under Section 40-14B-16 for an investment that has not been funded, even if the certified investor has committed to fund the investment.

(Act 2002-429, p. 1108, §15.)

Section 40-14B-16

Vested premium tax credit - Amounts allowed.

(a) The total amount of certified capital for which premium tax credits may be allowed under this chapter for all years in which premium tax credits are allowed is one hundred million dollars ($100,000,000). Notwithstanding any provision of this chapter to the contrary, the granting of any credits against the insurance premium tax shall not affect the insurance premium tax receipts of the Education Trust Fund which is provided for in Act 93-679, 1993 Regular Session.

(b) No premium tax credits can be used until the second calendar year after the year of the investment by the certified investor.

(c) A certified investor may take up to 12.5 percent of the vested premium tax credit in any taxable year of the certified investor, once the credits are earned, except for the initial delay of this chapter.

(d) A certified capital company and its affiliates may not file premium tax credit allocation claims in excess of the maximum amount of certified capital for which premium tax credits may be allowed as provided in this chapter.

(e) The maximum amount of premium tax credit allocation claims that may be filed on behalf of any one insurance company, on an aggregate basis with its affiliates, in one or more certified

capital companies, shall not exceed the greater of: Ten million dollars, or 15 percent of the aggregate limitation on credits provided in subsection (a).

(Act 2002-429, p. 1108, §16.)

Section 40-14B-17

Vested premium tax credit - Pro rata allocation.

(a) If the total premium tax credits claimed by all certified investors exceeds the total limits on premium tax credits established by subsection (a) of Section 40-14B-16, the Alabama Development Office shall allocate the total amount of premium tax credits allowed under this chapter to certified investors in certified capital companies on a pro rata basis in accordance with this chapter.

(b) The pro rata allocation for each certified investor shall be the product of:

(1) A fraction, the numerator of which is the amount of the premium tax credit allocation claim filed on behalf of the investor and the denominator of which is the total amount of all premium tax credit allocation claims filed on behalf of all certified investors.

(2) The total amount of certified capital for which premium tax credits may be allowed under this chapter.

(c) On October 15, 2002, the Alabama Development Office shall notify each certified capital company of the amount of tax credits allocated to each certified investor. Each certified capital company shall notify each certified investor of their premium tax credit allocation.

(d) If a certified capital company does not receive an investment of certified capital equaling the amount of premium tax credits allocated to a certified investor for which it filed a premium tax credit allocation claim before the end of the 10th business day after the date of receipt of notice of allocation, the company shall notify the Alabama Development Office by overnight common carrier delivery service and that portion of capital allocated to the certified investor shall be forfeited. The Alabama Development Office shall reallocate the forfeited capital among the certified investors in the other certified capital companies that originally received an allocation so that the result after reallocation is the same as if the initial allocation under this chapter had been performed without considering the premium tax credit allocation claims that were subsequently forfeited.

(Act 2002-429, p. 1108, §17.)

Section 40-14B-18

Certified capital as admitted asset.

In any case under this chapter or another law of this state in which the assets of a certified investor are examined or considered, the certified capital may be treated as an admitted asset, subject to the applicable statutory valuation procedures.

(Act 2002-429, p. 1108, §18.)

Section 40-14B-19

Rate making for insurance contract.

A certified investor is not required to reduce the amount of premium tax included by the investor in connection with rate making for any insurance contract written in this state because of a reduction in the investor's Alabama premium tax derived from the credit granted under this chapter.

(Act 2002-429, p. 1108, §19.)

Section 40-14B-20

Transfer or assignment of premium tax credits.

(a) The Alabama Development Office shall adopt rules to facilitate the transfer or assignment of premium tax credits by certified investors. A certified investor may transfer or assign premium tax credits only in compliance with the rules adopted under this subsection.

(b) The transfer or assignment of a premium tax credit does not affect the schedule for taking the premium tax credit under this chapter.

(Act 2002-429, p. 1108, §20.)

Section 40-14B-21

Biennial report.

(a) The Alabama Development Office shall prepare a biennial report with respect to results of the implementation of this chapter. The report must include all of the following:

(1) The number of certified capital companies holding certified capital.

(2) The amount of certified capital invested in each certified capital company.

(3) The amount of certified capital the certified capital company has invested in qualified technology businesses as of January 1, 2004, and the cumulative total for each subsequent year.

(4) The total amount of tax credits granted under this chapter for each year that credits have been granted.

(5) The performance of each certified capital company with respect to renewal and reporting requirements imposed under this chapter.

(6) With respect to the qualified technology businesses in which capital companies have invested all of the following:

a. The classification of the qualified businesses according to the industrial sector and the size of the business.

b. The total number of jobs created by the investment and the average wages paid for the jobs.

c. The total number of jobs retained as a result of the investment and the average wages paid for the jobs.

(7) The certified capital companies that have been decertified or that have failed to renew the certification and the reason for any decertification.

(b) The Alabama Development Office shall file the report with the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives not later than December 15 of each even-numbered year.

(Act 2002-429, p. 1108, §21.)

Section 40-14B-22

Allocation of additional tax credits.

(a) Subject to, and in accordance with, this chapter, there shall be a second allocation of premium tax credits to investors who contribute certified capital after June 14, 2007, to certified capital companies in an amount equal to the total pool of tax credits allocated pursuant to this chapter prior to June 14, 2007. Any limitations on the amount of certified capital that may be requested by a certified investor contained in this chapter shall be calculated with respect to this allocation without regard to any certified capital requested or invested by such investor prior to June 14, 2007. The Alabama Development Office shall promulgate rules to insure the certified capital program shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) A certified investor who contributes certified capital in connection with the second allocation may take up to a maximum of five percent of the vested premium tax credit against its tax liability for any tax year of the certified investor, beginning in the second tax year after the investment. Provided, however, that for any tax beginning on or after January 1, 2014, a certified investor may take up to 17.5 percent of the vested premium tax credit until the tax credits taken by such investor equal 100 percent of the certified investor's certified capital.

(c) The Alabama Development Office shall administer this chapter and shall adopt such rules as necessary to implement this chapter, including the second allocation provided in subsection (a)

no later than the 180th day after June 14, 2007, and shall begin accepting applications with respect to the additional allocation of certified capital no later than 90 days thereafter.

(d) Notwithstanding any provision of this section to the contrary, the granting of any credits against the insurance premium tax shall not affect the insurance premium tax receipts of the Education Trust Fund which is provided for in Section 27-4A-3.

(Act 2002-429, p. 1108, §22; Act 2007-472, p. 993, §§1, 2.)

Appendix A.3

To view the Administrative Code for the Alabama CapCo Credit click on the link provided below:

Chapter 281-2-1 Certified Capital Companies

http://www.alabamaadministrativecode.state.al.us/docs/comm/281-2-1.pdf

Appendix B.1

Alabama Historic Rehabilitation Tax Credit Program

Overview

The Alabama Historic Rehabilitation Tax Credit Program was enacted with Act 2013-241. The last year of the program was 2015. The program offers a tax credit of up to 25% for the substantial rehabilitation of a historic residential or commercial property. Twenty million in tax credits were available each calendar year beginning in 2013 through 2015. Applications are accepted on a first come, first serve basis. Once the annual tax allocation has been reserved, the later applications are placed on a waiting list.

The tax credit is 25% of qualified rehabilitation expenditures for certified historic buildings used for income-producing or residential purposes.

Historic buildings that qualify for the 25% credit are those:

- Listed individually in the National Register of Historic Places (NRHP)
- Listed as a contributing resource in a NRHP district
- Eligible for listing in NRHP

Taxpayers filing a State of Alabama tax return or entities that are exempt from federal income taxation who own title to a building or own a leasehold interest in a building for a term of 39 years or more may apply for the tax credit. Both commercial developments and single-family residential projects may apply.

Project expenditures must exceed 50% of the owner's original purchase price or $25,000, whichever is greater. Work must follow the Secretary of the Interior's Standards for Rehabilitation. Expenses incurred by the owner for improvement of the building include the repair of exterior materials; repair of structural systems; repair of interior finishes like wood floors, plaster walls and ceilings, upgrades to HVAC, electrical, and plumbing; and architectural, engineering, and land surveying fees.

Acquisition costs (including interest and taxes), realtor fees, personal labor by owner, furnishings/appliances, additions, sales and marketing costs, and landscaping or site work outside the footprint of the qualified building do not qualify for the credit.

Commercial projects are limited to a reservation of $5,000,000 in tax credits.
Residential projects are limited to a reservation of $50,000 in tax credits.
A total of $20,000,000 in tax credits are reserved for each tax year (January 1 to December 31) for three years. Excess tax credits are carried forward each year.

The tax credit is transferable, one time only. Once the credit is transferred, only the transferee(s) can utilize the credit and the credit may not be transferred again. The credit may be applied regardless of economic interest in the entity; the amount of the credit claimed is not contingent upon the percentage of ownership in the entity that has the credit.

Appendix B.2

Title 40, Chapter 9F, Code of Alabama 1975

•Section 40-9F-1 Applicability.
•Section 40-9F-2 Definitions.
•Section 40-9F-3 Standards for approval; application, rehabilitation plan; review; certification; tax credit certification; fees; report to Legislature.
•Section 40-9F-4 Tax credits calculated, claimed, reserved, granted; transfer or assignment of tax credits.
•Section 40-9F-5 Recapture of credits; assessment.
•Section 40-9F-6 Appeals.
•Section 40-9F-7 Limitations.
•Section 40-9F-8 Rules and regulations; timing of applications and credits.

Section 40-9F-1

Applicability.

This chapter shall apply to qualified structures throughout the State of Alabama.

(Act 2013-241, p. 579, §1.)

Section 40-9F-2

Definitions.

As used in this chapter, the following terms shall have the following meanings:

(1) CERTIFIED HISTORIC STRUCTURE. A property located in Alabama which is certified by the Alabama Historical Commission as being individually listed in the National Register of Historic Places, eligible for listing in the National Register of Historic Places, or certified by the commission as contributing to the historic significance of a Registered Historic District.

(2) CERTIFIED REHABILITATION. Repairs or alterations to a certified historic structure that is certified by the commission as meeting the U.S. Secretary of the Interior's Standards for Rehabilitation, or to non-historic structures built before 1936 which are certified by the commission as meeting the requirements contained in Section 47(c)(1)(a) and (b) of the Internal Revenue Code, as amended, or to a certified historic residential structure as defined in subdivision (4).

(3) CERTIFIED HISTORIC RESIDENTIAL STRUCTURE. A certified historic structure as defined in subdivision (1).

(4) COMMISSION. The Alabama Historical Commission and or its successor.

(5) DEPARTMENT. The Alabama Department of Revenue or its successor.

(6) OWNER. Any taxpayer filing a State of Alabama tax return or any entity that is exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code, as amended, that: a. owns title to a qualified structure, or b. owns a leasehold interest in a qualified structure for a term of not less than 39 years.

(7) QUALIFIED REHABILITATION EXPENDITURES. Any expenditure as defined under Section 47(c)(2)(A) of the Internal Revenue Code, as amended, and the related regulations thereunder, and other reasonable expenses and costs expended in the rehabilitation of a qualified structure. For certified historic residential structures, this term shall mean expenses incurred by the taxpayer in the certified rehabilitation of a certified historic residential structure, including preservation and rehabilitation work done to the exterior of a certified historic residential structure, repair and stabilization of historic structural systems, restoration of historic plaster, energy efficiency measures except insulation in frame walls, repairs or rehabilitation of heating, air conditioning, or ventilation systems, repairs or rehabilitation of electrical or plumbing systems exclusive of new electrical appliances and electrical or plumbing fixtures, and architectural, engineering, and land surveying fees. Qualified rehabilitation expenditures do not include the cost of acquisition of the qualified structure, the personal labor by the owner, or any cost associated with the rehabilitation of an outbuilding of the qualified structure, unless the outbuilding is certified by the commission to contribute to the historical significance of the qualified structure.

(8) QUALIFIED STRUCTURE. Certified historic structures and non-historic structures built before 1936 which are certified by the commission as meeting the requirements contained in Section 47(c)(1)(a) and (b) of the Internal Revenue Code, as amended, and to certified historic residential structures as defined herein.

(9) REGISTERED HISTORIC DISTRICT. Any district listed in the National Register of Historic Places and any district which is either of the following:

a. Designated under Alabama or local law certified by the U.S. Secretary of the Interior as containing criteria which substantially achieves the purpose of preserving and rehabilitating buildings of historic significance to the district.

b. Certified by the U.S. Secretary of the Interior as meeting substantially all of the requirements for the listing of districts in the National Register of Historic Places.

(10) REHABILITATION PLAN. Construction plans and specifications for the proposed rehabilitation of a qualified structure in sufficient detail to enable the commission to evaluate compliance with the standards developed under this chapter.

(11) SUBSTANTIAL REHABILITATION. Rehabilitation of a qualified structure for which the qualified rehabilitation expenditures exceed 50 percent of the owner’s original purchase price of the qualified structure or twenty-five thousand dollars ($25,000), whichever is greater.

(Act 2013-241, p. 579, §2.)

Section 40-9F-3

Standards for approval; application, rehabilitation plan; review; certification; tax credit certification; fees; report to Legislature.

(a) The commission shall develop standards for the approval of the substantial rehabilitation of qualified structures for which a tax credit is sought. The standards shall take into account whether the substantial rehabilitation of a qualified structure is consistent with the historic character of the structure or of the Registered Historic District in which the property is located.

(b) Prior to beginning any substantial rehabilitation work on a qualified structure, the owner shall submit an application and rehabilitation plan to the commission and an estimate of the qualified rehabilitation expenditures under the rehabilitation plan; provided, however, that the owner, at its own risk, may incur qualified rehabilitation expenditures no earlier than six months prior to the submission of the application and rehabilitation plan that are limited to architectural, engineering, and land surveying fees and related soft costs and any costs related to the protection of the qualified structure from deterioration.

(c) The commission shall review the application and rehabilitation plan to determine that the information contained therein is complete. If the commission determines that the application and rehabilitation plan are complete, the commission shall reserve for the benefit of the owner an allocation for a tax credit as provided in Section 40-9F-4 and the commission shall notify the owner in writing of the amount of the reservation. The reservation of tax credits does not entitle the owner to an issuance of tax credits until the owner complies with all other requirements of this chapter for the issuance of the tax credits. The reservation of tax credits shall be made by the commission in the order in which completed applications and rehabilitation plans are received by the commission, and the reservation of tax credits shall be issued by the commission within a reasonable time, not to exceed 90 days from the filing of a completed application and rehabilitation plan. Applications received by the commission on the same day shall go through a lottery process to determine the order in which the applications will be reviewed by the commission. Only the property for which a property address, legal description or other specific location is provided in the application shall be reviewed. Ownership of an entity that is the owner of property contained in the application shall not be a factor in the commission's review of the application and no subsequent change in the ownership structure of such entity shall result in the loss or rescission of a reservation of tax credits. The owner shall not be permitted to request the review of another property for approval in the place of the property contained in the application. Any application disapproved by the commission shall be removed from the review process, and the commission shall notify the owner in writing of the decision to remove the application. Disapproved applications shall lose their priority in the review process. A disapproved application may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section and may be charged a new application fee. In the event that the commission grants reservations for tax credits equal to the total amount available for reservations during the tax year, all owners with applications then awaiting approval or thereafter submitted for approval shall be notified by the commission that no additional approvals shall be granted during that tax year and shall be notified of the priority number given

to the owner's application then awaiting approval. The applications shall remain in priority status for two years from the date of the original application and shall be considered for reservations of tax credits in the priority order established in this section in the event that additional credits become available due to the rescission of approvals or when a new tax year's allocation of tax credits becomes available.

Owners receiving a reservation of tax credits shall commence rehabilitation, if rehabilitation has not previously begun, within 18 months of the date of issuance of the written notice from the commission to the owner granting the reservation of tax credits. "Commencement of rehabilitation" shall mean that, as of the date in which actual physical work contemplated by the rehabilitation plan submitted with the application has begun, the owner has incurred no less than 20 percent of the estimated costs of rehabilitation provided in the application. Owners receiving a reservation of tax credits shall submit evidence of compliance with the provisions of this subsection. If the commission determines that an owner has failed to comply with the requirements provided under this section, the reservation of tax credits for the owner may be rescinded and, if so, the amount of tax credits shall then be included in the total amount of available tax credits provided for in subsection (c) of Section 40-9F-4, from which reservations may be granted. Any owner whose reservation of tax credits shall be rescinded shall be notified of the rescission from the commission and, upon receipt of the notice, may submit a new application but may be charged a new application fee.

(d) Following the completion of a substantial rehabilitation of a qualified structure, the owner shall notify the commission that the substantial rehabilitation has been completed and shall certify the qualified rehabilitation expenditures incurred with respect to the rehabilitation plan. In addition, the owner shall provide the commission with: (i) a cost and expense certification, prepared by a licensed certified public accountant that is not an affiliate of the owner, certifying the total qualified rehabilitation expenditures and the total amount of tax credits against any state tax due that is specified in this chapter for which the owner is eligible under Section 40-9F-4 and, if the qualified rehabilitation expenditures exceed two hundred thousand dollars ($200,000), the cost and expense certification must be audited by the licensed certified public accountant; and (ii) an appraisal of the qualified structure prepared by an independent MAI designated and licensed real estate appraiser. The commission shall review the documentation of the rehabilitation and verify its compliance with the rehabilitation plan. Within 90 days after receipt of the foregoing documentation from the owner, the commission shall issue a tax credit certificate in an amount equivalent to the lesser of: (i) the amount of the tax credit reservation issued for the project under the provisions of subsection (c), or (ii) 25 percent of the actual qualified rehabilitation expenditures for certified historic structures and 10 percent of the actual qualified rehabilitation expenditures for qualified pre-1936 non-historic structures. In the event the amount of qualified rehabilitation expenditures incurred by the owner would result in the issuance of an amount of tax credits in excess of the amount of tax credits reserved for the owner under subsection (c), the owner may apply to the commission for issuance of tax credits in an amount equal to the excess. Applications for issuance of tax credits in excess of the amount of tax credits reserved for the owner shall be made on a form prescribed by the commission and shall represent a separate certificate that shall be issued, subject to all provisions regarding priority provided in this section.

(e) In order to obtain a credit against any state tax due that is specified in this chapter, a taxpayer shall file the tax credit certificate with the taxpayer's Alabama state tax return.

(f) The department shall grant a tax credit against any state tax due that is specified in this chapter to a taxpayer holding the tax credit certificate issued under subsection (d) or, in the case of a transferee, issued by the department pursuant to Section 40-9F-4(e) against any tax due under Chapters 16 and 18 in the amount stated on the tax credit certificate. The department shall have the right to audit and to reassess any credit improperly obtained by the owner, in accordance with the Taxpayers' Bill of Rights and the Uniform Revenue Procedures contained in Chapter 2A; provided, however that only the owner initially awarded the tax credit certificate, and not any subsequent transferee of the tax credit certificate or person to whom tax credits have been passed through pursuant to Section 40-9F-4(d), shall be liable for any credit improperly obtained by the owner.

(g) For processing the taxpayer's application for a tax credit, the commission may impose reasonable application fees of up to one percent of the qualified rehabilitation expenses but not to exceed ten thousand dollars ($10,000).

(h) The commission shall, in consultation with the department, report to the Legislature in the third year following passage of this chapter, and annually thereafter, on the overall economic activity, usage, and impact to the state from the substantial rehabilitation of qualified structures for which tax credits have been allowed.

(Act 2013-241, p. 579, §3; Act 2014-452, p. 1679, §1.)

Section 40-9F-4

Tax credits calculated, claimed, reserved, granted; transfer or assignment of tax credits.

(a) The state portion of any tax credit against the tax imposed by Chapters 16 and 18, for the taxable year in which the certified rehabilitation is placed in service, shall be equal to 25 percent of the qualified rehabilitation expenditures for certified historic structures, and shall be 10 percent of the qualified rehabilitation expenditures for qualified pre-1936 non-historic structures. No tax credit claimed for any certified rehabilitation may exceed five million dollars ($5,000,000) for all allowable property types except a certified historic residential structure, and fifty thousand dollars ($50,000) for a certified historic residential structure.

(b) The entire tax credit may be claimed by the taxpayer in the taxable year in which the certified rehabilitation is placed in service. Where the taxes owed by the taxpayer are less than the tax credit, the taxpayer shall not be entitled to claim a refund for the difference, but any unused portion of the credit may be carried forward for up to 10 additional tax years.

(c) For the calendar years 2013, 2014, and 2015, the aggregate amount of all tax credits that may be reserved in any one of such years by the commission upon certification of rehabilitation plans under subsection (c) of Section 40-9F-3 shall not exceed twenty million dollars ($20,000,000) plus any amount of previous reservations of tax credits that were rescinded under subsection (c) of Section 40-9F-3 during the tax year. However, if all of the allowable tax credit amount for any

tax year is not requested and reserved, any unreserved tax credits may be utilized by the commission in awarding tax credits in subsequent years; provided, however, that in no event shall a total of more than sixty million dollars ($60,000,000) be reserved by the commission during the period of May 15, 2013, through May 16, 2016. For purposes of this chapter, "tax year" shall mean the calendar year.

(d) Tax credits granted to a partnership, a limited liability company or multiple owners of a property shall be passed through to the partners, members, or owners (including any not-for-profit entity that is a partner, member, or owner) respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method without regard to their sharing of other tax or economic attributes of the entity. The tax credit certificate shall contain a section to be completed by the owner that provides the percentage or amount of credit that will be allocated to each partner, member, or owner, and such completed certificate may be provided to the department to transfer all or any portion of the tax credits passed through to the partner, member, or owner in accordance with subsection (e).

(e) All or any portion of the tax credits under this section and Sections 40-9F-3 and 40-9F-5 shall be transferable and assignable, subject to any notice and verification requirements to be determined by the department, without the requirement of transferring any ownership interest in the qualified structure or any interest in the entity which owns the qualified structure. However, once a credit is transferred, only the transferee may utilize such credit and the credit cannot be transferred again. A transferee of the tax credits may use the amount of tax credits transferred to offset any state tax due under Chapters 16 and 18 of Title 40. The department shall promulgate a form transfer statement to be filed by the transferor with the department prior to the purported transfer of any credit issued under this chapter. The transfer statement form shall include the name and federal taxpayer identification number of the transferor and each transferee listed therein along with the amount of the tax credit to be transferred to each transferee listed on the form. The transfer statement form shall also contain such other information as the department may from time to time reasonably require. For each transfer, the transferor shall file (1) a completed transfer statement form; (2) a copy of the tax credit certificate issued by the commission documenting the amount of tax credits which the transferor intends to transfer; (3) a copy of the proposed written transfer agreement; and (4) a transfer fee payable to the department in the amount of one thousand dollars ($1,000) per transferee listed on the transfer statement form. The transferor shall file with the department a fully executed copy of the written transfer agreement with each transferee within 30 days after the completed transfer. Filing of the written transfer agreement with the department shall perfect such transfer with respect to such transferee. Within 30 days after the department's receipt of the fully executed written transfer agreement, the department shall issue a tax credit certificate to each transferee listed in such agreement in the amount of the tax credit so transferred. Such certificate shall be used by the transferee in claiming the tax credit pursuant to Section 40-9F-3(e) and (f). The department may promulgate such additional rules as are necessary to permit verification of the ownership of the tax credits but shall not promulgate any rules which unduly restrict or hinder the transfer of the tax credits.

(Act 2013-241, p. 579, §4; Act 2014-452, p. 1679, §1.)

Section 40-9F-5

Recapture of credits; assessment.

(a) Recapture of any of the credit shall apply against the taxpayer who utilizes the credit, and any required adjustments to basis due to recapture, shall be governed by Section 50 of the Internal Revenue Code.

(b) In the taxable year the certified rehabilitation is placed in service for any structure for which a tax credit has been issued, the commission shall provide notice of the certified rehabilitation and a copy of the appraisal provided by the owner to the taxing authority responsible for the assessment of ad valorem taxes. Upon notification, the taxing authority responsible for the assessment of ad valorem taxes shall complete a new assessment for the structure to be used in the assessment of ad valorem taxes for the tax year in which the certified rehabilitation was placed in service.

(Act 2013-241, p. 579, §5; Act 2014-452, p. 1679, §1.)

Section 40-9F-6

Appeals.

Owners or their duly authorized representatives may appeal any state official decision, including all preliminary or final reservations, approvals, and denials, made by the commission or the department with regard to an application and rehabilitation plan submitted under Section 40-9F-3, in accordance with the Alabama Administrative Procedure Act contained in Chapter 22 of Title 41. Appeals shall constitute an administrative review of the decision appealed from and shall not be conducted as an adjudicative proceeding. Appeals shall be submitted within 30 days of receipt by the owner or the owner's duly authorized representative of the decision that is the subject of the appeal.

(Act 2013-241, p. 579, §6.)

Section 40-9F-7

Limitations.

The tax credits authorized by this chapter for the substantial rehabilitation of qualified structures shall not be available to owners of qualified structures that submit an application and rehabilitation plan after May 15, 2016. No action or inaction on the part of the Legislature shall reduce or suspend the tax credits authorized by this chapter in any past or future calendar year with respect to a qualified structure if the owner thereof submits an application and rehabilitation plan with the commission and the commission reserves an allocation for a tax credit on or prior to May 15, 2016, even if the qualified structure is placed into service after May 15, 2016, and shall not affect the owner of a qualified structure if the commission has reserved an allocation for a tax credit on or prior to May 15, 2016.

(Act 2013-241, p. 579, §7.)

Section 40-9F-8

Rules and regulations; timing of applications and credits.

The commission shall promulgate by September 1, 2013, any and all rules and regulations necessary to implement the provisions of this chapter. Applications for the reservation of tax credits shall be accepted beginning October 1, 2013, but no tax credit may be credited prior to the taxpayer's return for the taxable year 2014.

(Act 2013-241, p. 579, §8.)

Appendix B.3

To view the Administrative Code for the Alabama Historic Rehabilitation Tax Credit click on the link provided below:

Chapter 460-X-23 Alabama Historic Rehabilitation Tax Credit

http://www.alabamaadministrativecode.state.al.us/docs/hist/460-X-23.pdf

Appendix C.1

Entertainment Industry Incentive Act of 2009

Overview:

In order to promote the development of the entertainment industry in Alabama, the Alabama Film Office is authorized to award up to $20 million each year in incentives to production companies that produce certain projects in Alabama. This legislation, which was passed in 2009, is currently codified as Article 3, Chapter 7A, Title 41, Code of Alabama 1975. Available incentives include an income tax rebate and an exemption from the state portion of sales, use, and lodgings taxes, if the production project meets certain conditions.

Incentives are available to entities that produce a Qualified Production. Qualified Productions include a wide variety of entertainment content as long as some portion of the project is produced in Alabama. Qualified Productions include motion pictures; soundtracks for motion pictures; documentaries; most television programming (except those exclusively for news, weather, sports or financial market reports); sound recordings; videos and music videos; commercials; and video games.

A Qualified Production Company may be eligible to receive a Rebate of a portion of the expenditures incurred to produce a Qualified Production. The amount of the Rebate equals 25% of certain Production Expenditures (discussed below) on the project that are incurred in Alabama plus 35% of the payroll paid to Alabama residents.

The Rebate may be used to offset any Alabama income tax liability of the Qualified Production Company for the tax year during which such expenditures were paid or incurred. If the amount of the Rebate exceeds the Qualified Production Company's Alabama income tax liability, that excess will be refunded to the Qualified Production Company.

In addition to the Rebate, a Qualified Production Company approved to receive incentives may receive an exemption of certain state sales, use, and lodging taxes. By presenting an Alabama Department of Revenue exemption certificate to Alabama vendors, the Qualified Production Company will be exempt from the state portion of sales, use, and lodgings taxes. The exemption only applies to the state portion, however, not to the local portion of those taxes. Thus, the Qualified Production Company would still be liable for the local portion of any applicable sales, use, or lodgings taxes on its expenditures in Alabama, even if it is approved to receive incentives. The exemption is effective on the date the exemption certificate is issued by the Department of Revenue.

In order to be eligible to receive incentives, a Qualified Production Company must incur a minimum amount of Production Expenditures. The required amount of Production Expenditures varies based on the type of production.

Soundtracks: A Qualified Production Company must incur total Production Expenditures of at least $50,000, but no Rebate shall be available for Production Expenditures in excess of $300,000.

Music Videos: A Qualified Production Company must incur total Production Expenditure of at least $50,000, but no Rebate shall be available for Production Expenditures in excess of $200,000.

All Other Qualified Productions: A Qualified Production Company must incur total Production Expenditures of at least $500,000, but no Rebate shall be available for Production Expenditures in excess of $20,000,000.

To be exempt from state sales, use, and lodgings taxes, a Qualified Production Company must spend, in the aggregate, $150,000 or more in connection with one or more approved projects within a consecutive 12-month period.

Production Expenditures include most preproduction, production, and postproduction expenditures incurred by a Qualified Production Company in Alabama after the Film Office approves a project. Expenditures incurred before a Qualified Production Company receives approval for incentives are not qualified Production Expenditures eligible for incentives. In addition, for an expenditure to qualify as a "Production Expenditure," it must be directly related to the production of the approved project. Examples of Production Expenditures include: payroll; set construction and operation; wardrobe; makeup; set accessories and related services; costs associated with photography and sound synchronization; lighting; and related services and materials.

In addition to meeting the Production Expenditure requirements, a Qualified Production Company receiving incentives must also meet certain ongoing requirements.

Compliance with the Laws of Alabama: Within 60 days of commencing operations in Alabama, a Qualified Production Company must register with the Alabama Secretary of State, comply with all requirements of doing business within the State, and must provide written evidence of doing so to the Film Office before completion of production activities within Alabama on the project.

Filing Alabama Tax Returns: A Qualified Production Company must file any and all tax returns required by the laws of the State of Alabama (e.g., an initial business privilege tax return, as provided by Ala. Code § 40-14A-29, or a composite income tax return as provided by Ala. Code § 40-18-24.2, which requires a Qualified Production Company taxed under Subchapter K of the Internal Revenue Code to file a composite income tax return and make a composite income tax payment on behalf of its nonresident owners at the highest marginal tax rate).

Biannual Review. Once production activities on an approved project have commenced, the Film Office shall review the Qualified Production Company's progress towards completion of the project at least twice every 12 months. If the Film Office determines that the Qualified Production Company has not made reasonable progress towards completion of the project, it may revoke, or suspend any incentives for which the Qualified Production Company was approved until reasonable progress is demonstrated.

Completion of Production Activities in Alabama. Within 60 days of completion of production activities within Alabama on the project, the Qualified Production Company shall return the state sales, use, and lodgings tax exemption certificate to the Department of Revenue. Within 60 days of completion of the project, the Qualified Production Company must provide the Film Office with a complete list of crew, cast, and vendors employed in the project.

A Final Incentive Audit is an audit, by a CPA, of the books and records of a Qualified Production Company performed upon completion of the production activities in Alabama associated with the project. Such audit shall verify each Production Expenditure claimed by a

Qualified Production Company.

The Qualified Production Company shall submit the audit report to both the Film Office and to the Department of Revenue within 120 days of completion of production activities in Alabama on the project, unless an extension is granted. If the Qualified Production Company does not timely submit the audit report, the Qualified Production Company may:
Become liable for the state sales, use, and lodgings taxes that would otherwise have been paid had the incentives not been granted; and forfeit any incentives otherwise awarded to and/or set aside for the Qualified Production Company's Rebate.

If the Qualified Production Company incurs Production Expenditures in excess of $500,000 (or $50,000 if producing a motion picture soundtrack), but less than the amount of Production Expenditures estimated in its application, then the Film Office may reduce the amount of the Rebate available to the Qualified Production Company based on the difference between the total estimated Production Expenditures and the actual Production Expenditures. If the Qualified Production Company incurs Production Expenditures in excess of $150,000, but less than $500,000, then the Qualified Production Company shall not be liable for the state sales, use, and lodgings taxes that would have been paid had the exemption from the same such taxes not been granted, but the Qualified Production Company shall not be entitled to any Rebate otherwise awarded to and/or set aside for it. If the Qualified Production Company incurs Production Expenditures in an amount less than $150,000, then the Qualified Production Company shall be liable for the state sales, use, and lodgings taxes that would have been paid had the exemption from the same such taxes not been granted. However, if the Qualified Production Company pays the state sales, use, and lodgings taxes due within 60 days of the date on which the audit report was submitted, the Qualified Production Company shall incur no penalties. The Qualified Production Company shall not be entitled to any Rebate otherwise awarded to and/or set aside for it, unless it was producing a motion picture soundtrack and incurred Production Expenditures in excess of $50,000.

If the Qualified Production Company that is producing a soundtrack to be used in a motion picture incurs Production Expenditures in an amount less than $50,000, then the Qualified Production Company shall be liable for the state sales, use, and lodgings taxes that would have been paid had the exemption from the same such taxes not been granted. However, if the Qualified Production Company pays the state sales, use, and lodgings taxes due within 60 days of the date on which the audit report was submitted, the Qualified Production Company shall incur no penalties. The Qualified Production Company shall not be entitled to any Rebate otherwise awarded to and/or set aside for it.

Year	# Production Companies	Total Rebate Received
2009	1	$144,175.02
2010	2	$341,647.85
2011	7	$3,246,883.63
2012	13	$7,222,636.01
2013	9	$9,299,172.33
2014	11	$12,262,947.76
2015	10	$8,593,999.24

Appendix C.2

Title 41, Chapter 7A, Article 3, Code of Alabama 1975

◦Article 3 Entertainment Industry Incentive Act of 2009.
- Section 41-7A-40 Short title.
- Section 41-7A-41 Legislative findings.
- Section 41-7A-42 Definitions.
- Section 41-7A-43 Rebates for qualified production companies.
- Section 41-7A-44 Proprietary and confidential information.
- Section 41-7A-45 Tax exemption - Qualifications.
- Section 41-7A-46 Tax exemptions - Application; issuance of certificates; reporting requirements.
- Section 41-7A-47 Promulgation of rules.
- Section 41-7A-48 Limitations on incentives.

Section 41-7A-40

Short title.

This article may be cited as the "Entertainment Industry Incentive Act of 2009."

(Act 2009-144, p. 268, §1.)

Section 41-7A-41

Legislative findings.

The following is hereby found and declared by the Legislature of Alabama:

(1) Although Alabama is filled with attractive natural resources, a growing workforce, and other resources attractive to the entertainment industry, Alabama has not developed its potential in terms of attracting the entertainment industry to the state by offering production incentives for qualified productions not previously offered in Alabama.

(2) Entertainment industry incentives offered by other states attract valuable projects to their states which stimulate local economies, use local manpower, offer other employment and entrepreneurial opportunities for state residents, and provide public awareness of the natural resources available in their states.

(3) Because Alabama does not currently offer a viable incentive package to the industry, Alabama cannot effectively compete with other states for attracting industry projects and those projects locate elsewhere.

(4) For Alabama to compete nationally or internationally for the location and production of more projects in Alabama and to foster a growing entertainment industry in Alabama, industry specific production incentives are immediately necessary.

(5) The Legislature recognizes and confirms the planning and promotion of the entertainment industry are of vital importance to the economic development of Alabama as are the recruitment, expansion, and retention of industrial development within the state, and the promotion of the entertainment industry should be included as an integral part of any comprehensive economic development strategy plan promoted by the state and state agencies.

(Act 2009-144, p. 268, §2.)

Section 41-7A-42

Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) COMPANY. A corporation, partnership, limited liability company, or any other business entity.

(2) DEPARTMENT. The Alabama Department of Revenue.

(3) ENTERTAINMENT INDUSTRY. Those persons or entities engaged in the production of entertainment content as defined under paragraph a. of subdivision (8).

(4) EXPENDED IN ALABAMA. In the case of tangible property, property which is acquired or leased from a source within the State of Alabama; in the case of services, services performed for a qualified production project in the State of Alabama.

(5) OFFICE. The Alabama Film Office.

(6) PAYROLL. All salary, wages, and other compensation, including related benefits, including specifically, but not limited to, compensation and benefits provided to resident and nonresident producers, directors, writers, actors, and other personnel involved in qualified production projects in Alabama.

(7) PRODUCTION EXPENDITURES.

a. The term includes preproduction, production, and postproduction expenditures incurred in the State of Alabama that are directly used in a state-certified production, including, but not limited to, the following: Set construction and operation, wardrobe, makeup, set accessories, and related services; costs associated with photography and sound synchronization, lighting, and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; costs of catering; digital or tape editing, film processing, transfer of film to tape or digital format; transfer direct to DVD, cable, or satellite for distribution; sound mixing, special and visual effects including duplication, film processing

digital, DVD, music composition, and satellite distribution; total aggregate payroll; music; airfare; insurance costs of bonding; or other similar production expenditures as determined by rule or regulation.

b. The term includes financial contributions or educational or workforce development in partnership with related educational institutions, or local industry organizations, or both, contributed toward the furtherance of the local entertainment media industries.

c. The term does not include postproduction expenditures for marketing or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of a motion picture production.

(8) QUALIFIED PRODUCTION.

a. The term means entertainment content created in whole or in part within the state, including motion pictures; soundtracks for motion pictures; documentaries; long-form, specials, miniseries, series, sound recordings, videos and music videos, and interstitials television programming; interactive television; interactive games; video games; commercials; infomercials; any format of digital media, including an interactive website that is intended for national or international distribution or exhibition to the general public; and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a qualified production via any means and media in any digital media format, film, or videotape, provided such program meets all the underlying criteria of a qualified production.

b. The term does not include any ongoing television program created primarily as news, weather, or financial market reports, a production featuring current events, sporting events, an awards show or other gala event, a production whose sole purpose is fund-raising, a long-form production that primarily markets a product or service, a production used for corporate training or in-house corporate advertising or other similar productions; nor does the term include any production for which records are required to be maintained under 18 U.S.C. §2257 with respect to sexually explicit content; nor does the term mean or include any form of gambling, gaming, wagering, or pari-mutuel wagering activity or enterprise.

(9) QUALIFIED PRODUCTION COMPANY.

a. The term means a company engaged in the business of producing a qualified production, as that term is defined.

b. The term does not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan.

(10) RESIDENT OF ALABAMA. A natural person and, for the purpose of determining eligibility for the incentives provided by this article, any person domiciled in the State of Alabama and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the State of Alabama.

(11) STATE-CERTIFIED PRODUCTION. A qualified production approved by the office, produced by a qualified production company.

(Act 2009-144, p. 268, §3.)

Section 41-7A-43

Rebates for qualified production companies.

(a) Beginning January 1, 2009, a qualified production company shall be entitled to a rebate for production expenditures, as defined in subdivision (7) of Section 41-7A-42, related to a state-certified production. The rebate shall be equal to 25 percent of the state-certified production's production expenditures excluding payroll paid to residents of Alabama plus 35 percent of all payroll paid to residents of Alabama for the state-certified production, provided the total production expenditures for a project must equal or exceed at least five hundred thousand dollars ($500,000), but no rebate shall be available for production expenditures incurred after the first twenty million dollars ($20,000,000) of production expenditures expended in Alabama on a state-certified production.

(b) A single episode in a television series or miniseries may be considered a single production project for purposes of this section. However, in determining the total production expenditures incurred by a qualified production company on a qualified production, the total production expenditures of a television series or miniseries, whether a single season or multiple seasons thereof, to be filmed within a period of 12 consecutive months, each individual episode of which separately and independently meets the definition of a qualified production, may be aggregated to meet the monetary requirements set forth in subsection (a) as long as each individual episode within the series pertains to the same subject as the other episodes in the series.

(c) A single commercial may be considered a single production project for purposes of this section. However, in determining the total production expenditures incurred by a qualified production company on a qualified production, the total production expenditures of a series of commercials to be filmed within a period of 12 consecutive months, each of which separately and independently meets the definition of a qualified production, may be aggregated to meet the monetary requirements set forth in subsection (a) as long as each individual commercial within the series pertains to the same subject as the other commercials in the series and was planned as part of a series of commercials to be filmed within a period of 12 consecutive months at the time the qualified production company applied for the incentives.

(d) A qualified production company shall be entitled to the rebate for production expenditures as provided in subsection (a) for a qualified project that is limited only to the production of a soundtrack used in a motion picture or documentary, provided that the production expenditures for the soundtrack project must equal or exceed at least fifty thousand dollars ($50,000), but no rebate shall be available for production expenditures incurred after the first three hundred thousand dollars ($300,000) of production expenditures expended in Alabama.

(e) A qualified production company shall be entitled to the rebate for production expenditures as provided in subsection (a) for a qualified project that is limited only to the production of a music

video, provided that the production expenditures for the music video equal or exceed fifty thousand dollars ($50,000), but no rebate shall be available for production expenditures incurred after the first two hundred thousand dollars ($200,000) of production expenditures expended in Alabama.

(f) The rebate described in this section may be applied to offset any income tax liability applicable to a qualified production company for the tax year in which production activity in Alabama on the state-certified production concludes.

(g) If the rebate available under this section exceeds a qualified production company's Alabama income tax liability for the tax year in which production activity in Alabama concludes on the state-certified production, the excess of the rebate over a qualified production company's Alabama income tax liability shall be rebated to the qualified production company.

(h) The Commissioner of the Department of Revenue and the office shall promulgate rules necessary to administer this section.

(Act 2009-144, p. 268, §4; Act 2011-695, p. 2123, §1; Act 2012-212, p. 378, §1; Act 2013-34, p. 57, §1.)

Section 41-7A-44

Proprietary and confidential information.

Commercial or financial information given in confidence that is not required to be disclosed pursuant to this article or any other state statute, and trade secrets, including, but not limited to, information relating to formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts, or detailed production budgets shall be treated by the office and the department as proprietary and confidential.

(Act 2009-144, p. 268, §5.)

Section 41-7A-45

Tax exemption - Qualifications.

A qualified production company that intends to expend in the aggregate one hundred fifty thousand dollars ($150,000) or more in connection with a qualified production in the State of Alabama within a consecutive 12-month period, upon making application for, meeting the requirements of, and receiving written certification of that designation from the office, shall be exempted from the payment of the state portion, but not the local portion of sales, use, and lodging taxes levied pursuant to Sections 40-23-2, 40-23-61, and 40-26-1, respectively, on production expenditures expended in Alabama in connection with the state-certified productions. The exemption provided by this section shall not be available for production expenditures incurred by a qualified production company after the first twenty million dollars ($20,000,000) of production expenditures expended in Alabama on a state-certified project.

(Act 2009-144, p. 268, §6; Act 2011-695, p. 2123, §1; Act 2012-212, p. 378, §1.)

Section 41-7A-46

Tax exemptions - Application; issuance of certificates; reporting requirements.

(a) A qualified production company that intends to produce all or any part of a qualified production project in Alabama and desires to be exempted from the payment of state sales, use, and lodging taxes levied pursuant to Sections 40-23-2, 40-23-61, and 40-26-1, respectively, shall provide an estimate of total expenditures expected to be made in Alabama in connection with the production project. The estimate of expenditures shall be filed with the office before the commencement of the project in Alabama.

(b) At the time the qualified production company provides the estimate of expenditures to the department, it also shall designate a member or representative of the company to work with the office and the department on reporting of expenditures and other information necessary to take advantage of the sales, use, and lodging tax exemptions afforded by this article.

(c)(1) An application for the sales, use, and lodging tax exemptions provided in this article may be accepted only from those qualified production companies that report anticipated expenditures in the State of Alabama in the aggregate equal to or exceeding one hundred fifty thousand dollars ($150,000) in connection with the production of one or more qualified production projects in the State of Alabama within a consecutive 12-month period.

(2) The application shall be approved by the office.

(3) Once the application is approved by the office, the department shall issue sales, use, and lodging tax exemption certificates to the qualified production company as evidence of the exemptions. The exemptions are effective on the date the certificate is issued by the department.

(d) A qualified production company that is approved and receives sales, use, and lodging tax exemption certificates, but fails to expend one hundred fifty thousand dollars ($150,000) within a consecutive 12-month period, is liable for the sales, use, and lodging taxes that would have been paid had the approval not been granted; except that the company must be given a 60-day period in which to pay the sales, use, and lodging taxes without incurring penalties. The sales, use, and lodging taxes are considered due as of the date the tangible personal property was purchased in or brought into Alabama for use, storage, or consumption for purposes of state sales and use taxes and due as of the date that lodgings occur for purposes of state lodging taxes.

(e) Upon completion of a qualified production, the company shall return the sales, use, and lodging tax exemption certificates to the department and submit a report to the office of the actual expenditures made in Alabama in connection with the qualified production.

(f) Notwithstanding Act 98-192, the sales and use tax exemption provided for in this article shall only apply to the state sales and use tax.

(Act 2009-144, p. 268, §7.)

Section 41-7A-47

Promulgation of rules.

The department and the office may collectively promulgate rules as are necessary to implement and administer this article.

(Act 2009-144, p. 268, §8.)

Section 41-7A-48

Limitations on incentives.

For the fiscal year ending September 30, 2009, the aggregate cap of incentives granted under this article shall not exceed five million dollars ($5,000,000) for all qualified production companies. For the fiscal year ending September 30, 2010, the aggregate cap of incentives granted under this article shall not exceed seven million five hundred thousand dollars ($7,500,000) for all qualified production companies. For fiscal years ending September 30, 2011, and September 30, 2012, the aggregate cap of incentives granted under this article shall not exceed ten million dollars ($10,000,000) for all qualified production companies. For the fiscal year ending September 30, 2013, the aggregate cap of incentives granted under this article shall not exceed fifteen million dollars ($15,000,000). For the fiscal year ending September 30, 2014, the aggregate cap of incentives granted under this article shall not exceed fifteen million dollars ($15,000,000) and for all subsequent fiscal years thereafter, the aggregate cap of incentives granted under this article shall not exceed twenty million dollars ($20,000,000) for all qualified production companies.

(Act 2009-144, p. 268, §9; Act 2012-212, p. 378, §1.)

Appendix C.3

To view the Administrative Code for the Alabama Film Office Incentives Tax Credit click on the link provided below:

Chapter 281-3-1 Alabama Film Office Incentives

http://www.alabamaadministrativecode.state.al.us/docs/comm/281-3-1.pdf

Appendix D.1

Alabama New Markets Development Act Program

Overview:

Alabama New Market Tax Credits	
Program	New Markets Development Tax Credit
Enacting Legislation	ACT NUMBER 2012-483
CDE Application Process	The applying entity needs to be a CDE for federal purposes and needs to be authorized to serve businesses in Alabama. The CDE shall submit an application to the Department of Commerce to certify a proposed investment as a qualified investment. The qualified community development entity must issue the qualified investment in exchange for cash within 180 days after it receives certification approving an investment as a qualified investment (this includes a 90-day cure period), otherwise the certification is void.
Annual State CAP limits	$20,000,000 of tax credits in any tax year based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years
Transaction CAP limits	A qualified active low income community business may not receive more than a total of $10,000,000 in qualified low income community investments under this program
What is the credit	50 percent of the taxpayer's equity investment
How is the credit claimed	Years 1-0%, Year 2-7: 8.33%
Credit period (compliance)	7 years (same as federal)
QALICB requirements	Same as federal; QALICBs are any for-profit or non-profit corporation or partnership if: i. At least 50% of the total gross income of that business is derived from the active conduct of its business within any QLIC, ii. A substantial portion (defined as at least 40%) of the use of the tangible property of that business (whether owned or leased) is within any QLIC, iii. Substantial portion (defined as at least 40%) of the services performed by that business' employees are performed in any QLIC; the business is not primarily holding collectibles. If (ii) or (iii) are 50% or more than (i) is deemed to have been met.
Recapture	The following events cause recapture: 1) the federal new market tax credits associated with a QEI are recaptured (recapture amount proportionate to the federal recapture); 2) the CDE fails to issue the qualified equity investment in the amount of the certified amount within 90 days after receiving notice of certification, (recapture amount equal to all credits claimed); 180 days reinvestment period permitted after which the certification shall lapse; 3) the qualified community development entity fails to invest at least 85 percent of the purchase price in qualified low-income community investments within 12 months after the issuance of a qualified investment; 4) the CDE redeems or makes a principal payment with respect to a QEI

	prior to the 7th anniversary of a QEI (recapture amount proportionate to the amount of redemption or repayment); 5) the CDE fails to provide the office with information, reports, or documentation required by the New Markets Development Program Act; 6) the department determines that a taxpayer received tax credits to which the taxpayer was not entitled; or 7) The qualified community development entity fails to maintain 85 percent of the purchase price in qualified low-income community investments until the last credit allowance date for a qualified investment. The office shall provide notice to the qualified community development entity and the Department of Revenue or the Department of Insurance, as applicable, of a proposed recapture of a tax credit. The entity shall have 90 days following the receipt of the notice to cure a deficiency identified in the notice and avoid recapture. The final order of recapture shall be provided to the entity, the department, and a taxpayer otherwise authorized to claim the tax credit. Only one correction is permitted for each qualified equity investment during the 7-year credit period. Recaptured funds shall be deposited into the General Revenue Fund.
Other	1) Qualified investment into CDE can be an equity investment or a long-term debt security instrument (and in the case of a long-term debt security QI, “a qualified community development entity may not make cash interest payments on a long-term debt security that is a qualified investment in excess of the entity’s operating income for 6 years following the issuance of the security). 2) An insurance company that is subject to the insurance premium tax must apply the tax credit against the insurance premium tax. 3) The Alabama statute indicates that the Qualified Investment (QEI) is deemed to be state financial assistance and therefore the CDE is subject to auditing, testing and reporting of compliance and internal controls. 4) The amount of the tax credit claimed may not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed; however, the excess tax credits available can be carried forward to any of the taxpayer's subsequent taxable years. 5) Tax credits claimed under this act are not saleable or transferable. 6) Tax credits earned by a "pass-through" entity may be allocated to the partners, members, or shareholders of that entity. 7) Any business that derives or expects to derive 15% or more of its annual revenue from the rental or sale of real estate is not considered a QALICB.

Appendix D.2

Title 41, Chapter 9, Article 8C

- Article 8C Alabama New Markets Development Act.
  - Section 41-9-216 Applicability of article.
  - Section 41-9-217 Short title.
  - Section 41-9-218 Definitions.
  - Section 41-9-219 Tax credit for qualified equity investment.
  - Section 41-9-219.1 Allocation of tax credits.
  - Section 41-9-219.2 Limitation on certifications.
  - Section 41-9-219.3 Application for designation as a qualified equity investment.
  - Section 41-9-219.4 Recapture of tax credit; notice
  - Section 41-9-219.5 Report.
  - Section 41-9-219-6 Examinations; rules; appraisal.
  - Section 41-9-219.7 Exceptions.

Section 41-9-216

Applicability of article.

This article shall only apply to those areas within the State of Alabama which qualify as a "low income community" pursuant to Section 45D of the Internal Revenue Code.

(Act 2012-483, p. 1340, §1.)

Section 41-9-217

Short title.

This article shall be known as the Alabama New Markets Development Act.

(Act 2012-483, p. 1340, §2.)

Section 41-9-218

Definitions.

As used in this article, the following terms shall have the following meanings:

(1) APPLICABLE PERCENTAGE. Zero percent for the first credit allowance date, 8.33 percent for the next six credit allowance dates, for the total of 50 percent.

(2) CREDIT ALLOWANCE DATE. With respect to any qualified equity investment, the date on which such investment is initially made and each of the six anniversary dates of that date thereafter.

(3) DEPARTMENT. The Department of Commerce.

(4) LONG-TERM DEBT SECURITY. Any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period prior to giving effect to the expense of such cash interest payments. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this article or Section 45D of the Internal Revenue Code of 1986, as amended.

(5) PURCHASE PRICE. The amount paid to the issuer of a qualified equity investment for that qualified equity investment.

(6) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS. The same meaning given that term in Section 45D(d)(2) of the Internal Revenue Code of 1986, as amended. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time the qualified community development entity makes the investment or loan, that the business may continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(7) QUALIFIED COMMUNITY DEVELOPMENT ENTITY. The same meaning given that term in Section 45D of the Internal Revenue Code of 1986, as amended; provided, that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the State of Alabama within the service area set forth in that allocation agreement. The term shall include affiliated entities and subordinate community development entities of any such qualified community development entity.

(8) QUALIFIED EQUITY INVESTMENT. Any equity investment in, or long-term debt security issued by, a qualified community development entity that does all of the following:

a. Is acquired after August 1, 2012, at its original issuance solely in exchange for cash.

b. Has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in the State of Alabama by the first anniversary of the issuance of the qualified equity investment.

c. Is designated by the issuer as a qualified equity investment under this article and is certified by the department as not exceeding the limitation contained in Section 41-9-219.2. This term includes any qualified equity investment that does not meet the provisions of paragraph a., if the investment was a qualified equity investment in the hands of a prior holder.

(9) QUALIFIED LOW-INCOME COMMUNITY INVESTMENT. Any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in that business, on a collective basis with all of its affiliates that may be counted towards the satisfaction of subdivision (8), shall be ten million dollars ($10,000,000) whether issued by one or several qualified community development entities.

(10) TAX CREDIT. A credit against the state-distributed portion of the tax otherwise due under Section 27-4A-3, 27-3-29, 40-16-4, 40-18-5, or 40-18-31. A taxpayer claiming a credit against state premium tax liability earned through a qualified equity investment is not required to pay any additional retaliatory tax levied by law as a result of claiming that credit.

(11) TAXPAYER. Any individual or entity subject to the tax imposed in Section 27-4A-3, 27-3-29, 40-16-4, 40-18-5, or 40-18-31.

(Act 2012-483, p. 1340, §3.)

Section 41-9-219

Tax credit for qualified equity investment.

The purchaser of the qualified equity investment, or subsequent holder of the qualified equity investment, earns a vested right to a tax credit and shall be entitled to utilize a portion of such tax credit during the taxable year including that credit allowance date equal to the applicable percentage for such credit allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

(Act 2012-483, p. 1340, §4.)

Section 41-9-219.1

Allocation of tax credits.

Tax credits claimed under this article shall not be saleable or transferable. Tax credits earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity for their direct use in accordance with the provisions of any agreement among the partners, members, or shareholders. Any amount of tax credit that the taxpayer, or partner, member, or shareholder thereof, is

prohibited from claiming in a taxable year may be carried forward to any of the taxpayer's subsequent taxable years.

(Act 2012-483, p. 1340, §5.)

Section 41-9-219.2

Limitation on certifications.

Once the department has certified a cumulative amount of qualified equity investments that can result in the utilization of twenty million dollars ($20,000,000) of tax credits in any tax year, the department may not certify any more qualified equity investments under Section 41-9-219.3. This limitation shall be based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

(Act 2012-483, p. 1340, §6.)

Section 41-9-219.3

Application for designation as a qualified equity investment.

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this article shall apply to the department. The qualified community development entity shall submit an application on a form that the department provides that includes all of the following:

(1) The name, address, tax identification number of the entity, and evidence of the entity's certification as a qualified community development entity.

(2) A copy of any allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund.

(3) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund.

(4) A description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security.

(5) The name and tax identification number of any taxpayer eligible to utilize tax credits earned as a result of the issuance of the qualified equity investment.

(6) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment.

(7) A nonrefundable application fee of five thousand dollars ($5,000). This fee shall be paid to the department and shall be required of each application submitted.

(b) The department shall review the application and shall independently verify that the above requirements in subsection (a) have been met.

(c) Within 60 days after receipt of a completed application containing the information necessary for the department to certify a potential qualified equity investment, including payment of the application fee, the department shall grant or deny the application in full or in part. If the department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the department and otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application shall remain denied and shall be resubmitted in full with a new submission date.

(d) If the application is deemed complete, the department shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for tax credits under this section, subject to the limitations contained in Section 41-9-219.2. The department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the taxpayers who are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to Section 41-9-219.1, the qualified community development entity shall notify the department of the change.

(e) The department shall establish a date on which it shall first accept applications to certify qualified equity investments which shall be no later than September 1, 2012. The department shall certify applications in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(f) Once the department has certified qualified equity investments that, on a cumulative basis, equal the total allowable tax credits under Section 41-9-219.2, the department may not certify any more qualified equity investments. If a pending request cannot be fully certified, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(g) Within 90 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment in the amount of the certified amount. The qualified community development entity shall provide the department with evidence of the receipt or issuance of the qualified equity investment, or both, within 30 business days after receipt or issuance, or both. If the qualified community development entity does not issue the qualified equity investment within 180 days following receipt of the certification notice, the

certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses shall revert to the department and may be reissued only in accordance with the application process outlined in this section.

(Act 2012-483, p. 1340, §7.)

Section 41-9-219.4

Recapture of tax credit; notice

(a) The Department of Revenue shall recapture, from the taxpayer that claimed or is entitled to claim the credit on a return, the tax credit allowed under this article if, at any time during the seven-year period beginning on the date of the original issue to the qualified equity investment in a qualified community development entity, one of the following occurs:

(1) Where any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this article is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended, the Department of Revenue's recapture shall be proportionate to the federal recapture with respect to that qualified equity investment, and may then reallocate the recaptured credits to other qualified taxpayers in the year of recapture, without regard for the annual allocation limitation found in Section 41-9-219.2.

(2) The Department of Revenue shall recapture any allocated tax credit where the issuer fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments in the State of Alabama within 12 months of the issuance of the qualified equity investment and fails to maintain such level of investment in qualified low-income community investments in Alabama until the last credit allowance date for the qualified equity investment. An investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment in this state within 12 months of the receipt of that capital. An issuer shall not be required to reinvest capital returned from low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance.

(3) Subject to the reinvestment provisions to avoid recapture in subdivision (2), the issuer shall redeem or make principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. The department's recapture shall be proportionate to the amount of the redemption or repayment with respect to such qualified equity investment.

(b) The Department of Revenue shall provide notice in accordance with the procedures outlined in Section 40-2A-7, to the qualified community development entity of any proposed preliminary assessment of recapture of tax credits pursuant to this article. The entity shall have 90 days to

cure any deficiency indicated in the Department of Revenue's preliminary assessment and avoid recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the Department of Revenue shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final assessment of recapture in accordance with the procedures stated in Section 40-2A-7. Any tax credit for which a final assessment has been issued may be recaptured by the Department of Revenue from the taxpayer who claimed the tax credit on a tax return in accordance with the Taxpayers' Bill of Rights and the Uniform Revenue Procedures contained in Chapter 2A of Title 40.

(Act 2012-483, p. 1340, §8.)

Section 41-9-219.5

Report.

(a) On or before the 30th day prior to the third and sixth anniversaries of the issuance of each qualified equity investment, the issuer of such qualified equity investment shall submit a report on a form that the department provides that includes all of the following:

(1) The name, address, and tax identification number of the issuer.

(2) The name, address, and tax identification number of any qualified active low-income community businesses in which the qualified community development has made qualified low-income community investments.

(3) A certificate executed by an executive officer of the issuer attesting to the number of qualified jobs and corresponding payroll created at the qualified active low-income community business, the average of the salaries of such jobs, and the date each job was created and, if applicable, terminated.

(4) A certificate executed by an executive officer of the issuer attesting to all of the following:

a. The value of buildings and commercial real estate, as recorded in the balance sheet of the qualified active low-income community business.

b. State, county, and municipal sales, use, income, and property taxes paid, as recorded in the financial statement of the qualified active low-income community business.

(5) Further information supporting the creation of such jobs as the department shall request.

(b) The department shall review the report and conduct other investigations as it deems necessary or appropriate to determine if standards have been met on or prior to the third and sixth anniversary of the issuance of the qualified equity investment.

(Act 2012-483, p. 1340, §9.)

Section 41-9-219-6

Examinations; rules; appraisal.

(a) The department may conduct examinations to verify that the tax credits under this article have been received and applied according to the requirements of this article and to verify that no event has occurred that would result in a recapture of tax credits under Section 41-9-219.4.

(b) The department and the Department of Revenue shall prescribe such rules as may be appropriate to carry out their respective duties under this section and may issue advisory letters to individual qualified community development entities and their investors that are limited to the specific facts outlined in an advisory letter request from a qualified community development entity. The rulings cannot be relied upon by any person or entity other than the qualified community development entity that requested the letter and the taxpayers that are entitled to any tax credits generated from investments in the entity.

(c) In rendering advisory letters and making other determinations under this article, to the extent applicable, the department and the Department of Revenue shall look for guidance to Section 45D of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder.

(d) If the qualified equity investment in the qualified active low-income community business is used for the development of real estate in the taxable year in which a tax credit has been allocated to a taxpayer and the real estate is placed in service, the qualified community development entity shall deliver to the department an appraisal prepared by an independent MAI designated and licensed real estate appraiser that includes a valuation and description of the improvements. The department shall provide a copy of the appraisal to the taxing authority responsible for the assessment of ad valorem taxes. Upon notification, the taxing authority responsible for the assessment of ad valorem taxes shall complete a new assessment for the real estate to be used in the assessment of ad valorem taxes for the tax year in which the real estate was placed in service.

(Act 2012-483, p. 1340, §10.)

Section 41-9-219.7

Exceptions.

Notwithstanding the foregoing, no landfill or dump, regardless of nature, toxic substance, trash, waste, household, chemical, or otherwise, shall qualify for any tax credit permitted by this article.

(Act 2012-483, p. 1340, §11.)

Appendix D.3

To view the Administrative Code for the Alabama New Markets Development Program click on the link provided below:

Chapter 281-5-1 Alabama New Markets Development Program

http://www.alabamaadministrativecode.state.al.us/docs/comm/281-5-1.pdf