

1 HB263  
2 181861-4  
3 By Representatives Johnson (K), Butler, Collins, Nordgren,  
4 Blackshear, Martin and Coleman  
5 RFD: Financial Services  
6 First Read: 16-FEB-17

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To amend Section 40-16-4 of the Code of Alabama  
9 1975, as amended by Act 2016-283, relating to financial  
10 institutions with income taxed within and outside of the  
11 state; to include loans and credit card receivables as part of  
12 the calculation for the property factor of the finance  
13 institution excise tax apportionment formula; to specify that  
14 the apportionment formula would be applicable to all tax years  
15 beginning on or after January 1, 2017; and to provide for  
16 promulgation of rules by the Department of Revenue.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 40-16-4 of the Code of Alabama  
19 1975, as amended by Act 2016-283, is amended to read as  
20 follows:

21 "§40-16-4.

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

24 "(i) Banking;

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

1           "(iii) Conducting a credit card business through the  
2 issuance of credit cards to Alabama residents or businesses;  
3 or

4           "(iv) Conducting a business employing moneyed  
5 capital coming into competition with the business of national  
6 banks

7           shall pay to the state annually for each taxable  
8 year an excise tax measured by its net income allocated and  
9 apportioned for the taxable year at the rate of six and  
10 one-half percent of the net income.

11           "(2) For purposes of the excise tax imposed by this  
12 chapter, any financial institution which has income from  
13 business activity that is taxable both within and without this  
14 state shall allocate and apportion its net income as provided  
15 in ~~regulations~~ rules which shall be prescribed by the  
16 Department of Revenue, provided that such ~~regulations~~ rules  
17 shall not conflict with any provision of this chapter and  
18 provided further that if such rules allocate and apportion the  
19 net income of the financial institution based, at least in  
20 part, on its property in the state, loans and credit card  
21 receivables shall be considered part of the financial  
22 institution's property in the state and shall be sourced to  
23 the state using the same sourcing methods as the department  
24 uses to allocate and apportion a financial institution's  
25 interest receipts from related loans and credit card  
26 receivables.

1           "(3) The amount of the excise tax shall not be in  
2 excess of any limit fixed thereon by any present or future  
3 federal statute relating to the taxation of national banks by  
4 this state. Under no circumstances will any dividends paid  
5 from a financial institution to the common parent corporation  
6 of a controlled group of corporations, as defined in Section  
7 40-16-3, be subject to excise tax.

8           "(b) The excise tax provided in this chapter shall  
9 be reported in the form to be prescribed by the Department of  
10 Revenue. The amount shown to be due by the taxpayer's return  
11 shall constitute and create a prima facie liability for the  
12 amount on which taxes shall be paid. Where the Department of  
13 Revenue determines that the amount due is different from that  
14 shown by the taxpayer's return or where no return is filed,  
15 the department may determine the correct amount due pursuant  
16 to the procedures set forth in Chapter 2A of this title."

17           Section 2. The Department of Revenue shall have 120  
18 days from the effective date of this act to promulgate rules  
19 consistent with this act. Such rules shall be promulgated in  
20 accordance with the Alabama Administrative Procedures Act and  
21 shall be effective for all tax years beginning on or after  
22 January 1, 2017.

23           Section 3. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law and shall be  
26 applicable to all tax years beginning on and after January 1,  
27 2017.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... . . . . 16-FEB-17

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . 23-FEB-17

Read for the third time and passed  
as amended..... . . . . 15-MAR-17

Yeas 97, Nays 0, Abstains 0

Jeff Woodard  
Clerk