

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 891

Department or Agency: Alabama Tourism - Film Office (Rules located in the Department of Commerce)

Rule No.: Chapter 891-X-2

Rule Title: Sweet Home Alabama Tourism Investment Act Application

Intended Action New

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Grant Wallace
Grant Wallace

Date

Monday, August 19, 2024

REC'D & FILED
AUG 19, 2024
LEGISLATIVE SVC AGENCY

APA-2

**ALABAMA TOURISM - FILM OFFICE (RULES LOCATED IN THE DEPARTMENT OF
COMMERCE)**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Tourism - Film Office (Rules located in the
Department of Commerce)

RULE NO. & TITLE: Chapter 891-X-2 Sweet Home Alabama Tourism Investment
Act Application

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION:

The department proposes to create an application to implement the Sweet Home Alabama Tourism Investment Act.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

All interested parties may submit their views in writing within 35 days after publication to the Alabama Tourism Department, 401 Adams Avenue, Suite 126, Montgomery, AL 36104. Comments may also be submitted to grant.wallace@tourism.alabama.gov .

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, October 4, 2024

CONTACT PERSON AT AGENCY:

Grant Wallace

Grant Wallace

Grant Wallace

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

ALABAMA TOURISM - FILM OFFICE (RULES LOCATED IN THE DEPARTMENT OF
COMMERCE)
ADMINISTRATIVE CODE

CHAPTER 891-X-2
SWEET HOME ALABAMA TOURISM INVESTMENT ACT APPLICATION

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891-X-2-.01 Application.

Application for

Sweet Home Alabama Tourism Investment Act Tax Rebate

Date of Application

1. Project Type (select one - Details provided in Guidelines):

___ Certified Tourism Destination Project eligible for tax rebate

___ Certified Tourism Attraction eligible for tax rebate

Please provide short description of project:

2. Developer Information:

Corporate Name/Business Name:

Federal Employee Identification Number:

Mailing Address:

Contact Person (Name / Telephone / Fax / Email):

Project Address:

County: _____

Is this a Jumpstart County? Yes___ No___ Unknown___

3. Business Entity Structure (pick one):

Corporation	Subchapter S	Subchapter C
Partnership	Proprietorship	Limited Liability Partnership
Limited Liability Company	Other (Explain: _____)	

Date Business Established: _____

Company's Fiscal Year: _____

State of Corporation: _____

Date Incorporated: _____

Registered Agent Name / Address:

4. Does the Developer anticipate applying for any other incentives for this project?

Yes No

If yes, please indicate program, agency, amount, and approximate date:

5. Company Ownership:

*Please identify ALL owners of the company. For subsidiaries, identify owners of the parent company: for a public company, indicate publicly traded. Attach separate sheet if needed.

NAME	ADDRESS	PHONE NUMBER	SOCIAL SECURITY NUMBER	PERCENT OWNED

6. If any of the parties listed in #5 have ever been convicted of any criminal offenses, been in receivership or adjudicated a bankruptcy, been denied a business-related license or had it suspended or revoked by any administrative, governmental, or regulatory agency, please list each occurrence, the party related to the occurrence, and the circumstances of the occurrence:

7. Person to Review Legal Documents (Contact Name / Position /
Mailing Address / Email)

8. Projected Financial Information:

Estimated Approved Costs

Approved Costs	Estimated Investment
Land Acquisition	\$
Construction	\$
Engineering	\$
Design	\$
Costs of Contract Bonds and Insurances	\$
Installation of Utilities paid by Applicant	\$
Other (explain) _____	\$
Total Cost	\$

Maximum Total Tax Rebate Requested \$ _____

Total Capital Investment for Project:

- _____ \$35 million or greater
_____ \$50 million or greater
_____ \$75 million or greater

9. **Proposed Tourism Attraction Financing:**

Source	Amount
Bank Loan	\$
Bond Issue	\$
Other (explain: _____)	\$
Equity	\$
Total Sources of Funds	\$

Project Start Date: _____

Anticipated Project Completion Date: _____

10. **Employment Projections:**

	Full-Time	Part-Time
New Jobs Created 2 Years After Completion		

11. **Provide projected attendance figures for first five years of tourism project after opening for business:**

Year	In-State Visitors	Out-of-State Visitors	Total Visitors	Percentage Out-of- State

12. Once open for business, how often will the attraction be open to the public?

Year-Round

Seasonal

Scheduled Events Only

If not year-round, how many days per year will the project be open to the public? _____

13. Please provide annual estimates for the first ten years of operation of the project:

[illegible]

14. Please explain method used to estimate responses to questions 11 and 13.

Certification of Application

I, the undersigned on behalf of the applicant, hereby represent and certify that the foregoing application information, including all attachments, to the best of my knowledge, is (a) true, complete and accurate with respect to the information concerning the tourism project for which financial incentives are being sought and (b) does not contain any information for which an entity competing with the applicant may claim a proprietary interest.

Signature

Print Name

Title

Date

Application Submission and Required Attachments

Three (3) copies of the application and all attachments should be mailed to:

Alabama Tourism Department

Attn: Grant Wallace

PO Box 4927

Montgomery, AL 36103

Email: grant.wallace@tourism.alabama.gov

Please note that the following attachments are required with each application:

1. Business Plan:

Include a business history, as well as a thorough description, location, and timetable for the project.

2. A current Form W-9

3. A summary of the anticipated project costs, along with supporting documentation to support the cost estimates.

4. Supporting information for financing project, including financing terms and method used.

5. An independent study that identifies the projected number of out-of-state visitors and provides the ratio of in-state to out-of-state visitors anticipated.

6. Business Financial Information, including:
 - a. Last three years' financial statements.
 - b. Last three years' tax returns unless audited financial statements are provided.
 - c. Interim financial statement completed within the past 90 days.
 - d. Projections (quarterly income statement, balance sheet, capital expenditures, and cash flow for three years, along with any relevant assumption or notes) for proposed new project.
7. Provide a detailed description of Marketing Plan, including:
 - a. Proposed advertising budget for the first five years and the percent that will be in-state and out-of-state advertising.
 - b. The types of media to be used and their percentages based on annual averages expenses.
 - c. Primary markets from which the tourism project will draw customers.
8. Estimate the amount of revenue subject to Alabama sales tax for the first ten years upon completion of the tourism project.
9. Estimate amount of revenue from project subject to Alabama tax based on the following categories: admission, food & merchandise, and lodging.
10. Provide a copy of the resolution of the local governmental unit showing support for the tourism project and acknowledging that tax collected from the facility will be diverted to an incentive fund for a period of up to ten years.

*** Please note that incomplete applications will not be accepted nor returned to applicant*

Author: Alabama Tourism Department

Statutory Authority: Code of Alabama Section 40-18-470 through
-475

History: New Rule: Published _____; effective _____.

891-X-2-02 Guidelines.

Guidelines for

Sweet Home Alabama Tourism Investment Act Tax Rebate

The Sweet Home Alabama Tourism Investment Act provides a tax incentive to increase tourism throughout the State of Alabama. This act will provide a tax rebate to qualified and chosen applicants of new tourism-oriented projects. For specific information related to this rebate, please refer to ACT 2023-034 and ACT 2023-512. Eligible projects will be reviewed and selected by the Alabama Tourism Advisory Board for tax rebates. The selected applicant will receive an Alabama Tourism Advisory Board Act Certificate, which in turn is used for a tax rebate.

Eligible Tourism Projects

Certified Tourism Destination Project

- A qualifying project that has seventy-five million dollars (\$75,000,000) of capital investments [considered a mega project]
- A tourism destination attraction with a minimum private investment of fifty million dollars (\$50,000,000)
- A tourism attraction with a minimum private investment of thirty-five million dollars (\$35,000,000) located within an entertainment district
 - Must be open to public five days per week, serve food and beverages, and provide live entertainment three days per week.
- A resort development with a minimum investment of thirty-five million dollars (\$35,000,000) and consists of a hotel (200 guest room minimum), as well as guest amenities such as restaurant, golf courses, spas, entertainment activities, etc.
- A tourism destination attraction with a minimum of investment of thirty-five million dollars (\$35,000,000) located within a historic district where the district is listed in the National Register of Historic Places.
- Retail related to a qualifying project must consist primarily of upscale brands or their equivalent
- A combination of qualifying tourist attractions, hotels, marinas, and resorts with a minimum private investment of

thirty-five million dollars (\$35,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities, and other approved soft costs

Eligible Tourism Destination Attractions

- Theme Parks
- Water Parks
- Entertainment Parks or Outdoor Adventure Parks
- Cultural or Historical Interpretive Educational Centers or Museums
- Motor Speedways
- Indoor or Outdoor Entertainment Centers or Complexes
- Convention Centers
- Professional Sports Facilities
- Attractions created around a natural phenomenon or scenic landscape
- Waterfront marina facilities, such as indoor marine vessel storage, restaurants, and marine sales/service
- Aquariums

Tourism Projects that are NOT Eligible

- Department Stores
- Convenience Stores
- Grocery Stores
- Liquor and Tobacco Stores
- Discount Stores
- Multiplex Theaters
- Facilities that perform cleaning, repair, or alteration services
- Facilities that perform personal salon services such as tanning, nail, and beauty salons
- Expansions of existing projects previously approved that are not equal to the lesser of 75 percent of the original capital investment or thirty-five million dollars (\$35,000,000)
- Facilities primarily developed for retail sales that are not certified as a resort development
- Pro shops, souvenir shops, gift shops, concessions, and similar retail activities

Eligible Applicants

- Any corporation, limited liability company, partnership, sole proprietorship, business trust, or other legal entity authorized to do business in the State of Alabama

Eligible Project Costs

- Land Acquisition
- Construction
- Engineering
- Design
- Costs of contract bonds and insurances
- Installation of utilities paid by the applicant, including project-specific off-site extensions

Upon completion of the project, the applicant must submit a summary of project costs to the Alabama Tourism Department (Attn: Grant Wallace). This summary of costs must be independently verified by a Certified Public Accountant.

Rebate Process

To begin the rebate process, once project phases open for business, the approved company must provide a listing of all sales tax accounts and account numbers related to the project. The Alabama Department of Revenue will provide these accounts and will begin making the required diversions into the Tourism Project Sales Tax Incentive Fund the month following notification. Rebate payments from the fund will be made each January and July to the approved company. Tax rebates are to be administered by the Alabama Department of Revenue.

- No tax rebate shall be granted to an approved company during a tax year that the approved company is simultaneously receiving any other state tax incentive associated with any individual tourism attraction project.
- Any tax rebate shall be first applied to any outstanding tax obligation of the approved company that is due and payable to the state.
- Tax rebates are transferrable to future owners of the qualifying tourism destination project.
- Tax rebates may be a combination of state and local retail sales tax, state, and local lodging taxes, and any other

taxes generated by, or arising within, the tourism destination project. The municipality or the taxing district where the tourism destination project will be located must support and approve the facility. The approval must be in the form of a resolution of the governing authority acknowledging support of the project and acknowledging that a portion no less than 20 percent of the tax rebates will be comprised of municipal taxes.

A tax rebate from taxes generated within the tourism destination attraction by the certified tourism destination project over a 10-year period from the commencement of operation in the amount of up to five million dollars (\$5,000,000) may be claimed. No approved company may receive more than one million dollars (\$1,000,000) in tourism rebates in a calendar year. Tax rebates may carry forward for five years. The tax rebates authorized by this act are limited to an aggregate amount for all certified tourism destination projects of ten million dollars (\$10,000,000) annually with 10 percent set aside annually for certified tourism destination projects located in targeted or Alabama counties.

Application Process

Details related to the application process and required documentation is listed at the end of the application ("Application Submission and Required Attachments").

These guidelines and application can be found on Alabama Tourism Department's website (<https://tourism.alabama.gov/forms/>)

Applications will be reviewed on a quarterly basis with submission deadlines as follows: March 31, June 30, September 30, and December 31. The submission deadline to apply for the \$2.5 million rebate (for the \$75 million megaproject) is December 31 annually.

Approval Process

For an applicant to be an approved company, all of the following shall occur:

1. For any applicant that proposes a certified tourism destination project, the Alabama Tourism Advisory Board shall make all of the following findings:
 - That the project is in fact a certified tourism destination project.
 - That the amount of tourism rebates sought are exceeded by anticipated revenues for the state, including income, property, business privilege, utility, gross receipts, sales, and use tax revenues that are generated by the economic activity resulting from the project.

The Alabama Tourism Advisory Board shall review qualifying projects meeting the criteria established and approve eligible projects for tax rebates. Upon a determination that all program requirements are met, the Board will issue the Alabama Tourism Advisory Board Act Certificate if the project is selected. Each certificate shall include the amount of the approved project costs, the maximum rebate available, and the rebate term of 10 years with a five-year carry forward from the completion date or the date on or which five million dollars (\$5,000,000) of the approved project costs has been rebated to the applicant, whichever threshold is met first.

Notwithstanding the ten million dollar (\$10,000,000) annual cap on tax rebates allowed, the Board may approve an annual onetime designation of an additional two million five hundred thousand dollars (\$2,500,000) in tax rebates for one project per calendar year with a minimum capital investment amount of seventy-five million dollars (\$75,000,000).

Additional Information / Questions

Please refer to ACT 2023-034 and ACT 2023-512 as the definitive source of information related to the Sweet Home Alabama Tourism Investment Act. If there is any discrepancy between these acts and the above guidelines, the acts take precedence.

Additional information related to the program and these program guidelines may be obtained by contacting:

Alabama Tourism Department

Sweet Home Alabama Tourism Investment Act

PO BOX 4927

Montgomery, AL 36103

grant.wallace@tourism.alabama.gov

Author: Alabama Tourism Department

Statutory Authority: Code of Alabama Section 40-18-470 through
-475

History: New Rule: Published _____; effective _____.

891-X-2-.03 Certificate.

Sweet Home Alabama Tourism Investment Act:

ALABAMA TOURISM ADVISORY BOARD CERTIFICATE

Based upon Act #2023-034, lines 1277-1283

Project Name:

Business Name:

Street Address:

City, State Zip:

Email Address:

Phone Number:

Phone (Alt.):

Contact Name:

Maximum Rebate Available:

Rebate Term: The rebate term is 10 years with a five-year carry forward from the completion date or the date on which five million dollars of the approved project costs can be rebated to the applicant, whichever threshold is met first.

The tax rebate may be used on any combination of the state and local sales and use taxes, lodging taxes, or other transactional taxes generated by or arising within the tourism destination project.

Author: Alabama Tourism Department

Statutory Authority: Code of Alabama Section 40-18-470 through
-475

History: New Rule: Published _____; effective _____.

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No:	<u>891</u>
Department or Agency:	<u>Alabama Tourism - Film Office (Rules located in the Department of Commerce)</u>
Rule No:	<u>Chapter 891-X-2</u>
Rule Title:	<u>Sweet Home Alabama Tourism Investment Act Application</u>
Intended Action:	<u>New</u>

 This rule has no economic impact.

 Yes This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This application, guidelines, and certificate will allow the Alabama Tourism Advisory Board to effectively evaluate proposed projects and effectively implement the Sweet Home Alabama Tourism Investment Act

2. COSTS/BENEFITS OF RULE AND WHY RULES IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

This rule will give the Advisory Board the information needed to properly evaluate the submitted projects.

3. EFFECT OF THIS RULE ON COMPETITION:

An established application and guidelines will ensure consistency in review of all projects.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Not Applicable

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5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

Not Applicable

6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**

As provided in Act 2023-034

7. **THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON EFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

Not Applicable

8. **UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**

Not Applicable

9. **THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**

Not Applicable

10. **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**

Not Applicable

Signature of certifying officer

Grant Wallace

Grant Wallace

Date

Monday, August 19, 2024