

1 HB474  
2 175849-1  
3 By Representatives Collins, Baker, Patterson, McMillan, Buskey  
4 and Scott  
5 RFD: Ways and Means Education  
6 First Read: 23-MAR-16

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8 SYNOPSIS: Under existing law, specific organizations  
9 and community chests united appeal funds, and the  
10 charities for which they solicit funds are exempt  
11 from any and all taxation and fees.

12 This bill would provide definitions and  
13 qualifications for the United Way and other united  
14 appeal funds and their supported charities.

15 This bill also provides that united appeal  
16 funds that already hold a Certificate of Exemption  
17 issued by the Department of Revenue and are in good  
18 standing with the reporting requirements of Act  
19 2015-534, now appearing as Sections 40-9-60 and  
20 40-9-61 of the Code of Alabama 1975, would be  
21 deemed to be within the definitions.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Section 40-9-12, Code of Alabama 1975,  
2 relating to exemptions from taxes, licenses, and fees; to  
3 provide for a definition of the United Way and other united  
4 appeal funds; and to provide that united appeal funds that  
5 already hold a Certificate of Exemption issued by the  
6 Department of Revenue in good standing are deemed to be within  
7 the definitions.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11           "§40-9-12.

12           "(a) The National Foundation's Alabama Field  
13 Offices, all Young Men's Hebrew Associations (Y.M.H.A.) also  
14 known as Jewish Community Centers (J.C.C.), and all real and  
15 personal property of all Young Men's Hebrew Associations  
16 (Y.M.H.A.) also known as Jewish Community Centers (J.C.C.),  
17 the Seamen's Home of Mobile, incorporated under Act No. 145,  
18 Acts of Alabama 1844-45, the Girl Scouts of America and the  
19 Boy Scouts of America, and any council, troop or other  
20 subdivision thereof now existing or hereafter created and all  
21 real and personal property of the Girl Scouts of America and  
22 the Boy Scouts of America, and any council, troop or other  
23 subdivision thereof now existing or hereafter created, the  
24 Catholic Maritime Club of Mobile, Inc., the Knights of Pythias  
25 Lodges, the Salvation Army, Inc., the Elks Memorial Center,  
26 and all real and personal property of the Salvation Army,  
27 Inc., and the Elks Memorial Center, all ~~community chests~~

1 United Way organizations and United Way member agencies in  
2 Alabama and other qualifying united appeal funds, and ~~all~~  
3 ~~charitable, civic and eleemosynary organizations and~~  
4 ~~institutions for whom they solicit funds~~ their recipients as  
5 provided in subsection (d), and the real and personal property  
6 of all ~~community chests~~ United Way organizations and United  
7 Way member agencies in Alabama and other qualifying united  
8 appeal funds, and of all ~~charitable, civic and eleemosynary~~  
9 ~~institutions for whom they solicit funds,~~ recipients as  
10 provided in subsection (d) and the Alabama Masonic Home, the  
11 American Cancer Society, Ala-Division, Inc., and all real and  
12 personal property of American Cancer Society, Alabama  
13 Division, Inc., the New Hope Industries of Dothan, and all  
14 real and personal property of the New Hope Industries of  
15 Dothan, the Helping Hand Club of Anniston, and all real and  
16 personal property of the Helping Hand Club of Anniston,  
17 Childhaven, Inc., and all real and personal property of  
18 Childhaven, Inc., Presbyterian Home for Children and all real  
19 and personal property of Presbyterian Home for Children,  
20 Freewill Baptist Children's Home and all real and personal  
21 property of Freewill Baptist Children's Home, Methodist Homes  
22 for the Aging and all real and personal property of Methodist  
23 Homes for the Aging, and United Methodist Children's Home and  
24 all real and personal property of United Methodist Children's  
25 Home, Birmingham Building Trades Towers of Birmingham,  
26 Alabama, a nonprofit corporation, the Holy Comforter House,  
27 Inc., of Gadsden, Alabama, a nonprofit corporation, the

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

1 conducting, maintaining, operating, and carrying out of the  
2 program, work, principles, objectives, and policies of any  
3 such association or nonprofit corporation, its branches, or  
4 departments shall not be held or construed by any court,  
5 agency, officer, or commission of the State of Alabama, or any  
6 county or municipality thereof, to constitute pecuniary gain  
7 or individual profit by any such association or nonprofit  
8 corporation, its branches or departments, or the doing of  
9 business in such a manner as to prejudice or defeat, in any  
10 manner, the right and privilege of any such association or  
11 nonprofit corporation, its branches or departments to claim or  
12 rely upon or receive the exemption of such association or  
13 nonprofit corporation, its branches or departments and of all  
14 real and personal property thereof from taxation, as herein  
15 provided.

16 "(b) With respect to gasoline, tobacco, playing card  
17 tax or any other tax required by law to be prepaid by the  
18 retailer, the associations, nonprofit corporations, or  
19 organizations exempt under this section shall pay the  
20 appropriate tax at the time purchases are made, and the amount  
21 of such tax shall be refunded to such associations, nonprofit  
22 corporations, or organizations by the Department of Revenue  
23 pursuant to the procedures for refunds provided in Chapter 2A  
24 of this title.

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

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

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

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

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

14           "c. Has as its principal purpose, as stated by its  
15 principal governing documents, the raising of funds or the  
16 aggregation or consolidation of fund raising efforts, to  
17 support other charities which are not themselves, united  
18 appeal funds, known as supported charities.

19           "d. Has been issued a Certificate of Exemption from  
20 Alabama sales, use, and lodgings tax prior to the effective  
21 date of the act adding this amendatory language and has  
22 continually maintained the Certificate of Exemption as  
23 required by Section 40-9-60.

24           "

25           "e. With respect to the distribution of funds raised  
26 by the united appeal fund, the entity's principle governing

1 documents must require that no supported charity, as defined  
2 in this subsection, will receive de minimus support.

3 "(3) UNITED WAY MEMBER AGENCY. Any nonprofit  
4 organization that receives more than a de minimus amount of  
5 funding through the approval of the board of such United Way  
6 organization, but only if the nonprofit organization is:

7 "a. Accountable to the granting United Way  
8 organization for the expenditure of any funds received from  
9 such United Way organization.

10 "b. Included on a list of such nonprofit  
11 organizations to be submitted to the Department of Revenue  
12 under subsection (e) by all United Way organizations on or  
13 before a date provided for in a rule of the Department of  
14 Revenue.

15 "(4) UNITED WAY ORGANIZATION. Any nonprofit  
16 corporation legally authorized and licensed to operate under  
17 the name United Way and use the name United Way and the  
18 associated logo and trademarks.

19 "(d) (1) Each supported charity must be separately  
20 identified by name in the principal governing documents of the  
21 united appeal fund entity, and by name and federal employer  
22 identification number at the request of the Department of  
23 Revenue. Each supported charity must agree, in its own  
24 principal governing documents, to become or remain a member of  
25 the united appeal fund that funded the supported charity.

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

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

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

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