

1 HB203
2 135763-1
3 By Representative Scott
4 RFD: Financial Services
5 First Read: 07-FEB-12

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8 SYNOPSIS: Existing state law does not provide for the
9 crime of money laundering, which is the act of
10 conducting a financial transaction which involves
11 proceeds derived from an unlawful activity.

12 This bill would create the crime of money
13 laundering and would provide penalties.

14 Amendment 621 of the Constitution of Alabama
15 of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, prohibits a general
18 law whose purpose or effect would be to require a
19 new or increased expenditure of local funds from
20 becoming effective with regard to a local
21 governmental entity without enactment by a 2/3 vote
22 unless: it comes within one of a number of
23 specified exceptions; it is approved by the
24 affected entity; or the Legislature appropriates
25 funds, or provides a local source of revenue, to
26 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 To provide for the crime of money laundering
14 involving certain acts or omissions pursuant to a financial
15 transaction that involves the use of proceeds from an unlawful
16 activity; to provide penalties; and in connection therewith
17 would have as its purpose or effect the requirement of a new
18 or increased expenditure of local funds within the meaning of
19 Amendment 621 of the Constitution of Alabama of 1901, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. As used in this act, the following terms
24 shall have the following meanings:

25 (1) CONDUCTS. Includes initiating, concluding, or
26 participating in initiating or concluding a transaction.

1 (2) CRIMINALLY UNLAWFUL ACTIVITY. Any property
2 constituting or derived from proceeds obtained from a criminal
3 offense.

4 (3) FINANCIAL INSTITUTION. Definition given that
5 term in Section 5312(a)(2) of Title 31, United States Code, or
6 the regulations promulgated thereunder.

7 (4) FINANCIAL TRANSACTION. Includes the following:

8 a. A transaction which in any way or degree affects
9 interstate or foreign commerce which involves the following:

10 1. The movement of funds by wire or other means.

11 2. One or more monetary instruments.

12 3. The transfer of title to any real property,
13 vehicle, vessel, or aircraft.

14 b. A transaction involving the use of a financial
15 institution which is engaged in, or the activities of which
16 affect interstate or foreign commerce in any way or degree.

17 (5) KNOWING THAT THE PROPERTY INVOLVED IN A
18 FINANCIAL TRANSACTION REPRESENTS THE PROCEEDS OF SOME FORM OF
19 UNLAWFUL ACTIVITY. The person knew the property involved in
20 the transaction represented proceeds from some form, though
21 not necessarily which form, of activity that constitutes a
22 felony under state, federal, or foreign law, regardless of
23 whether or not such activity is specified in subdivision (8).

24 (6) MONETARY INSTRUMENT. a. Coin or currency of the
25 United States or of any other country, travelers checks,
26 personal checks, bank checks, and money orders, or b.
27 investment securities or negotiable instruments, in bearer

1 form or otherwise in such form that title thereto passes upon
2 delivery.

3 (7) SPECIFIED UNLAWFUL ACTIVITY.

4 a. With respect to a financial transaction occurring
5 in whole or in part in the United States, an offense against a
6 foreign nation involving any of the following:

7 1. The manufacture, importation, sale, or
8 distribution of a controlled substance.

9 2. Murder, kidnapping, robbery, extortion, or
10 destruction of property by means of explosive or fire.

11 3. Fraud, or any scheme or attempt to defraud, by or
12 against a foreign bank, as defined in paragraph 7 of Section
13 1(b) of the International Banking Act of 1978.

14 b. Any act or acts constituting a continuing
15 criminal enterprise, as that term is defined in Section 408 of
16 the Controlled Substances Act (21 U.S.C. §848).

17 (8) TRANSACTION. Includes a purchase, sale, loan,
18 pledge, gift, transfer, delivery, or other disposition, and
19 with respect to a financial institution includes a deposit,
20 withdrawal, transfer between accounts, exchange of currency,
21 loan, extension of credit, purchase or sale of any stock,
22 bond, certificate of deposit, or other monetary instrument,
23 use of a safe deposit box, or any other payment, transfer, or
24 delivery by, through, or to a financial institution, by
25 whatever means effected.

26 Section 2. (a) A person commits the crime of money
27 laundering if he or she does any of the following:

1 (1) Knowing that the property involved in a
2 financial transaction represents the proceeds of some form of
3 unlawful activity, conducts or attempts to conduct such a
4 financial transaction which in fact involves the proceeds of
5 specified unlawful activity with the intent to promote the
6 carrying on of specified unlawful activity knowing that the
7 transaction is designed in whole or in part to do any of the
8 following:

9 a. Conceal or disguise the nature, the location, the
10 source, the ownership, or the control of the proceeds of
11 specified unlawful activity.

12 b. Avoid a transaction reporting requirement under
13 state or federal law.

14 (2) Transports, transmits, or transfers, or attempts
15 to transport, transmit, or transfer a monetary instrument or
16 funds from a place in the United States to or through a place
17 outside the United States or to a place in the United States
18 from or through a place outside the United States to do any of
19 the following:

20 a. With the intent to promote the carrying on of
21 specified unlawful activity.

22 b. Knowing that the monetary instrument or funds
23 involved in the transportation, transmission, or transfer
24 represent the proceeds of some form of unlawful activity and
25 knowing that such transportation, transmission, or transfer is
26 designed in whole or in part to do any of the following:

1 1. To conceal or disguise the nature, the location,
2 the source, the ownership, or the control of the proceeds of
3 specified unlawful activity.

4 2. To avoid a transaction reporting requirement
5 under state or federal law.

6 (3) With the intent to do any of the following:

7 a. Promotes the carrying on of specified unlawful
8 activity.

9 b. Conceals or disguises the nature, location,
10 source, ownership, or control of property believed to be the
11 proceeds of specified unlawful activity.

12 c. Avoids a transaction reporting requirement under
13 state or federal law.

14 (b) A person who violates the provisions of this
15 section is guilty of a Class C felony.

16 Section 3. (a) Whoever, in any of the circumstances
17 set forth in subsection (c), knowingly engages or attempts to
18 engage in a monetary transaction in criminally derived
19 property of a value greater than ten thousand dollars
20 (\$10,000) which is derived from specified unlawful activity,
21 is guilty of a Class C felony.

22 (b) In a prosecution for an offense under this
23 section, the state shall not be required to prove that the
24 defendant knew that the offense from which the criminally
25 derived property was derived was specified unlawful activity.

26 (c) The circumstances referred to in subsection (a)
27 include any of the following:

1 (1) The offense under this section takes place in
2 the United States or in the special maritime and territorial
3 jurisdiction of the United States.

4 (2) The offense under this section takes place
5 outside the United States and such special jurisdiction, but
6 the defendant is a United States citizen.

7 Section 4. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621, now
11 appearing as Section 111.05 of the Official Recompilation of
12 the Constitution of Alabama of 1901, as amended, because the
13 bill defines a new crime or amends the definition of an
14 existing crime.

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