

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 281
Department or Agency: Alabama Department of Commerce
Rule No.: Chapter 281-6-2
Rule Title: Alabama Renewal Act - Growing Alabama Credit
Intended Action: Amend

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? No

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

Erika McKay
Erika McKay

Date

Thursday, June 12, 2025

REC'D & FILED
JUN 12, 2025
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF COMMERCE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Commerce (Formerly Alabama Development Office And Alabama Film Office)

RULE NO. & TITLE: Chapter 281-6-2 Alabama Renewal Act - Growing Alabama Credit

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:
Provide updates to the chapter in compliance with EO 726

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
August 4, 2025; 401 Adams Ave. Suite 630 Montgomery, AL 36104; All presenting views must be mailed to Commerce no later than 3:00 pm on 7/28/25

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, August 8, 2025

CONTACT PERSON AT AGENCY:
Erika McKay

Erika McKay

Erika McKay

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

ALABAMA DEPARTMENT OF COMMERCE
ADMINISTRATIVE CODE

CHAPTER 281-6-2
ALABAMA RENEWAL ACT - GROWING ALABAMA CREDIT

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281-6-2-.01	<u>Definitions (Repealed)</u> .

~~In addition to the definitions contained in Section 40-18-410 of the Code of Alabama 1975 (Repealed), the following words and phrases used in Title 40, Chapter 18, Article 19 shall have the following meanings:~~

~~(1) ACT. The Alabama Renewal Act, codified at Title 40, Chapter 18, Article 19 of the Code.~~

~~(2) ADECA. The Alabama Department of Economic and Community Affairs.~~

~~(3) CODE. The Code of Ala. 1975, as amended.~~

~~(4) COMMERCE. The Alabama Department of Commerce.~~

~~(5) GROWING ALABAMA FUNDING AGREEMENT. The agreement between the State and the local economic development organization required by the Act pursuant to which a project and its funding are made eligible for Growing Alabama Credits. And Ala. Tourism Dept/Ala. Film Office)~~

~~(6) REVENUE. The Alabama Department of Revenue.~~

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975, §40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Repealed: Published ; effective.

281-6-2-.02 Local Economic Development Organizations.

(a) Commerce determines that public corporations organized and existing under the following provisions of the Code are local economic development organizations as such term is used in the Act:

1. Title 4, Chapter 3 (Airport Authorities),
2. Title 11, Chapter 20, Article 2 (County Industrial Development Boards),
3. Title 11, Chapter 54, Article 4 (Municipal Industrial Development Boards),
4. Title 11, Chapter 54, Article 6 (Commercial Development Authorities),
5. Title 11, Chapter 54A (Downtown Redevelopment Authorities),
6. Title 11, Chapter 92A (County Industrial Development Authorities),
7. Title 11, Chapter 92B (Local Reuse or Development Authorities),
8. Title 11, Chapter 94 (Port Authorities),
9. Title 11, Chapter 105 (Tourism Development Authorities),
10. Title 33, Chapter 13 (Alabama State Port Authority), and
11. Title 40, Chapter 10, Article 2 (State Industrial Development Authority) And Ala. Tourism Department/Ala. Film Office)

(b) In addition, Commerce determines that capital improvement cooperative districts organized and existing under the provisions of Title 11, Chapter 99B of the Code are local economic development organizations as such term is used in the Act if all of the members of a cooperative district are either (i) entities listed in subsection (a) of this Section, ~~(b)~~ (ii) a municipality or county or (iii) have otherwise been designated as a local

economic development organization by Commerce within the current calendar year.

(c) An organization seeking designation as a local economic development organization may apply in writing on letterhead of the organization and shall include the following information regarding the organization:

1. Legal name of the organization,
2. Address of the organization,
3. Name of authorized contact person for the organization,
4. Email address of authorized contact person,
5. Telephone number of authorized contact person,
6. State of incorporation of the organization,

~~(i) If the organization is organized or incorporated in Alabama, including certification of the title, chapter and article (if applicable) under which the organization is organized or incorporated, or~~

~~(ii) If the organization is unincorporated, information regarding board appointment procedures, including the identity of each third party empowered to appoint directors, .~~

7. Certification that the organization is not operated for a profit, and

8. Narratives describing the following:

(i) The organization's mission,

(ii) The organization's programs to improve a And Ala. Tourism Dept/Ala. Film Office) community or region of Alabama, and

(iii) The organization's record of supporting or otherwise participating in economic development activities in the community or region of Alabama it serves.

(d) Applications for designation as a local economic development organization should be submitted to Commerce at the following address:

Alabama Department of Commerce
401 Adams Avenue, Suite 670
P.O. Box 304106
Montgomery, Alabama 36130-4106
Attn: Deputy Secretary of Commerce
Business Development Division

(e) Applications for designation as a local economic development organization may be made free of charge.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §§40-18-411, 40-18-415(a) and (f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Amended: Published ; effective .

281-6-2-.03 Application For Funding From Local Economic Development Organizations.

~~(a) A local~~An economic development organization seeking funding ~~for a site~~ pursuant to Section ~~40-18-411~~40-18-417.2 of the Code shall file an application on a form prescribed by Commerce.

~~(b) Applications for funding may be submitted on or after October 1, 2016. Applications for funding should be submitted to Commerce at the address set forth on the application.~~

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975, §§40-18-411, 40-18-415 (a) and (f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. And Ala. Tourism Department/Ala. Film Office) Amended: Published ; effective .

281-6-2-.04 Projects Eligible For Funding Under The Growing Alabama Program (Repealed).

~~Projects eligible for funding include site preparation or public infrastructure work to real property that is owned by a local economic development organization.~~ (Repealed)

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975, §40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Repealed: Published ; effective .

281-6-2-.05 **Compliance With Alabama Department Of Economic
And Community Affairs Procedures (Repealed)**.

~~The Act requires that the local economic development organization provide quotes for work to be funded in compliance with procedures set forth by ADECA. ADECA may amend its procedures relating to obtaining quotes from time to time.~~ **(Repealed)**

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975, §§40-18-411, 40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. **Repealed: Published** ; **effective** .

281-6-2-.06 **Award Of Funding To Local Economic Development
Organizations**.

(a) Commerce will review applications for approval. If Commerce approves an application, it will forward the application to the Renewal of Alabama Commission.

(b) Applications are reviewed by the Renewal of Alabama Commission pursuant to procedures adopted by the Renewal of Alabama Commission.

(c) Applications that are approved by the Renewal of Alabama Commission shall be returned to Commerce for entry into a Growing Alabama Funding Agreement. Commerce shall prescribe the form of Growing Alabama Funding Agreement and may amend the same from time to time.

(d) Each Growing Alabama Funding Agreement shall include a provision regarding recapture of all or part of the Growing Alabama funding approved by the Renewal of Alabama Commission should the applicant default on its obligations in the Growing Alabama Funding Agreement.

(e) Upon execution and delivery of a Growing Alabama Funding Agreement by all parties thereto, Commerce will provide a copy of the Growing Alabama Funding Agreement to Revenue And Ala. Tourism Dept/Ala. Film Office) together with such information as is necessary or convenient for Revenue to administer the online system mandated by the Act.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §§40-18-412, 40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Amended: Published ; effective .

281-6-2-.07 Partial Funding Of Projects.

Each application filed by a local economic development organization shall include a certification of the amount of organization funding available, including the source of funding, to complete the project should taxpayer funding not materialize. Each Growing Alabama Funding Agreement shall include an agreement by the local economic development organization to fully fund the project once an agreed amount of cash contributions from taxpayers is received. For the avoidance of doubt, a local economic development organization may specify in the application that no organization funding is available for the project, in which case the project must be fully funded by cash contributions from taxpayers prior to proceeding.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Amended: Published ; effective .

281-6-2-.08 Online System Administered By Revenue.

(a) Upon receipt of a notification from Commerce that a local economic development organization's application has been approved by the Renewal of Alabama Commission, Revenue will open an online system for each project through which taxpayers may agree to fund all or part of the local economic development organization's project. Revenue shall notify a local economic development organization of the date that the online system for a project is open to reserve Growing Alabama Credits.

(b) Taxpayers shall have thirty days from the date that the online system for a project is open to reserve Growing Alabama Credits. Growing Alabama Credits available for a project shall be available on a first-come, first-served basis. And Ala. Tourism Department/Ala. Film Office)

(c) The online system operated by Revenue shall reserve a Growing Alabama Credit for the taxpayer to the extent the project remains unfunded until the local economic development organization makes the certifications contained in subsection (e) of this Section. The credit reservation shall grant the taxpayer twenty-one calendar days from the date of the taxpayer's credit reservation

to make a cash contribution to the local economic development organization for the applicable project.

(d) Within sixty days from the date that the online system for a project is open for reservations, the local economic development organization shall ~~certify to Commerce the following:~~

~~1. a list of the taxpayers who made cash contributions for the project,~~

~~2. the amount of cash contribution actually received from each,~~

~~3. a statement that the project has or has not received sufficient funding as provided in the applicable Growing Alabama Funding Agreement, and~~

~~4. a statement that the project will or will not be constructed.~~

~~(e) Within sixty days from the date that the online system for a project is open for reservations, the local economic development organization shall provide to Revenue a copy of the list provided to Commerce under subsection (d) of this Section and shall, utilizing the online system operated by Revenue, certify the following information:~~

1. that each contribution applicable to the project has been made,

2. that the project has been funded in accordance with the applicable Growing Alabama Funding Agreement, and

3. that the project will be undertaken by the local economic development organization. And Ala. Tourism Dept/Ala. Film Office) Absence of the certifications required by this subsection (e) shall cause the credit reservation to be automatically denied by the online system operated by Revenue and, upon denial, no Growing Alabama Credit may be claimed by the taxpayer.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975. §§40-18-412, 40-18-415(f).

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Amended: Published _____; effective _____.