

1 HB34  
2 170771-1  
3 By Representative Beech  
4 RFD: Ways and Means General Fund  
5 First Read: 03-AUG-15

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8 SYNOPSIS: Under current law, all entities doing  
9 business or registered to do business in Alabama,  
10 have an annual filing obligation for Business  
11 Privilege Tax. The Business Privilege Tax is  
12 calculated based on an entity's net worth,  
13 apportioned to Alabama. There is a minimum of \$100  
14 Business Privilege Tax imposed annually on all  
15 entities subject to this tax. Currently, most  
16 taxpayers have an annual maximum Business Privilege  
17 Tax due of \$15,000. The Business Privilege Tax rate  
18 is determined by the taxpayer's federal taxable  
19 income, apportioned to Alabama.

20 In addition, under current law, the Business  
21 Privilege Tax due date for financial institutions  
22 is March 15. The Alabama Excise Tax return filed by  
23 financial institutions is due April 15. Taxpayers  
24 often need to extend the filing date of the  
25 Business Privilege Tax in order to have complete  
26 information not available until the financial  
27 institution Excise Tax return is completed. All

1 other entity types have corresponding due dates for  
2 both the Business Privilege Tax and the Alabama  
3 Income Tax return.

4 This bill will increase the annual maximum  
5 amount of Business Privilege Tax due from \$15,000  
6 to \$25,000. In addition, this bill updates the tax  
7 rate schedule to eliminate the .00025 tax rate. The  
8 Business Privilege Tax rate will now be determined  
9 based on the taxpayer's amount of Alabama taxable  
10 net worth. Taxpayers that have less than \$10,000 in  
11 Alabama taxable net worth will be relieved from  
12 their Business Privilege Tax filing obligation.

13 This bill amends the Business Privilege Tax  
14 due date for taxpayers subject to the financial  
15 institution Excise Tax from March 15 to April 15,  
16 to provide for corresponding tax return due dates  
17 for financial institutions.

18 In addition, Section 12 of Act 99-665, as  
19 amended by Act 2000-705, is codified by this bill  
20 as part of Section 40-14A-22. Other technical  
21 corrections from these acts are also codified by  
22 this bill.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1           To increase the annual maximum amount of Business  
2 Privilege Tax due from \$15,000 to \$25,000; to update the tax  
3 rate schedule to eliminate the .00025 tax rate and to  
4 determine the tax rates based on net worth for all taxpayers;  
5 to relieve taxpayers that have less than \$10,000 in Alabama  
6 taxable net worth from their Business Privilege Tax filing  
7 obligation; to amend the Business Privilege Tax due date for  
8 taxpayers subject to the financial institution Excise Tax from  
9 March 15 to April 15, to provide for corresponding tax return  
10 due dates for financial institutions; and to codify Section 12  
11 of Act 99-665, as amended by Act 2000-705, as part of Section  
12 40-14A-22.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14           Section 1. Sections 10A-2-16.22, 40-14A-22, and  
15 40-14A-25 are hereby amended to read as follows:

16           "§10A-2-16.22.

17           "(a) Each domestic corporation, and each foreign  
18 corporation authorized to transact business in this state,  
19 shall deliver to the Secretary of State for filing an annual  
20 report that sets forth:

21           "(1) The name of the corporation and the state or  
22 other jurisdiction under whose law it is incorporated;

23           "(2) The address of its registered office and the  
24 name of its registered agent at that office in this state;

25           "(3) The address of its principal office including,  
26 in the case of a foreign corporation, the address of its

1 principal office in the state or other jurisdiction under  
2 whose law it is incorporated;

3 "(4) The names and respective addresses of its  
4 president and secretary; and

5 "(5) A brief statement of the character of business  
6 in which it is actually engaged in this state.

7 "(b) Information in the annual report must be  
8 current as of the date the annual report is executed on behalf  
9 of the corporation.

10 "(c) The first annual report must be delivered to  
11 the Secretary of State between January 1 and March 15 of the  
12 year following the calendar year in which a domestic  
13 corporation was incorporated or a foreign corporation was  
14 authorized to transact business. Subsequent annual reports  
15 must be delivered to the Secretary of State between January 1  
16 and March 15 of the following calendar years.

17 "(d) If an annual report does not contain the  
18 information required by this section, the Secretary of State  
19 shall promptly notify the reporting domestic or foreign  
20 corporation in writing and return the report to it for  
21 correction. If the report is corrected to contain the  
22 information required by this section and delivered to the  
23 Secretary of State within 30 days after the effective date of  
24 notice, it is deemed to be timely filed.

25 ~~"(e) The public record information filed with the~~  
26 ~~Department of Revenue, pursuant to Chapter 14A of Title 40~~  
27 ~~shall constitute and be accepted in lieu of the annual report~~

1 ~~required pursuant to this section, provided that a~~ A ten  
2 dollar (\$10) fee for the State of Alabama shall accompany the  
3 public record information filed by the corporation annually  
4 with the ~~Department of Revenue~~ Secretary of State. The fee for  
5 the annual report shall be deposited in the State Treasury to  
6 the credit of the Secretary of State Entity Fund as prescribed  
7 by Section 10A-1-4.31.

8 "§40-14A-22.

9 "(a) Levy of tax. There is hereby levied an annual  
10 privilege tax on every corporation, limited liability entity,  
11 and disregarded entity doing business in Alabama, or  
12 organized, incorporated, qualified, or registered under the  
13 laws of Alabama. The tax shall accrue as of January 1 of every  
14 taxable year, or in the case of a taxpayer organized,  
15 incorporated, qualified, or registered during the year, or  
16 doing business in Alabama for the first time, as of the date  
17 the taxpayer is organized, incorporated, registered, or  
18 qualifies to do business, or begins to do business in Alabama,  
19 as the case may be. The taxpayer shall be liable for the tax  
20 levied by this article for each year beginning before the  
21 taxpayer has been dissolved or otherwise ceased to exist or  
22 has withdrawn or forfeited its qualification to do business in  
23 Alabama. The amount of the tax due shall be determined by  
24 multiplying the taxpayer's net worth in Alabama by the rate  
25 determined in subsection (b).

26 "(b) Rate of tax. ~~For all taxable years of taxpayers~~  
27 ~~that begin after December 31, 1999,~~ (1) With respect to any

1 insurance company that is subject to the premium taxes levied  
2 by Chapter 4A of Title 27, the rate of tax shall be as set  
3 forth below.

4 If taxable income of  
5 the taxpayer is:

	at least	but less than	The tax rate shall be
6			
7		\$1	\$0.25 per \$1,000
8	\$1	\$200,000	\$1.00 per \$1,000
9	\$200,000	\$500,000	\$1.25 per \$1,000
10	\$500,000	\$2,500,000	\$1.50 per \$1,000
11	\$2,500,000		\$1.75 per \$1,000

12 "(2) Except as provided in subsection (b)(1), for  
13 all tax returns due after December 31, 2015, the rate of tax  
14 shall be as set forth below.

15 If Alabama taxable net  
16 worth is:

	<u>at least</u>	<u>but less than</u>	<u>The tax rate shall be</u>
17			
18		<u>\$10,000</u>	<u>\$0. No Filing Re-</u> <u>quirement</u>

1	<u>\$10,000</u>	<u>\$80,000</u>	<u>\$100 Minimum Tax</u>
2	<u>\$80,000</u>	<u>\$500,000</u>	<u>\$1.25 per \$1,000</u>
3	<u>\$500,000</u>	<u>\$2,500,000</u>	<u>\$1.50 per \$1,000</u>
4	<u>\$2,500,000</u>		<u>\$1.75 per \$1,000</u>

5                   "(c) Exemption.

6                   "(1) For purposes of this section, Alabama taxable  
7 net worth will be computed in the manner prescribed by this  
8 Chapter.

9                   "(2) All entities, subject to the tax levied in  
10 Title 40, Chapter 14A, with Alabama taxable net worth less  
11 than \$10,000 are relieved from filing an annual Business  
12 Privilege Tax return and the associated tax liability.

13                   "~~(c)~~ (d) Minimum tax. Except as provided in  
14 subsection ~~(f)~~ (g), the privilege tax levied by this article  
15 on certain corporations, business trusts, limited liability  
16 entities, and disregarded entities shall not be less than  
17 \$100.

18                   "~~(d)~~ (e) Maximum tax.

19                   "(1) Except as provided in subdivision (2), the  
20 privilege tax levied by this article shall not exceed \$15,250  
21 \$25,000 for any taxpayer for the taxable year beginning  
22 January 1, 2000. For each taxable year thereafter, the maximum  
23 tax shall not exceed \$15,000 for any taxpayer, except as  
24 provided in subdivision (2).



1           "(2) With respect to any (i) financial institution  
2 groups as defined in subsection ~~(f)~~ (g) (1); (ii) insurance  
3 company that is subject to the premium taxes levied by Chapter  
4 4A of Title 27; and (iii) corporation, company, limited  
5 liability entity, or association whose property is assessed  
6 for taxation pursuant to the provisions of Chapter 21 and is  
7 also obligated to serve the general public, but is not subject  
8 to the Alabama Corporate Income tax, the privilege tax levied  
9 by this article shall not exceed \$3,000,000, for any taxpayer  
10 or, for a financial institution group, for the financial  
11 institution group as a whole each year except as provided in  
12 subsection ~~(e)~~ (f). ~~With respect to any real estate investment~~  
13 ~~trust as defined in Chapter 13 of Title 10, the privilege tax~~  
14 ~~levied by this article shall not exceed \$500,000, for any~~  
15 ~~taxpayer each year except as provided in subsection (e).~~ The  
16 privilege tax levied by this article on any electing family  
17 limited liability entity shall not exceed \$500.

18           "The privilege tax levied by this article on any  
19 corporation organized as a not-for-profit corporation that  
20 does not engage in any business other than holding title to  
21 property and paying the expenses thereof, including, without  
22 limitation, a property owners' association or a corporation  
23 organized solely to hold title to property on a temporary  
24 basis, shall not exceed \$100.

25           "~~(e)~~ (f) Short taxable years. If any taxpayer's  
26 taxable year is less than 12 months because the taxpayer ~~is~~  
27 ~~incorporated or organized within the taxable year, or if any~~

1 ~~foreign corporation or foreign limited liability entity~~  
2 ~~qualifies, registers, or begins to do business in this state~~  
3 ~~within the taxable year or~~ converts to a taxable year other  
4 than the calendar year, the amount of the tax levied by this  
5 article shall be determined in the manner specified in this  
6 article but apportioned to the short taxable year in same  
7 proportion as the number of days in the short taxable year  
8 bears to 365, but in no event less than \$100 nor more than the  
9 applicable amount specified in subsection ~~(d)~~ (e).

10 " ~~(f)~~ (g) Minimum taxes for financial institution  
11 groups.

12 "(1) For purposes of this subsection, the following  
13 terms shall mean:

14 "a. Affiliated Group. (i) One or more chains of  
15 corporations or limited liability entities connected through  
16 the ownership of stock or ownership interests with a common  
17 parent which is a corporation or limited liability entity, but  
18 only if the common parent owns directly stock or ownership  
19 interests meeting the requirements of item (ii) in at least  
20 one of the other corporations or limited liability entities,  
21 and only if stock or ownership interests meeting the  
22 requirements of item (ii) in each of the corporations or  
23 limited liability entities (except the common parent) is owned  
24 directly by one or more of the other corporations or limited  
25 liability entities. (ii) The ownership of stock or ownership  
26 interests of any corporation or limited liability entity meets  
27 the requirements of this paragraph if it possesses at least 80

1 percent of the total voting power or capital and profits  
2 interest of the corporation or limited liability entity.

3 "b. Financial Institution. The meaning given in  
4 Section 40-16-1.

5 "c. Financial Institution Group. All taxpayers in an  
6 affiliated group where at least one member of the group is a  
7 financial institution that is subject to the provisions of  
8 Chapter 16. In the event a financial institution taxpayer is  
9 not a member of an affiliated group, that financial  
10 institution shall be treated as a financial institution group.

11 "(2) To the extent that the members of a financial  
12 institution group have different taxable years, the group  
13 shall be deemed, for purposes of the business privilege tax  
14 ~~and corporate shares tax~~ levied by ~~Articles 2 and 3~~ Article 2,  
15 to have a calendar taxable year.

16 "(3) Taxpayers who are members of a financial  
17 institution group shall complete their ~~corporate shares tax~~  
18 ~~and~~ business privilege tax returns without regard to this  
19 subsection. Those taxpayers shall submit their returns  
20 together, and the minimum tax amount provided in subdivision  
21 (5) shall apply to the aggregate business privilege tax ~~and~~  
22 ~~corporate shares tax~~ liability of the group. To the extent  
23 that the minimum amount provided in subdivision (5) applies to  
24 determine the liability of the group, each taxpayer which is a  
25 member of the group shall be liable for that portion of the  
26 group liability which is equal to the amount multiplied by the  
27 ratio of the taxpayer's liability without regard to this

1 subsection over the liability of the group without regard to  
2 this subsection. Upon the annual election of the common  
3 parent, a financial institution group may file a single  
4 return, executed by the common parent of that financial  
5 institution group. The return shall be completed as if the  
6 financial institution group were a single taxpayer. Each  
7 member of the financial institution group shall be jointly and  
8 severally liable for the group's business privilege tax and  
9 corporate shares tax liabilities.

10 ~~"(4) For the taxable year beginning January 1, 2000,~~  
11 ~~the tax returns of all members of a financial institution~~  
12 ~~group shall be due July 10, 2000. For taxable years beginning~~  
13 ~~after December 31, 2000, the tax returns for all members of a~~  
14 ~~financial institution group shall be due March 15 of the~~  
15 ~~taxable year. The tax returns for all members of a financial~~  
16 ~~institution group shall be due no later than three and one~~  
17 ~~half months after the beginning of the taxable year.~~

18 Extensions for filing these returns shall not be granted  
19 ~~beyond September 15 of the taxable year for more than six~~  
20 ~~months. For the return due July 10, 2000, any corporate shares~~  
21 ~~taxes and business privilege taxes accrued and paid by any~~  
22 ~~member of the financial institution group before July 10,~~  
23 ~~2000, shall be applied against the minimum tax amount provided~~  
24 ~~in subdivision (5).~~

25 "(5) For taxable years beginning on or after January  
26 1, 2000, the minimum aggregate business privilege and

1 ~~corporate shares taxes~~ tax levied by ~~Articles 2 and 3~~ Article  
2 2 on all members of a financial institution group shall be:

3 "a. For financial institutions with total deposits  
4 inside Alabama of less than one billion dollars  
5 (\$1,000,000,000) within that financial institution group, as  
6 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
7 immediately preceding taxable year, the tax rate shall be  
8 \$.125 per one thousand dollars (\$1,000) of such deposits. For  
9 deposit rate purposes for all future periods, the deposits  
10 shall in no event be less than the deposits listed as of June  
11 30, 1999.

12 "b. For financial institutions with total deposits  
13 inside Alabama of one billion dollars (\$1,000,000,000) or  
14 greater up to and including six billion dollars  
15 (\$6,000,000,000) within that financial institution group, as  
16 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
17 immediately preceding taxable year, the tax rate shall be \$.17  
18 per one thousand dollars (\$1,000) of such deposits. For  
19 deposit rate purposes for all future periods, the deposits  
20 shall in no event be less than the deposits listed as of June  
21 30, 1999.

22 "c. For financial institutions with total deposits  
23 inside Alabama greater than six billion dollars  
24 (\$6,000,000,000) within that financial institution group, as  
25 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
26 immediately preceding taxable year, the tax rate shall be  
27 \$.225 per one thousand dollars (\$1,000) of such deposits. For

1 deposit rate purposes for all future periods, the deposits  
2 shall in no event be less than the deposits listed as of June  
3 30, 1999.

4 "d. Provided, however, that in the case of a  
5 financial institution group that, as of June 30, 1999, (i) had  
6 total deposits of less than one billion dollars  
7 (\$1,000,000,000) and (ii) derived at least a majority of its  
8 deposits, as reported to FDIC, OTS, or NCUSIF, that were  
9 booked to one or more branches or offices located within  
10 Alabama from account holders whose addresses of record on the  
11 books of the financial institution group were outside the  
12 State of Alabama, the phrase "total deposits in Alabama," for  
13 purposes of calculating the minimum aggregate business  
14 privilege ~~and shares tax~~ levied by ~~Articles 2 and 3~~ Article 2  
15 for all taxable years beginning on and after January 1, 2000,  
16 shall only include deposits of account holders whose addresses  
17 of record on the books of the financial institution group are  
18 inside the State of Alabama.

19 "e. In the event a financial institution group sells  
20 Alabama deposits to another financial institution group that  
21 reports those deposits in Alabama for purposes of Act  
22 2000-705, those deposits shall not be taxed more than once  
23 pursuant to the provisions of Act 2000-705 in the same taxable  
24 year. The liability for such taxes shall be the responsibility  
25 of the purchaser, and the tax base for the selling group shall  
26 be adjusted accordingly.

1            "f. In the event an existing financial institution  
2 group reports deposits in any year less than 96.5 percent of  
3 the deposits reported as of June 30, 1999, the alternative  
4 minimum tax shall be based on the deposits reported as of June  
5 30, 1999. In the event an existing financial institution group  
6 reports deposits in any year more than 96.5 percent of the  
7 deposits reported as of June 30, 1999, the alternative minimum  
8 tax shall be based on the deposits reported for that taxable  
9 year. For financial institutions coming into existence after  
10 June 30, 1999, the deposits upon which the alternative minimum  
11 tax is based shall not be less than the deposits reported the  
12 first full year that financial institution reported deposits  
13 to the FDIC, OTS, or NCUSIF.

14            "§40-14A-25.

15            "(a) Every taxpayer shall file a privilege tax  
16 return, ~~which shall include the public record disclosures~~  
17 ~~required by Section 10-2B-16.22,~~ with the department for every  
18 taxable year for which it is subject to the tax levied by this  
19 article, except those exempt under 40-14A-22(c). A disregarded  
20 entity that is owned by an individual, general partnership, or  
21 other entity not subject to the tax levied by this article  
22 shall file a return and pay the tax levied on it by this  
23 article. Except as provided in ~~Section 40-14A-22(f) (4)~~  
24 Section 40-14A-22(g) (4), ~~the return is due not later than~~  
25 ~~March 15 of the taxable year for all taxpayers except limited~~  
26 ~~liability entities for which the due date of the return shall~~  
27 ~~be April 15 of the taxable year, or, in the case of a~~

1 ~~taxpayer's initial return, 30 days after the taxpayer comes~~  
2 ~~into existence, qualifies or registers to do business, or~~  
3 ~~commences doing business in Alabama as the case may be. For~~  
4 ~~all taxable years beginning after December 31, 2000, a~~  
5 corporation shall file the return required by this section not  
6 later than two and one-half months after the beginning of the  
7 corporation's taxable year; a limited liability entity shall  
8 file the return required by this section not later than three  
9 and one-half months after the beginning of the limited  
10 liability entity's taxable year; and a disregarded entity that  
11 is required to file a return by this section shall file the  
12 return not later than the time its owner is required to file  
13 its return. ~~If a taxpayer is required to change its taxable~~  
14 ~~year pursuant to the previous sentence, then it shall file a~~  
15 ~~return for the short taxable year beginning January 1, 2001,~~  
16 ~~and ending on the day before the beginning of its new taxable~~  
17 ~~year, and the return shall be filed not later than two and~~  
18 ~~one-half months, if a corporation, and three and one-half~~  
19 ~~months, if a limited liability entity, after the beginning of~~  
20 ~~its new taxable year.~~ In cases where receivers, trustees in  
21 bankruptcy, or assignees are operating the property or  
22 business of taxpayers, those receivers, trustees, or assignees  
23 shall file returns for the taxpayers in the same manner and  
24 form as the taxpayers are required to file returns. Any tax  
25 due on the basis of returns filed by receivers, trustees, or  
26 assignees shall be collected in the same manner as if  
27 collected from the taxpayers for whose business or property



1 they have custody and control. The department may grant a  
2 reasonable extension of time for filing returns under rules  
3 and regulations prescribed by the department. No extension  
4 shall be for more than six months.

5 "(b) The tax provided in this article shall be  
6 reported on forms and in the manner as prescribed by the  
7 department. The failure to receive a form from the department  
8 shall not relieve a taxpayer from liability for any tax,  
9 penalty, or interest otherwise due. The tax due, as reported,  
10 shall constitute an admitted liability for that amount. The  
11 department may compute and assess additional tax, penalty, and  
12 interest against a taxpayer as provided in Chapter 2A.  
13 Interest on overpayments of business privilege tax will be  
14 computed and paid in the manner provided in Section  
15 40-1-44(b)(1)b.

16 "(c) A corporation that is a member of an Alabama  
17 affiliated group that has elected to file a consolidated  
18 return pursuant to Section 40-18-39 or Section 40-16-3(b), if  
19 it is subject to the tax imposed by this article, shall file a  
20 separate return reporting and paying tax on its net worth  
21 without regard to other members of the affiliated group."

22 Section 2. All laws or parts of laws which conflict  
23 with this act are hereby repealed. Section 12 of Act 99-665,  
24 as amended by Act 2000-705, is not repealed by this act.

25 Section 3. The provisions of this act are severable.  
26 If any part of this act is declared invalid or

1       unconstitutional, that declaration shall not affect the part  
2       that remains.

3                 Section 4. This act shall become effective for all  
4       Business Privilege Tax returns due after December 31, 2015,  
5       following its passage and approval by the Governor or upon its  
6       otherwise becoming law.