

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control: 305 Department or Agency: Alabama Department of Economic and
Community Affairs

Rule No. 305-10-1

Rule Title: Opportunity Zones

X New Amend Repeal Adopt by Reference

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? N/A

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 and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking 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? To Be Determined

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



Claudia Kennedy Smith, General Counsel

Date 4/18/19

(DATE FILED)

APA-2

Alabama Department of Economic and Community Affairs

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Economic and Community Affairs

RULE NO. & TITLE: Chapter 305-10-1 - Opportunity Zones

INTENDED ACTION: New Chapter

SUBSTANCE OF PROPOSED ACTION: To add a new rule for the purpose of establishing rules for ADECA to use in determining whether an investment in a corporation or partnership should be considered to be located in Alabama (pursuant to Alabama Code §41-10-46.01).

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments may be directed to ADECA, Attn: Legal Section, 401 Adams Ave., P.O. Box 5690, Montgomery, Alabama 36103-5690.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, January 3, 2020, at 5:00 p.m.

CONTACT PERSON AT AGENCY: Sharon Meehan, ADECA Legal Section,
334-242-5255



Claudia Kennedy Smith, General Counsel

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

Control No. 305 Department or Agency: Alabama Department of Economic and Community Affairs ("ADECA")

Rule No: 305-10-1-.01

Rule Title: Opportunity Zones - Determining Location to be in Alabama

X New Amend Repeal Adopt by Reference

 This rule has no economic impact.

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

1. NEED/EXPECTED BENEFIT OF RULE:
Under the Alabama Incentives Modernization Act ("AIM"), ADECA is required to promulgate rules to be used to determine whether an investment is located in Alabama. The rule is necessary because ADECA can only approve opportunity funds for tax credits under the AIM if a fund commits to investing at least 75% of its committed capital in qualified opportunity zone property located in Alabama.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
See above
3. EFFECT OF THIS RULE ON COMPETITION:
This rule only eliminates from competition those funds who have not committed to invest at least 75% of committed capital in qualified opportunity zone property located in Alabama.
4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
To be determined.

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

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
To be determined.

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

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

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
N/A

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

ALABAMA DEPARTMENT OF
ECONOMIC AND COMMUNITY AFFAIRS
ADMINISTRATIVE CODE

CHAPTER 305-10-1
OPPORTUNITY ZONES

TABLE OF CONTENTS

305-10-1-01 Determining Location to be in Alabama

305-10-1-01 Determining Location to be in Alabama. Pursuant to the Alabama Incentives Modernization Act (Act #2019-392), ADECA shall “promulgate rules for determining whether an investment in a corporation or partnership should be considered to be located in Alabama.” In making that determination, ADECA shall apply the following:

- (1) Qualified opportunity zone property shall be considered to be located in Alabama if it is:
 - (a) Qualified opportunity zone stock as defined in 26 U.S.C. 1400Z-2(d)(2)(B), if the corporation is a qualified opportunity zone business located in Alabama;
 - (b) Qualified opportunity zone partnership interest as defined in 26 U.S.C. 1400Z-2(d)(2)(C), if the partnership is a qualified opportunity zone business located in Alabama; or,
 - (c) Qualified opportunity zone business property as defined in 26 U.S.C. 1400Z-(d)(2)(D), if located in Alabama.
- (2) A qualified opportunity zone business as defined in 26 U.S.C. 1400Z-2(d)(3) shall be considered to be located in Alabama if substantially all of the tangible property owned or leased by the taxpayer is qualified opportunity zone business property located in Alabama.
- (3) Federal regulations adopted pursuant to 26 U.S.C. 1400Z-2 shall be used in interpreting the provisions of this rule. In determining whether qualified opportunity zone business property is located in Alabama, the department shall utilize the provisions of federal regulations relevant to the question of whether business property is located in a qualified opportunity zone and shall apply the same analysis in determining whether such property is located in Alabama.

Author: Ashley W. Toole

Statutory Authority: Code of Ala. 1975, § 41-10-46.01

History: New Rule: Filed November 18, 2019