

1 HB130  
2 180476-2  
3 By Representatives Collins, Baker, McMillan, Williams (P)  
4 and Scott  
5 RFD: Ways and Means Education  
6 First Read: 07-FEB-17

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8 SYNOPSIS: This bill shall be known as the Tax  
9 Exemption Reform Act of 2017. Under existing law,  
10 specific organizations and community chests united  
11 appeal funds, and the charities for which they  
12 solicit funds are exempt from any and all taxation  
13 and fees.

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

17 This bill also provides that united appeal  
18 funds that already hold a Certificate of Exemption  
19 issued by the Department of Revenue and are in good  
20 standing with the reporting requirements of Act  
21 2015-534, now appearing as Sections 40-9-60 and  
22 40-9-61 of the Code of Alabama 1975, would be  
23 deemed to be within the definitions.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. This act shall be known as the Tax  
11 Exemption Reform Act of 2017.

12 Section 2. Section 40-9-12, Code of Alabama 1975, is  
13 amended to read as follows:

14 "§40-9-12.

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

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

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

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

20 "(b) With respect to gasoline, tobacco, playing card  
21 tax or any other tax required by law to be prepaid by the  
22 retailer, the associations, nonprofit corporations, or  
23 organizations exempt under this section shall pay the  
24 appropriate tax at the time purchases are made, and the amount  
25 of such tax shall be refunded to such associations, nonprofit  
26 corporations, or organizations by the Department of Revenue

1 pursuant to the procedures for refunds provided in Chapter 2A  
2 of this title.

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

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

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

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

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

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

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

1           "e. With respect to the distribution of funds raised  
2 by the united appeal fund, the entity's principle governing  
3 documents must require that no supported charity, as defined  
4 in this subsection, will receive de minimis support.

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

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

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

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

21           "(d) (1) Each supported charity must be separately  
22 identified by name in the principal governing documents of the  
23 united appeal fund entity, and by name and federal employer  
24 identification number at the request of the Department of  
25 Revenue. Each supported charity must agree, in its own  
26 principal governing documents, to become or remain a member of  
27 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 3. This act shall become effective on the  
11 first day of the third month following its passage and  
12 approval by the Governor, or upon its otherwise becoming law.