

1 HB27
2 155235-1
3 By Representative Wood
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 10/18/2013

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8 SYNOPSIS: Under existing law, a person commits
9 burglary in the second degree if the person
10 unlawfully enters a lawfully occupied
11 dwelling-house with intent to commit a theft or
12 felony therein.

13 This bill would remove the requirement that
14 a dwelling-house be lawfully occupied in order for
15 a burglary in the second degree to occur and would
16 specify that the burglary of a habitable dwelling
17 would constitute burglary in the second degree.

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

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

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12 A BILL
13 TO BE ENTITLED
14 AN ACT

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16 To amend Section 13A-7-6 of the Code of Alabama
17 1975, relating to burglary in the second degree; to further
18 define the offense to include burglary of a habitable
19 dwelling-house; and in connection therewith would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds within the meaning of Amendment 621
22 of the Constitution of Alabama of 1901, now appearing as
23 Section 111.05 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-7-6 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§13A-7-6.

2 "(a) A person commits the crime of burglary in the
3 second degree if he or she knowingly enters or remains
4 unlawfully in a building with intent to commit theft or a
5 felony therein and, if in effecting entry or while in the
6 building or in immediate flight therefrom, the person or
7 another participant in the crime:

8 "(1) Is armed with explosives; or

9 "(2) Causes physical injury to any person who is not
10 a participant in the crime; or

11 "(3) In effecting entry, is armed with a deadly
12 weapon or dangerous instrument or, while in the building or in
13 immediate flight from the building, uses or threatens the
14 immediate use of a deadly weapon or dangerous instrument
15 against another person. The use of or threatened use of a
16 deadly weapon or dangerous instrument does not include the
17 mere acquisition of a deadly weapon or dangerous instrument
18 during the burglary.

19 "(b) In the alternative to subsection (a) of this
20 section, a person commits the crime of burglary in the second
21 degree if he or she unlawfully enters a lawfully occupied or
22 unoccupied habitable dwelling-house with intent to commit a
23 theft or a felony therein.

24 "(c) Burglary in the second degree is a Class B
25 felony."

26 Section 2. Although this bill would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

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