

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

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8 SYNOPSIS: Under existing law, any financial
9 institution that has income from business activity
10 that is taxable both inside of and outside of
11 Alabama must allocate and apportion its income
12 according to the procedure and formula promulgated
13 by administrative rule of the Department of
14 Revenue. For purposes of the financial institution
15 excise tax, the existing administrative rule
16 establishes an apportionment formula based on three
17 equally weighted apportionment factors: property,
18 salaries, and receipts.

19 This bill would codify the current practice
20 of including loans and credit card receivables as
21 part of the calculation for the property factor of
22 the financial institution excise tax apportionment
23 formula. This bill would specify that the
24 apportionment formula would be applicable to all
25 tax years beginning on or after January 1, 2017.
26 This bill would specify that the Department of

1 Revenue would promulgate rules consistent with this
2 act.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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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.