

1 HB131  
2 115313-1  
3 By Representatives Hammon, Sanderford, Clouse, Bridges,  
4 Galliher and Gaston  
5 RFD: Judiciary  
6 First Read: 12-JAN-10  
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8 SYNOPSIS: This bill would require any person, 18  
9 years of age or older, to provide proof of being  
10 lawfully in the United States before receiving  
11 certain public benefits.

12 This bill would provide exemptions.

13 This bill would specify ways for an agency  
14 or political subdivision of the state to verify  
15 whether a person is lawfully present in the United  
16 States.

17 This bill would authorize the Commissioner  
18 of Revenue to issue temporary emergency rules for  
19 additional forms of identification or waiver.

20 This bill would provide penalties for  
21 violations.

22 This bill would also provide for  
23 verification of the lawful presence of certain  
24 aliens through the federal Systematic Alien  
25 Verification of Entitlement (SAVE) program,  
26 operated by the United States Department of  
27 Homeland Security.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   Relating to public benefits; to require any person  
27                   age 18 or older to provide proof of being lawfully in the

1 United States before receiving certain public benefits; to  
2 provide exemptions; to specify means of verification; to  
3 authorize the Commissioner of Revenue to issue temporary  
4 emergency rules for additional forms of identification or  
5 waiver; to provide penalties for violation; to provide for the  
6 verification of certain aliens through the federal Systematic  
7 Alien Verification of Entitlement (SAVE) program, operated by  
8 the United States Department of Homeland Security; and in  
9 connection therewith would have as its purpose or effect the  
10 requirement of a new or increased expenditure of local funds  
11 within the meaning of Amendment 621 of the Constitution of  
12 Alabama of 1901, now appearing as Section 111.05 of the  
13 Official Recompilation of the Constitution of Alabama of 1901,  
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Any person 18 years of age or older shall  
17 provide proof that he or she is lawfully present in the United  
18 States before receiving certain public benefits.

19 Section 2. As used in this act, the following terms  
20 have the following meanings:

21 (1) EMERGENCY MEDICAL CONDITION. The same meaning as  
22 provided in 42 U.S.C. § 1396b(v) (3).

23 (2) FEDERAL PUBLIC BENEFITS. The same meaning as  
24 provided in 8 U.S.C. § 1611.

25 (3) STATE OR LOCAL PUBLIC BENEFITS. The same meaning  
26 as provided in 8 U.S.C. § 1621.

1           Section 3. (a) Except as otherwise provided in  
2 subsection (c) or where exempted by federal law, commencing on  
3 the effective date of this act, each agency or political  
4 subdivision of the state shall verify the lawful presence in  
5 the United States of each natural person 18 years of age or  
6 older who applies for state or local public benefits or for  
7 federal public benefits for the applicant.

8           (b) This act shall be enforced without regard to  
9 race, religion, gender, ethnicity, or national origin.

10           (c) Verification of lawful presence in the United  
11 States shall not be required for any of the following:

12           (1) For any purpose for which lawful presence in the  
13 United States is not required by law, ordinance, or rule.

14           (2) For obtaining health care items and services  
15 that are necessary for the treatment of an emergency medical  
16 condition of the person involved and are not related to an  
17 organ transplant procedure.

18           (3) For short-term, noncash, in-kind emergency  
19 disaster relief.

20           (4) For public health assistance for immunizations  
21 with respect to immunizable diseases; family planning  
22 services; the Special Supplemental Nutrition Program for  
23 Women, Infants, and Children; and for testing and treatment of  
24 symptoms of communicable diseases, whether or not such  
25 symptoms are caused by a communicable disease.

26           (5) For programs, services, or assistance, such as  
27 soup kitchens, crisis counseling and intervention, and

1 short-term shelter specified by federal law or regulation that  
2 satisfy all of the following:

3 a. Deliver in-kind services at the community level,  
4 including services through public or private nonprofit  
5 agencies.

6 b. Do not condition the provision of assistance, the  
7 amount of assistance provided, or the cost of assistance  
8 provided on the income or resources of the individual  
9 recipient.

10 c. Are necessary for the protection of life or  
11 safety.

12 (6) For prenatal care.

13 Section 4. An agency or a political subdivision  
14 shall verify the lawful presence in the United States of each  
15 applicant 18 years of age or older for federal public benefits  
16 or state or local public benefits by requiring the applicant  
17 to:

18 (1) Produce any of the following documents:

19 a. A valid Alabama driver's license or an Alabama  
20 nondriver identification card.

21 b. A United States military card or a military  
22 dependent's identification card.

23 c. A United States Coast Guard Merchant Mariner  
24 card.

25 d. A Native American tribal document.

26 (2) Execute an affidavit stating that he or she is  
27 either of the following:

1           a. A United States citizen or legal permanent  
2 resident.

3           b. Otherwise lawfully present in the United States  
4 pursuant to federal law.

5           Section 5. (a) Notwithstanding the requirements of  
6 subdivision (1) of Section 4, the Commissioner of Revenue may  
7 issue emergency rules, to be effective until the first day of  
8 the sixth month after the effective date of this act,  
9 providing for additional forms of identification or a waiver  
10 process to ensure that an individual seeking benefits pursuant  
11 to this act proves lawful presence in the United States. The  
12 rules are necessary to ensure that certain individuals,  
13 including, but not limited to, homeless state citizens,  
14 lawfully present in the United States receive authorized  
15 benefits.

16           (b) All emergency rules authorized under this  
17 section shall terminate on the first day of the sixth month  
18 after the effective date of this act.

19           Section 6. Any person who knowingly makes a false,  
20 fictitious, or fraudulent statement or representation in an  
21 affidavit executed pursuant to Section 4 shall be guilty of  
22 perjury in the second degree pursuant to Section 13A-10-102,  
23 Code of Alabama 1975. Each time that a person receives a  
24 public benefit based upon such a statement or representation  
25 shall constitute a separate violation of Section 13A-10-102,  
26 Code of Alabama 1975.

1           Section 7. For an applicant who has executed an  
2 affidavit stating that he or she is an alien lawfully present  
3 in the United States, verification of lawful presence for  
4 federal public benefits or state or local public benefits  
5 shall be made through the federal Systematic Alien  
6 Verification of Entitlement (SAVE) program, operated by the  
7 United States Department of Homeland Security, or a successor  
8 program designated by the United States Department of Homeland  
9 Security. Until verification of lawful presence is made, the  
10 affidavit may be presumed to be proof of lawful presence for  
11 purposes of this act.

12           Section 8. Agencies or political subdivisions of  
13 this state may adopt variations of the requirements of  
14 subdivision (2) of Section 4 to improve efficiency or reduce  
15 delay in the verification process or to provide for  
16 adjudication of unique individual circumstances in which the  
17 verification procedures in this act would impose unusual  
18 hardship on a legal resident of the state. Variations shall be  
19 no less stringent than the requirements of this act.

20           Section 9. It shall be unlawful for an agency or a  
21 political subdivision of this state to provide a federal  
22 public benefit or a state or local public benefit in violation  
23 of this act. Each state agency or department that administers  
24 a program that provides state or local public benefits shall  
25 provide an annual report with respect to its compliance with  
26 this act to the Government Affairs Committee of the Senate and



1 the Government Operations Committee of the House of  
2 Representatives, or any successor committees.

3 Section 10. Errors and significant delays by the  
4 SAVE program shall be reported to the United States Department  
5 of Homeland Security and to the Secretary of State, both of  
6 which monitor the SAVE program and its verification  
7 application errors and significant delays and report yearly on  
8 such errors and delays, to ensure that the application of the  
9 SAVE program is not wrongfully denying benefits to legal  
10 residents of the state.

11 Section 11. Although this bill would have as its  
12 purpose or effect the requirement of a new or increased  
13 expenditure of local funds, the bill is excluded from further  
14 requirements and application under Amendment 621, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended, because the  
17 bill prescribes the minimum compensation for public officials.

18 Section 12. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the governor, or its otherwise becoming law.