

1 HB445
2 218322-1
3 By Representative Hall
4 RFD: Ways and Means Education
5 First Read: 03-MAR-22

SYNOPSIS: Under existing law, various entities are exempt from state and local taxation. This bill would exempt the Rosetta James Foundation from all state, county, and municipal taxes, licenses, and fees.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 40-9-12, Code of Alabama 1975, as amended by Act 2021-299 of the 2021 Regular Session, relating to tax exemptions; to exempt the Rosetta James Foundation from all state, county, and municipal taxes, licenses, and fees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-9-12, Code of Alabama 1975, is amended to read as follows:

"§40-9-12.

"(a) The National Foundation's Alabama Field Offices, all Young Men's Hebrew Associations (Y.M.H.A.) also

1 known as Jewish Community Centers (J.C.C.), and all real and
2 personal property of all Young Men's Hebrew Associations
3 (Y.M.H.A.) also known as Jewish Community Centers (J.C.C.),
4 the Seamen's Home of Mobile, incorporated under Act No. 145,
5 Acts of Alabama 1844-45, the Girl Scouts of America and the
6 Boy Scouts of America, and any council, troop or other
7 subdivision thereof now existing or hereafter created and all
8 real and personal property of the Girl Scouts of America and
9 the Boy Scouts of America, and any council, troop or other
10 subdivision thereof now existing or hereafter created, the
11 Catholic Maritime Club of Mobile, Inc., the Knights of Pythias
12 Lodges, the Salvation Army, Inc., the Elks Memorial Center,
13 and all real and personal property of the Salvation Army,
14 Inc., and the Elks Memorial Center, all United Way
15 organizations and United Way member agencies in Alabama, other
16 qualifying united appeal funds and their recipients as
17 provided in subsection (d), and the real and personal property
18 of all United Way organizations and United Way member agencies
19 in Alabama, other qualifying united appeal funds and their
20 recipients as provided in subsection (d), and the Alabama
21 Masonic Home, the American Cancer Society, and all real and
22 personal property of American Cancer Society, the New Hope
23 Industries of Dothan, and all real and personal property of
24 the New Hope Industries of Dothan, the Helping Hand Club of
25 Anniston, and all real and personal property of the Helping
26 Hand Club of Anniston, Childhaven, Inc., and all real and
27 personal property of Childhaven, Inc., Presbyterian Home for

1 Children and all real and personal property of Presbyterian
2 Home for Children, Freewill Baptist Children's Home and all
3 real and personal property of Freewill Baptist Children's
4 Home, Methodist Homes for the Aging and all real and personal
5 property of Methodist Homes for the Aging, and United
6 Methodist Children's Home and all real and personal property
7 of United Methodist Children's Home, the Rosetta James
8 Foundation, and all real and personal property of the Rosetta
9 James Foundation, Birmingham Building Trades Towers of
10 Birmingham, Alabama, a nonprofit corporation, the Holy
11 Comforter House, Inc., of Gadsden, Alabama, a nonprofit
12 corporation, the University of Alabama Huntsville Foundation
13 and all real and personal property of the University of
14 Alabama Huntsville Foundation, the Birmingham Football
15 Foundation, Inc., a nonprofit corporation, and all real and
16 personal property of the Birmingham Football Foundation, Inc.,
17 and of any branch or department of any of same heretofore or
18 hereafter organized and existing in good faith in the State of
19 Alabama, for other than pecuniary gain and not for individual
20 profit, when such real or personal property shall be used by
21 such associations or nonprofit corporations, their branches or
22 departments in and about the conducting, maintaining,
23 operating and carrying out of the program, work, principles,
24 objectives, and policies of such associations or nonprofit
25 corporations, their branches or departments, in any city or
26 county of the State of Alabama, are exempt from the payment of
27 any and all state, county, and municipal taxes, licenses,

1 fees, and charges of any nature whatsoever, including any
2 privilege or excise tax heretofore or hereafter levied by the
3 State of Alabama or any county or municipality thereof. The
4 receipt, assessment or collection of any fee, admission,
5 service charge, rent, dues, or any other item or charge by any
6 such association or nonprofit corporation, its branches or
7 departments from any person, firm, or corporation for any
8 services rendered by any such association or nonprofit
9 corporation, its branches or departments or for the use or
10 occupancy of any real or personal property of any such
11 association or nonprofit corporation, its branches or
12 departments in or about the conducting, maintaining,
13 operating, and carrying out of the program, work, principles,
14 objectives, and policies of any such association or nonprofit
15 corporation, its branches, or departments shall not be held or
16 construed by any court, agency, officer, or commission of the
17 State of Alabama, or any county or municipality thereof, to
18 constitute pecuniary gain or individual profit by any such
19 association or nonprofit corporation, its branches or
20 departments, or the doing of business in such a manner as to
21 prejudice or defeat, in any manner, the right and privilege of
22 any such association or nonprofit corporation, its branches or
23 departments to claim or rely upon or receive the exemption of
24 such association or nonprofit corporation, its branches or
25 departments and of all real and personal property thereof from
26 taxation, as herein provided.

1 "(b) With respect to gasoline, tobacco, playing card
2 tax or any other tax required by law to be prepaid by the
3 retailer, the associations, nonprofit corporations, or
4 organizations exempt under this section shall pay the
5 appropriate tax at the time purchases are made, and the amount
6 of such tax shall be refunded to such associations, nonprofit
7 corporations, or organizations by the Department of Revenue
8 pursuant to the procedures for refunds provided in Chapter 2A
9 of this title.

10 "(c) For purposes of this section, the following
11 words and phrases shall have the following meanings:

12 "(1) SUPPORTED CHARITY. Any charitable, civic, or
13 eleemosynary institution for which a united appeal fund
14 solicits funds.

15 "(2) UNITED APPEAL FUND. Any nonprofit entity that
16 demonstrates to the reasonable satisfaction of the Department
17 of Revenue that it has all of the following characteristics:

18 "a. Is an Alabama nonprofit corporation, or another
19 type of legal entity, whether formed in Alabama or in another
20 jurisdiction, which is required by its principal governing
21 documents to be operated as a charity.

22 "b. Is one of a class, donations to which are
23 deductible for federal and Alabama income tax purposes under
24 Section 170(c) of the Internal Revenue Code.

25 "c. Has as its principal purpose, as stated by its
26 principal governing documents, the raising of funds or the
27 aggregation or consolidation of fund raising efforts, to

1 support other charities which are not themselves united appeal
2 funds, known as supported charities.

3 "d. Has been issued a Certificate of Exemption from
4 Alabama sales, use, and lodgings tax prior to July 1, 2017,
5 and has continually maintained the Certificate of Exemption as
6 required by Section 40-9-60.

7 "e. With respect to the distribution of funds raised
8 by the united appeal fund, the entity's principle governing
9 documents must require that no supported charity, as defined
10 in this subsection, will receive de minimis support.

11 "(3) UNITED WAY MEMBER AGENCY. Any nonprofit
12 organization that receives funding through the approval of the
13 board of a United Way organization, but only if the nonprofit
14 organization is:

15 "a. Accountable to the granting United Way
16 organization for the expenditure of any funds received from
17 such United Way organization.

18 "b. Included on a list of such nonprofit
19 organizations to be submitted to the Department of Revenue
20 under subsection (e) by all United Way organizations on or
21 before a date provided for in a rule of the Department of
22 Revenue.

23 "(4) UNITED WAY ORGANIZATION. Any nonprofit
24 corporation legally authorized and licensed to operate under
25 the name United Way and use the name United Way and the
26 associated logo and trademarks.

1 "(d) (1) Each supported charity must be separately
2 identified by name in the principal governing documents of the
3 united appeal fund entity, and by name and federal employer
4 identification number at the request of the Department of
5 Revenue. Each supported charity must agree, in its own
6 principal governing documents, to become or remain a member of
7 the united appeal fund that funded the supported charity.

8 "(2) The special rules provided in this subsection
9 shall not apply to any United Way organization or any United
10 Way member agency.

11 "(e) (1) Each United Way organization shall provide
12 the Department of Revenue with a list of its constituent
13 United Way member agencies on an annual basis.

14 "(2) The Department of Revenue, by rule, shall
15 provide the date on which United Way organizations shall
16 submit the list required by this subsection."

17 Section 2. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.