

1 SB400  
2 140013-3  
3 By Senators Reed and Allen  
4 RFD: Finance and Taxation General Fund  
5 First Read: 15-MAR-12

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 To amend Act 2011-709 of the 2011 Regular Session,  
12 now appearing as Section 40-9B-13, Code of Alabama 1975, to  
13 provide further protection of tax abatements in the event  
14 properties are damaged or destroyed by natural disasters.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Act 2011-709 of the 2011 Regular Session,  
17 now appearing as Section 40-9B-13, Code of Alabama 1975, is  
18 amended to read as follows:

19 "§40-9B-13.

20 "(a) This section shall be known as the ~~Tornado~~  
21 Disaster Recovery Tax Incentive Protection Act of 2011.

22 "(b) For the purposes of this act, the following  
23 terms shall have the following meanings:

24 "(1) DISASTER REPLACEMENT PROPERTY. Private use  
25 industrial property obtained by a private user to repair or  
26 replace private use industrial property on which tax  
27 abatements were in existence at the time of a natural

1 disaster, that was damaged or destroyed by the natural  
2 disaster.

3 "(2) GOVERNING BODY. The governing body of a  
4 municipality, a county, or a public industrial authority which  
5 may grant tax abatements with respect to private use  
6 industrial property under Section 40-9B-4, subject to the  
7 geographical or jurisdictional or other limitations of Section  
8 40-9B-5.

9 "(3) NATURAL DISASTER. A catastrophe caused by  
10 nature, or regardless of cause, a fire, flood, or explosion,  
11 which is declared by the President of the United States or the  
12 Governor of the State of Alabama to be a major disaster.

13 "(4) REPLACED PROPERTY. Private use industrial  
14 property that was damaged or destroyed by a natural disaster,  
15 and on which tax abatements were in existence at the time of  
16 the disaster.

17 "(b) (c) Tax abatements that may otherwise be  
18 granted pursuant to this chapter shall not be subject to  
19 disqualification solely because the underlying transactions or  
20 property relate to the repair or replacement of property  
21 damaged in the devastating tornado outbreaks of April 15 and  
22 April 27, 2011, by a natural disaster and not to new  
23 construction. This expansion of Alabama's abatement law  
24 applies to transactions entered into or property acquired  
25 before December 31, 2012 after the tornado outbreaks of April  
26 2011. Ad valorem tax abatements in existence on April 15 or  
27 April 27, 2011 prior to the onset of a natural disaster, shall

1 not be disallowed due to an interruption of a qualifying  
2 business activity at the site ~~lasting through October 1, 2011,~~  
3 ~~and~~ directly attributable to the ~~tornadoes of April 15 and~~  
4 ~~April 27, 2011~~ natural disaster.

5 "(d) Any tax abatements granted on replaced property  
6 shall continue to apply to disaster replacement property  
7 obtained by a private user if any of the following conditions  
8 are met:

9 "(1) Where such disaster replacement property is  
10 located at a different site than the replaced property, but  
11 not within the jurisdiction of a different governing body,  
12 then no new approval of the governing body shall be required  
13 to transfer the previously granted tax abatements on the  
14 replaced property to the disaster replacement property so long  
15 as the cost of the disaster replacement property does not  
16 exceed the cost of the replaced property by more than 25  
17 percent. However, the private user shall provide written  
18 notice to the abatement granting authority, to the assessing  
19 official of the county where the property is located, and to  
20 the Department of Revenue of the change in location of the  
21 private use industrial property or the disaster replacement  
22 property not later than the first October 1 following the  
23 effective date of this act or the first October 1 following  
24 the change in location of such property, whichever is later.  
25 The user shall also file the appropriate tax returns on  
26 October 1 of that year and each year thereafter, as required  
27 by law.

1           "(2) Where disaster replacement property is located  
2 within the jurisdiction of a governing body different from the  
3 replaced property, then the private user shall obtain the  
4 approval from the appropriate governing body for the  
5 continuation of the ad valorem tax abatement, with such  
6 approval to be requested in accordance with Sections 40-9B-5  
7 and 40-9B-6.

8           "(3) If the cost of the disaster replacement  
9 property exceeds the cost of the replaced property by more  
10 than 25 percent, then the private user shall obtain governing  
11 body approval under the procedures outlined in Sections  
12 40-9B-5 and 40-9B-6 for the abatement of any taxes on the  
13 amount of the investment that is greater than 25 percent more  
14 than the cost of the replaced property. No new approval is  
15 required on the amount of the new investment not greater than  
16 25 percent more than the cost of the replaced property,  
17 provided that no new governing body is affected by such  
18 continuation of the tax abatements."

19           Section 2. This amendment of the Disaster Recovery  
20 Tax Incentive Protection Act of 2011 applies to transactions  
21 entered into or disaster replacement property acquired after  
22 the tornado outbreaks of April 2011. Ad valorem tax abatements  
23 in existence prior to a natural disaster shall not be  
24 disallowed due to an interruption of a qualifying business  
25 activity at the site of the replaced property.

26           Section 3. Although this bill would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621, now  
3 appearing as Section 111.05 of the Official ReCompilation of  
4 the Constitution of Alabama of 1901, as amended, because the  
5 bill comes within one of the specified exceptions contained in  
6 the amendment.

7 Section 4. The provisions of this act are severable.  
8 If any part of this act is declared invalid or  
9 unconstitutional, that declaration shall not affect the part  
10 which remains.

11 Section 5. All laws or parts of laws which conflict  
12 with this act are repealed.

13 Section 6. This act shall become retroactively  
14 effective on April 15, 2011, following its approval by the  
15 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Finance and Taxation General Fund ... 15-MAR-12

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 12-APR-12

Read for the third time and passed as amended .... 19-APR-12

Yeas 31  
Nays 0

Patrick Harris  
Secretary