

1 HB137
2 196944-1
3 By Representative McClammy
4 RFD: Ways and Means Education
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, various entities are
9 exempt from state and local taxation.

10 This bill would provide that the Alabama
11 State Missionary Baptist Convention, Incorporated
12 and each local Baptist association which is a
13 member in good standing of the convention, and all
14 real and personal property of the convention and
15 each association would be exempt from the payment
16 of ad valorem and sales and use taxes.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 40-9-12, Code of Alabama 1975,
23 relating to tax exemptions, to provide that the Alabama State
24 Missionary Baptist Convention, Incorporated and each local
25 Baptist association which is a member in good standing of the
26 convention, would be exempt from the payment of ad valorem and
27 sales and use taxes.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§40-9-12.

5 "(a) The National Foundation's Alabama Field
6 Offices, all Young Men's Hebrew Associations (Y.M.H.A.) also
7 known as Jewish Community Centers (J.C.C.), and all real and
8 personal property of all Young Men's Hebrew Associations
9 (Y.M.H.A.) also known as Jewish Community Centers (J.C.C.),
10 the Alabama State Missionary Baptist Convention, Incorporated,
11 and each local Baptist association which is a member in good
12 standing of the convention and all real and personal property
13 of the convention and each association, the Seamen's Home of
14 Mobile, incorporated under Act No. 145, Acts of Alabama
15 1844-45, the Girl Scouts of America and the Boy Scouts of
16 America, and any council, troop or other subdivision thereof
17 now existing or hereafter created and all real and personal
18 property of the Girl Scouts of America and the Boy Scouts of
19 America, and any council, troop or other subdivision thereof
20 now existing or hereafter created, the Catholic Maritime Club
21 of Mobile, Inc., the Knights of Pythias Lodges, the Salvation
22 Army, Inc., the Elks Memorial Center, and all real and
23 personal property of the Salvation Army, Inc., and the Elks
24 Memorial Center, all United Way organizations and United Way
25 member agencies in Alabama, other qualifying united appeal
26 funds and their recipients as provided in subsection (d), and
27 the real and personal property of all United Way organizations

1 and United Way member agencies in Alabama, other qualifying
2 united appeal funds and their recipients as provided in
3 subsection (d), and the Alabama Masonic Home, the American
4 Cancer Society, and all real and personal property of American
5 Cancer Society, the New Hope Industries of Dothan, and all
6 real and personal property of the New Hope Industries of
7 Dothan, the Helping Hand Club of Anniston, and all real and
8 personal property of the Helping Hand Club of Anniston,
9 Childhaven, Inc., and all real and personal property of
10 Childhaven, Inc., Presbyterian Home for Children and all real
11 and personal property of Presbyterian Home for Children,
12 Freewill Baptist Children's Home and all real and personal
13 property of Freewill Baptist Children's Home, Methodist Homes
14 for the Aging and all real and personal property of Methodist
15 Homes for the Aging, and United Methodist Children's Home and
16 all real and personal property of United Methodist Children's
17 Home, Birmingham Building Trades Towers of Birmingham,
18 Alabama, a nonprofit corporation, the Holy Comforter House,
19 Inc., of Gadsden, Alabama, a nonprofit corporation, the
20 University of Alabama Huntsville Foundation and all real and
21 personal property of the University of Alabama Huntsville
22 Foundation, the Birmingham Football Foundation, Inc., a
23 nonprofit corporation, and all real and personal property of
24 the Birmingham Football Foundation, Inc., and of any branch or
25 department of any of same heretofore or hereafter organized
26 and existing in good faith in the State of Alabama, for other
27 than pecuniary gain and not for individual profit, when such

1 real or personal property shall be used by such associations
2 or nonprofit corporations, their branches or departments in
3 and about the conducting, maintaining, operating and carrying
4 out of the program, work, principles, objectives, and policies
5 of such associations or nonprofit corporations, their branches
6 or departments, in any city or county of the State of Alabama,
7 are exempt from the payment of any and all state, county, and
8 municipal taxes, licenses, fees, and charges of any nature
9 whatsoever, including any privilege or excise tax heretofore
10 or hereafter levied by the State of Alabama or any county or
11 municipality thereof. The receipt, assessment or collection of
12 any fee, admission, service charge, rent, dues, or any other
13 item or charge by any such association or nonprofit
14 corporation, its branches or departments from any person,
15 firm, or corporation for any services rendered by any such
16 association or nonprofit corporation, its branches or
17 departments or for the use or occupancy of any real or
18 personal property of any such association or nonprofit
19 corporation, its branches or departments in or about the
20 conducting, maintaining, operating, and carrying out of the
21 program, work, principles, objectives, and policies of any
22 such association or nonprofit corporation, its branches, or
23 departments shall not be held or construed by any court,
24 agency, officer, or commission of the State of Alabama, or any
25 county or municipality thereof, to constitute pecuniary gain
26 or individual profit by any such association or nonprofit
27 corporation, its branches or departments, or the doing of

1 business in such a manner as to prejudice or defeat, in any
2 manner, the right and privilege of any such association or
3 nonprofit corporation, its branches or departments to claim or
4 rely upon or receive the exemption of such association or
5 nonprofit corporation, its branches or departments and of all
6 real and personal property thereof from taxation, as herein
7 provided.

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

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

19 "(1) SUPPORTED CHARITY. Any charitable, civic, or
20 eleemosynary institution for which a united appeal fund
21 solicits funds.

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

25 "a. Is an Alabama nonprofit corporation, or another
26 type of legal entity, whether formed in Alabama or in another

1 jurisdiction, which is required by its principal governing
2 documents to be operated as a charity.

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

6 "c. Has as its principal purpose, as stated by its
7 principal governing documents, the raising of funds or the
8 aggregation or consolidation of fund raising efforts, to
9 support other charities which are not themselves united appeal
10 funds, known as supported charities.

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

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

19 "(3) UNITED WAY MEMBER AGENCY. Any nonprofit
20 organization that receives more than a de minimis amount of
21 funding through the approval of the board of a United Way
22 organization, but only if the nonprofit organization is:

23 "a. Accountable to the granting United Way
24 organization for the expenditure of any funds received from
25 such United Way organization.

26 "b. Included on a list of such nonprofit
27 organizations to be submitted to the Department of Revenue

1 under subsection (e) by all United Way organizations on or
2 before a date provided for in a rule of the Department of
3 Revenue.

4 "(4) UNITED WAY ORGANIZATION. Any nonprofit
5 corporation legally authorized and licensed to operate under
6 the name United Way and use the name United Way and the
7 associated logo and trademarks.

8 "(d) (1) Each supported charity must be separately
9 identified by name in the principal governing documents of the
10 united appeal fund entity, and by name and federal employer
11 identification number at the request of the Department of
12 Revenue. Each supported charity must agree, in its own
13 principal governing documents, to become or remain a member of
14 the united appeal fund that funded the supported charity.

15 "(2) The special rules provided in this subsection
16 shall not apply to any United Way organization or any United
17 Way member agency.

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

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

24 "(f) The Alabama State Missionary Baptist Convention
25 Incorporated shall submit a list of each local Baptist
26 association that is in good standing with the convention to

1 the Department of Revenue on or before a date provided for in
2 a rule of the department."

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