

1 HB390  
2 137368-1  
3 By Representative Scott  
4 RFD: Financial Services  
5 First Read: 23-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.

8  
9                   A BILL  
10                  TO BE ENTITLED  
11                  AN ACT

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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 intrastate, interstate, or foreign commerce which involves the  
10 following:

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

12 2. One or more monetary instruments.

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

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

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

26 (6) MONETARY INSTRUMENT. a. Coin or currency of the  
27 United States or of any other country, travelers checks,

1 personal checks, bank checks, and money orders, or b.  
2 investment securities or negotiable instruments, in bearer  
3 form or otherwise in such form that title thereto passes upon  
4 delivery.

5 (7) SPECIFIED UNLAWFUL ACTIVITY.

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

9 1. The manufacture, importation, sale, or  
10 distribution of a controlled substance.

11 2. Murder, kidnapping, robbery, extortion, or  
12 destruction of property by means of explosive or fire.

13 3. Fraud, or any scheme or attempt to defraud, by or  
14 against a foreign bank, as defined in paragraph 7 of Section  
15 1(b) of the International Banking Act of 1978.

16 4. Any act or acts constituting a felony violation  
17 of Title 13A, Code of Alabama 1975, or Section 8-6-17 of the  
18 Code of Alabama 1975.

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

22 (8) TRANSACTION. Includes a purchase, sale, loan,  
23 pledge, gift, transfer, delivery, or other disposition, and  
24 with respect to a financial institution includes a deposit,  
25 withdrawal, transfer between accounts, exchange of currency,  
26 loan, extension of credit, purchase or sale of any stock,  
27 bond, certificate of deposit, or other monetary instrument,

1 use of a safe deposit box, or any other payment, transfer, or  
2 delivery by, through, or to a financial institution, by  
3 whatever means effected.

4 Section 2. (a) A person shall be guilty of a Class C  
5 felony who:

6 (1) Knowing that the property involved in a  
7 financial transaction represents the proceeds of some form of  
8 unlawful activity, conducts or attempts to conduct such a  
9 financial transaction which in fact involves the proceeds of  
10 specified unlawful activity:

11 a. With the intent to promote the carrying on of  
12 specified unlawful activity; or

13 b. Knowing that the transaction is designed in whole  
14 or in part to do any of the following:

15 1. Conceal or disguise the nature, the location, the  
16 source, the ownership, or the control of the proceeds of  
17 specified unlawful activity.

18 2. Avoid a transaction reporting requirement under  
19 state or federal law.

20 (2) Transports, transmits, or transfers, or attempts  
21 to transport, transmit, or transfer a monetary instrument or  
22 funds from a place in the United States to or through a place  
23 outside the United States or to a place in the United States  
24 from or through a place outside the United States:

25 a. With the intent to promote the carrying on of  
26 specified unlawful activity; or

1           b. Knowing that the monetary instrument or funds  
2 involved in the transportation, transmission, or transfer  
3 represent the proceeds of some form of unlawful activity and  
4 knowing that such transportation, transmission, or transfer is  
5 designed in whole or in part:

6           1. To conceal or disguise the nature, the location,  
7 the source, the ownership, or the control of the proceeds of  
8 specified unlawful activity; or

9           2. To avoid a transaction reporting requirement  
10 under state or federal law.

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

12           a. Promotes the carrying on of specified unlawful  
13 activity.

14           b. Conceals or disguises the nature, location,  
15 source, ownership, or control of property believed to be the  
16 proceeds of specified unlawful activity.

17           c. Avoids a transaction reporting requirement under  
18 state or federal law.

19           d. Conducts or attempts to conduct a financial  
20 transaction involving property represented to be proceeds of  
21 specified unlawful activity, or property used to conduct or  
22 facilitate specified unlawful activity.

23           Section 3. (a) Whoever, in any of the circumstances  
24 set forth in subsection (c), knowingly engages or attempts to  
25 engage in a monetary transaction in criminally derived  
26 property of a value greater than ten thousand dollars

1 (\$10,000) which is derived from specified unlawful activity,  
2 is guilty of a Class C felony.

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

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

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

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

15 Section 4. Although this bill would have as its  
16 purpose or effect the requirement of a new or increased  
17 expenditure of local funds, the bill is excluded from further  
18 requirements and application under Amendment 621, now  
19 appearing as Section 111.05 of the Official Recompilation of  
20 the Constitution of Alabama of 1901, as amended, because the  
21 bill defines a new crime or amends the definition of an  
22 existing crime.

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