

1 SB212  
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3 By Senator Burkette (N & P)  
4 RFD: Local Legislation  
5 First Read: 02-APR-19

1 SB212

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3  
4 With Notice and Proof

5  
6 ENROLLED, An Act,

7 Relating to Montgomery County, to authorize the  
8 Montgomery County Commission to levy and collect a rental tax  
9 against the lessees or renters of tangible personal property;  
10 to make legislative findings; to establish maximum rates of  
11 the rental tax; to provide that the rental tax is a direct tax  
12 on the lessee or renter though required to be collected by the  
13 lessor or vendor; to provide that the rental tax is not a  
14 gross receipts tax in the nature of a sales tax; to provide  
15 for exemptions from the tax; to provide for the collection,  
16 administration, and enforcement of the rental tax; to provide  
17 that the rental tax constitutes a debt due Montgomery County  
18 and may be collected in a civil suit, in addition to all other  
19 methods provided by law and in this act; to provide that the  
20 rental tax, together with any interest and penalties with  
21 respect thereto, shall constitute and be secured by a lien on  
22 the property of any person from whom the tax is due or who is  
23 required to collect the tax; to provide that state law that  
24 applies to the enforcement of liens for privilege, license, or  
25 excise taxes due to the state shall apply to the collection of

1 the rental tax; to provide for the administration and  
2 collection of the rental tax at the same time and in the  
3 manner as the state rental tax is collected; to provide for  
4 the collection and enforcement of the rental tax by Montgomery  
5 County or a third party; to provide that the state rental tax  
6 statutes and related rules, and any other statutes that apply  
7 to or affect the administration and collection of the state  
8 rental tax, shall apply to the rental tax to the extent they  
9 are not inconsistent with the act; to require the rental tax  
10 to be added to the rental price and collected from the lessee  
11 or renter; to provide for the effective date for any levy of  
12 the rental tax; to provide that the rental tax received or  
13 collected shall be deposited into the county general fund to  
14 be expended as determined by the county commission; to provide  
15 that the Montgomery County Commission may issue bonds,  
16 warrants, or other forms of indebtedness and enter into  
17 funding agreements or other obligations with other  
18 governmental entities and public corporations and may secure  
19 its obligations thereunder with a pledge of the rental tax  
20 proceeds; to provide that any pledge of the rental tax  
21 proceeds for the payment of bonds, warrants, funding  
22 agreements, or other evidences of indebtedness or obligations  
23 issued or entered into by the Montgomery County Commission  
24 constitutes part of the contract with the holders of the  
25 obligations secured thereby and the contract shall be

1 protected from impairment to the fullest extent provided in  
2 the federal Constitution and the Constitution of Alabama of  
3 1901, as amended; to provide that any debt obligations of  
4 Montgomery County payable from or secured by the rental tax  
5 proceeds shall be issued under the general laws of the state  
6 available for such purposes; to provide that the Montgomery  
7 County Commission shall have the further power to designate as  
8 the agent of Montgomery County any other governmental entity  
9 or public corporation in the state heretofore or hereafter  
10 organized to undertake any purpose as the Montgomery County  
11 Commission shall determine utilizing proceeds of the rental  
12 tax; to provide that when such a governmental entity or public  
13 corporation shall be so designated, the proceeds of the rental  
14 tax (or so much thereof as shall be allocated to the entity so  
15 designated) thereafter collected shall be paid over to it and  
16 shall be used by it for the purposes specified by the  
17 Montgomery County Commission for which the tax is herein  
18 authorized to be levied; to provide that said governmental  
19 entity or public corporation may anticipate the proceeds from  
20 the rental tax so required to be paid to it by issuing, for  
21 any of the purposes specified by the Montgomery County  
22 Commission for which the tax is herein authorized to be  
23 levied, funding or refunding bonds, warrants, certificates of  
24 indebtedness or other evidences of indebtedness of such  
25 governmental entity or public corporation, and may pledge for

1 the payment of the principal thereof and interest thereon the  
2 proceeds from said tax so paid to it; to provide that the  
3 designation by the Montgomery County Commission of a  
4 governmental entity or public corporation to receive proceeds  
5 of the rental tax levied pursuant to this act, the payment of  
6 such proceeds over to the governmental entity or public  
7 corporation and the pledge of such proceeds by the  
8 governmental entity or public corporation for the payment of  
9 the principal of and interest on bonds, warrants, certificates  
10 of indebtedness or other evidences of indebtedness issued by  
11 such governmental entity or public corporation shall  
12 constitute a part of the contract with the holders of said  
13 bonds, warrants, certificates of indebtedness or other  
14 evidences of indebtedness and such contract shall be protected  
15 from impairment to the fullest extent provided by the federal  
16 Constitution and the Constitution of Alabama of 1901, as  
17 amended; to provide that obligations of such a governmental  
18 entity or public corporation payable from or secured by the  
19 proceeds of the rental tax shall be issued under the general  
20 laws of the state available for those purposes; to provide  
21 that, to the extent any provision of Act 89 adopted during the  
22 1975 Fourth Special Session of the Alabama Legislature is  
23 inconsistent with any provision of this act, such conflicting  
24 provision is superseded and repealed, but only to the extent  
25 of the conflict, and that Act 89 of the 1975 Fourth Special

1 Session shall otherwise remain in full force and effect; to  
2 provide that Act Number 2017-465 of the 2017 Regular Session  
3 of the Alabama Legislature is hereby repealed; to provide that  
4 public officials and their family members shall not obtain  
5 personal gain from rental tax proceeds; to provide that the  
6 provisions of this act are severable; to provide for an  
7 effective date of the act.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. This act shall only apply to Montgomery  
10 County.

11 Section 2. (a) It is the intention of the  
12 Legislature by the passage of this act to authorize the county  
13 to levy and provide for the collection of, in addition to all  
14 other taxes authorized by law, a rental tax not to exceed the  
15 rate set forth herein.

16 (b) The Legislature hereby finds and declares that  
17 the rental tax authorized by this act (1) is not a gross  
18 receipts tax in the nature of a sales tax, as such term is  
19 defined in Section 40-2A-3(8) of the Code of Alabama 1975, as  
20 amended, and used in Section 11-51-209 of the Code of Alabama  
21 1975, as amended, and (2) is not a tax on gross proceeds  
22 described in Act 89 of the 1975 Fourth Special Session, but is  
23 instead a direct tax on the lessee or renter collected by the  
24 lessor or vendor for ease of administration.

1           (c) This act shall be liberally construed in  
2 conformity with the intentions and findings expressed in this  
3 section.

4           Section 3. (a) As used in this act, the following  
5 words, terms, and phrases where used shall have the following  
6 respective meanings except where the context clearly indicates  
7 a different meaning:

8           (1) BUSINESS. All activities engaged in, or caused  
9 to be engaged in, by any person with the object of gain,  
10 profit, benefit, or advantage, either direct or indirect to  
11 such person.

12           (2) COUNTY. Montgomery County, Alabama.

13           (3) COUNTY COMMISSION. The Montgomery County  
14 Commission.

15           (4) GROSS VEHICLE WEIGHT. The empty weight of the  
16 truck or truck tractor, plus the heaviest load to be carried  
17 and, in the case of combinations, the empty weight of the  
18 heaviest trailer with which the power unit shall be placed in  
19 combination, plus the heaviest load to be carried.

20           (5) LEASING or RENTING. A transaction whereunder the  
21 person who owns or controls the possession of tangible  
22 personal property permits another person to have the  
23 possession or use thereof for a consideration and for the  
24 duration of a definite or indefinite period of time without  
25 transfer of the title to such property. The detention by the

1 user thereof of freight cars, oxygen and acetylene tanks, and  
2 similar property, in respect of which detention a demurrage or  
3 per diem charge is made against the user of such property,  
4 shall not be deemed to constitute a transaction whereunder  
5 property is leased or rented to another within the meaning of  
6 this act.

7 (6) LESSEE or RENTER. Any person leasing or renting  
8 tangible personal property from a lessor or vendor.

9 (7) LESSOR or VENDOR. Any person engaging or  
10 continuing in the business of leasing or renting tangible  
11 personal property.

12 (8) PERSON. Any natural person, firm, partnership,  
13 association, corporation, receiver, trust, estate, or other  
14 entity, or any other group or combination of any thereof  
15 acting as a unit.

16 (9) RENTAL PASSENGER VEHICLE. An automotive vehicle  
17 designed to carry 15 or fewer passengers and used primarily  
18 for the transportation of persons on public roads and highways  
19 that is rented or leased without a driver, regardless of where  
20 such vehicle is licensed.

21 (10) RENTAL REVENUE. The value proceeding or  
22 accruing from the lessee or renter in each transaction  
23 involving the leasing or renting tangible personal property,  
24 not including any license, privilege, or excise tax passed on  
25 to a lessee or renter by a lessor or vendor, without any

1 deduction on account of the cost of the property so leased or  
2 rented, the cost of materials used, labor or service cost,  
3 interest paid, or any other expenses whatsoever, and without  
4 any deduction on account of loss, and shall also include on  
5 the part of any person claiming an exemption under subdivision  
6 (4) of Section 5 an amount equal to the amount of rental paid  
7 on any tangible personal property acquired under such  
8 exception and thereafter diverted to the use of such person.

9 (11) RENTAL TAX. The privilege, license, or excise  
10 tax authorized by this act.

11 (12) RENTAL TRUCK. An automotive vehicle designed  
12 primarily for the transportation on public roads and highways  
13 of property in or upon its own structure and having a gross  
14 vehicle weight under 26,000 pounds, including, without  
15 limitation, an automotive vehicle commonly known as a "pickup"  
16 or "pickup truck," that is rented or leased without a driver,  
17 regardless of where such vehicle is licensed.

18 (13) STATE DEPARTMENT OF REVENUE. The Alabama  
19 Department of Revenue, or any such successor agency  
20 commissioned by the Legislature to administer the state rental  
21 tax.

22 (14) STATE RENTAL TAX. The tax levied by Article 4  
23 of Chapter 12 of Title 40, Code of Alabama 1975, as amended.

24 (15) TANGIBLE PERSONAL PROPERTY. Personal property  
25 which may be seen, weighed, measured, felt, or touched, or is

1 in any other manner perceptible to the senses. The term does  
2 not include stocks, bonds, notes, insurance, or other  
3 contracts or securities.

4 (b) All definitions of words, terms, and phrases in,  
5 or incorporated into, the statutes levying the State Rental  
6 Tax and in any related rules of the state Department of  
7 Revenue shall apply to this act, except as otherwise expressly  
8 provided herein or where the context clearly indicates a  
9 different meaning.

10 Section 4. (a) The county commission is authorized,  
11 by resolution duly adopted, to levy, in addition to all other  
12 taxes now imposed or authorized by law, and to collect as  
13 herein provided, a privilege, license, or excise tax (herein  
14 called a "rental tax") on the leasing or renting tangible  
15 personal property within the county. Though required to be  
16 collected by the lessor or vendor, the rental tax shall  
17 conclusively be presumed to be a direct tax on the lessee or  
18 renter, pre-collected for the purpose of convenience only.  
19 Each individual transaction involving the lease or rental of  
20 tangible personal property to a lessee or a renter shall  
21 constitute the basis for computing the rental tax. As such,  
22 the rental tax shall not be construed as a tax on the gross  
23 receipts or gross proceeds of a lessor or a vendor.

24 (b) The rental tax may be imposed at the following  
25 rates:

1           (1) In each transaction involving the leasing or  
2           renting of any automotive vehicle or truck trailer,  
3           semi-trailer, or house trailer, up to three quarters of one  
4           percent of the rental revenue paid by the lessee or renter of  
5           the automotive vehicle, truck trailer, semi-trailer, or house  
6           trailer; provided, however, that the leasing or renting of  
7           rental passenger vehicles and rental trucks shall be exempt  
8           from the rental tax.

9           (2) In all other transactions subject to the tax, up  
10          to two percent of the rental revenue paid by the lessee or  
11          renter in each transaction subject to the tax.

12          (c) The rate of taxation shall be set by a  
13          resolution of the county commission within the limits  
14          prescribed in this section.

15          (d) The rental tax shall not apply to any leasing or  
16          rental in which the state, or any municipality or county in  
17          the state, or any public corporation organized under the laws  
18          of the state, is the lessee or vendee or the lessor or vendor.

19          (e) Subject to subsections (g) and (h), when a  
20          lessor or vendor in the county (1) leases tangible personal  
21          property to a lessee or renter outside the county, (2) the  
22          property is to be used outside the county, and (3) the  
23          lessor's or vendor's records in the county show that the  
24          property is so leased to be used outside the county, the  
25          transaction is not subject to the rental tax.

1           (f) Subject to subsections (g) and (h), when a  
2           lessor or vendor (1) is located outside of the county, (2)  
3           leases or rents tangible personal property to a lessee or  
4           renter within the county, and (3) the property so leased or  
5           rented is to be used in the county, the transaction is subject  
6           to the rental tax.

7           (g) Except for rental passenger vehicles and rental  
8           trucks, the leasing or renting of any automotive vehicle,  
9           truck trailer, semi-trailer, or house trailer within the  
10          county is subject to the rental tax, although the automotive  
11          vehicle, truck trailer, semi-trailer, or house trailer may be  
12          returned to the lessor or vendor outside the county. Where any  
13          automotive vehicle, truck trailer, semi-trailer, or house  
14          trailer is leased outside the county and turned in to the  
15          lessor or vendor in the county, the transaction is not subject  
16          to the rental tax.

17          (h) Except for rental trucks, when a lessor or  
18          vendor leases or rents a truck, truck trailer, or semi-trailer  
19          to a motor carrier in the county, the transaction is subject  
20          to the rental tax, although the truck, truck trailer, or  
21          semi-trailer may occasionally travel outside of the county.  
22          Where the lessor or vendor leases a truck, truck trailer, or  
23          semi-trailer to a motor carrier outside the county, the  
24          transaction is not subject to the rental tax, although the

1 truck, truck trailer, or semi-trailer may occasionally travel  
2 in the county.

3 (i) The rental tax received or collected shall be  
4 deposited into the county general fund to be expended as  
5 determined by the county commission.

6 Section 5. The rental tax authorized by this act  
7 does not apply to the following transactions:

8 (1) The leasing or rental of a film or films by a  
9 lessee who charges, or proposes to charge, admission for  
10 viewing the film or films.

11 (2) The use of docks or docking facilities furnished  
12 for boats or other craft operated on waterways.

13 (3) Any charge paid by a tenant to a landlord in  
14 respect of the leasing or furnishing of tangible personal  
15 property to be used on the premises of real property leased by  
16 the same landlord to the same tenant for use as a residence or  
17 dwelling place, including a mobile home.

18 (4) The leasing or rental of tangible personal  
19 property to a lessee who acquires possession of the property  
20 for the purpose of leasing or renting to another the same  
21 property under a leasing or rental transaction subject to this  
22 act.

23 (5) Any charge paid by a tenant to a landlord in  
24 respect of the leasing or furnishing of tangible personal  
25 property to be used on the premises of any room or rooms,

1 lodging, or accommodations leased or rented to transients in  
2 any hotel, motel, inn, tourist camp, tourist cabin, or any  
3 other place in which rooms, lodgings, or accommodations are  
4 regularly furnished to transients for a consideration.

5 (6) The leasing or rental of tangible personal  
6 property which the county or the state is prohibited from  
7 taxing under the Constitution or laws of the United States or  
8 under the constitution of the state.

9 (7) The leasing or rental of nuclear fuel assemblies  
10 together with the nuclear material contained therein and other  
11 nuclear material used or useful in the production of  
12 electricity and assemblies containing ionizing radiation  
13 sources together with the ionizing radiation sources contained  
14 therein used or useful in medical treatment or scientific  
15 research.

16 (8) A transaction whereunder the lessor leases a  
17 truck or tractor-trailer or semi-trailer for operation over  
18 the public roads and highways and the lessor furnishes a  
19 driver or drivers for the vehicle shall be deemed to  
20 constitute the rendition of service and not a leasing or  
21 rental within the meaning of this act.

22 (9) The leasing or rental of vehicles in interchange  
23 between regulated motor carriers on a per diem basis.

24 (10) The leasing or rental of all structures,  
25 devices, facilities, and identifiable components of any

1       thereof acquired primarily for the control, reduction, or  
2       elimination of air or water pollution, and the leasing or  
3       rental of all materials used or intended for use in structures  
4       built primarily for the control, reduction, or elimination of  
5       air and water pollution.

6               (11) The leasing or rental of tangible personal  
7       property when the lessor and lessee, including a sublessee,  
8       are wholly owned subsidiary corporations of the same parent  
9       corporation or one is the wholly owned subsidiary of the  
10      other; provided, that the appropriate sales or use tax, if any  
11      was due, has been paid on such item of personal property; and  
12      provided further, that in the event of any subsequent  
13      subleasing of such tangible personal property to any person  
14      other than any such sister, parent, or subsidiary corporation,  
15      any tax due and payable with respect to the subsequent  
16      subleasing under this act is paid.

17              (12) The leasing or rental of vessels or railroad  
18      equipment engaged in interstate or foreign commerce, or both.

19              (13) The leasing or rental of aircraft, replacement  
20      parts, components, systems, sundries, and supplies affixed or  
21      used on the aircraft and all ground support equipment and  
22      vehicles used by or for the aircraft to or by a certificated  
23      or licensed air carrier with a hub operation within this  
24      state, for use in conducting intrastate, interstate, or  
25      foreign commerce for transporting people or property by air.

1 For the purpose of this subdivision, the phrase "hub operation  
2 within this state" shall be construed to have all of the  
3 following criteria:

4 a. There originates from the location 15 or more  
5 flight departures and five or more different first-stop  
6 destinations five days per week for six or more months during  
7 the calendar year; and

8 b. Passengers or property, or both, are regularly  
9 exchanged at the location between flights of the same or a  
10 different certificated or licensed air carrier.

11 (14) The leasing or rental of any other tangible  
12 personal property that would be exempted or excluded from the  
13 computation of the state rental tax.

14 (15) The leasing or rental of rental passenger  
15 vehicles and rental trucks.

16 Section 6. Each person engaging or continuing in the  
17 business of leasing or renting tangible personal property  
18 subject to the rental tax shall add to the rental price and  
19 collect from the renter or lessee the amount of tax owed by  
20 such renter or lessee. It shall be unlawful for any person  
21 engaging or continuing in the business of leasing or renting  
22 tangible personal property subject to the rental tax to fail  
23 or refuse to (1) add the rental tax to the rental price, and  
24 (2) collect from the lessee or renter the amount of tax  
25 required to be added to the rental price. It shall be unlawful

1 for any person engaging or continuing in the business of  
2 leasing or renting tangible personal property subject to the  
3 rental tax authorized to be levied by this act to refund or  
4 offer to refund all or any part of the amount collected or to  
5 absorb or advertise directly or indirectly the absorption or  
6 refund of any portion of such tax. The rental tax authorized  
7 by this act shall conclusively be presumed to be a direct tax  
8 on the retail consumer, pre-collected for the purpose of  
9 convenience only.

10 Section 7. The county commission shall administer,  
11 enforce, and collect the tax herein authorized to be levied  
12 and collected, or shall cause such tax to be administered,  
13 enforced, and collected by the state Department of Revenue or  
14 a private collection agency at the same time and in the same  
15 manner as the state rental tax, pursuant to, and in accordance  
16 with, the applicable provisions of Article 1 of Chapter 3 of  
17 Title 11 of the Code of Alabama 1975, as amended, except as  
18 otherwise provided in this act. All provisions of the state  
19 rental tax statutes and all other statutes which expressly  
20 apply to, or purport to affect, the administration,  
21 enforcement, and collection of the state rental tax, and any  
22 related rules of the state Department of Revenue that are not  
23 inconsistent with this act when applied to the rental tax, as  
24 such statutes and rules may be amended, shall apply to the  
25 rental tax and are incorporated herein by reference and made a

1 part hereof as if fully set forth herein. Without limiting the  
2 generality of the foregoing, the county commission or other  
3 collection agency shall have the same rights, remedies, power,  
4 and authority, including the right to adopt and implement the  
5 same procedures, as would be available to the state Department  
6 of Revenue if the rental tax was being administered, enforced,  
7 and collected by the state Department of Revenue. The county  
8 commission may retain or may pay to the state Department of  
9 Revenue or a private collection agency, as its fee for the  
10 cost of collecting such tax, an amount not to exceed five  
11 percent of the gross proceeds of the tax so collected, subject  
12 to any limitations provided in the general law of the state;  
13 provided, however, that if the county commission or the state  
14 Department of Revenue shall administer, enforce, and collect  
15 the tax, the amount retained by the county commission or paid  
16 to the state Department of Revenue shall not exceed the actual  
17 cost of collection, whichever is less.

18 Section 8. The rental tax shall constitute a debt  
19 due the county and may be collected in a civil suit, in  
20 addition to all other methods provided by law and in this act.  
21 The tax, together with any interest and penalties with respect  
22 thereto, shall constitute and be secured by a lien upon the  
23 property of any person from whom the tax is due or who is  
24 required to collect the tax. All the provisions of the revenue  
25 laws of the state which apply to the enforcement of liens for

1 privilege, license, or excise taxes due the state shall apply  
2 fully to the collection of the rental tax. The county  
3 commission, the state Department of Revenue, or private  
4 collection agency, as determined by the county commission,  
5 shall collect the tax and enforce this act, and the county  
6 commission or any private collection agency collecting the tax  
7 shall have and exercise all rights and remedies that the state  
8 Department of Revenue would have if the rental tax were being  
9 administered, enforced, and collected by the state Department  
10 of Revenue. The county commission, the state Department of  
11 Revenue, or private collection agency, as applicable, may  
12 employ special counsel as it deems necessary from time to time  
13 to enforce the collection of the rental tax and otherwise to  
14 enforce this act, including the institution, prosecution, and  
15 defense of any litigation involving this act. The county  
16 commission, the state Department of Revenue, or private  
17 collection agency shall pay the special counsel such fees as  
18 it deems necessary and proper from the proceeds of the rental  
19 tax.

20 Section 9. (a) The rental tax, except where  
21 otherwise provided in this act, shall be due and payable in  
22 monthly installments on or before the twentieth day of the  
23 month next succeeding the month in which the tax accrues.

24 (b) Except where otherwise provided in this act, on  
25 or before the twentieth day of each month, every person who is

1 charged with the collection of the rental tax shall render to  
2 the county, on a form or forms prescribed by the county  
3 commission, a true and correct statement showing any  
4 information the county commission may require, and at the time  
5 of making the monthly report the person shall pay the county  
6 commission the amount of tax then due to be remitted.

7 (c) When the total rental tax that a lessor or  
8 vendor must collect under this act averages less than two  
9 hundred dollars (\$200) per month during the preceding calendar  
10 year, a quarterly return and remittance in lieu of the monthly  
11 returns may be made, by election of the lessor or vendor to  
12 the county, on or before the twentieth day of the month next  
13 succeeding the end of the quarter for which the tax is due  
14 under any rules and regulations as may be prescribed. The  
15 election to file quarterly shall be made in writing no later  
16 than February 20 of each year and shall be filed with the  
17 county. Notwithstanding the foregoing, but subject to the  
18 final sentence of this subsection, no rental tax return shall  
19 be due until January 20 of each year unless the total rental  
20 tax that a lessor or vendor was required to collect under this  
21 act during the preceding calendar year exceeds ten dollars  
22 (\$10). In order to qualify for quarterly or annual filing  
23 status, the lessor or vendor shall have (1) been in business  
24 for the entire preceding calendar year, (2) been subject to  
25 the requirement to collect the rental tax for the entire

1 preceding calendar year, and (3) filed the required returns  
2 covering the entire preceding calendar year upon which the  
3 calculation of the average monthly tax or annual tax required  
4 to be collected is based.

5 (d) The county commission, for good cause, may  
6 extend the time for making any return required by this act,  
7 but the time for filing such return shall not be extended for  
8 a period greater than 30 days from the date such return is due  
9 to be made.

10 Section 10. Any person who is charged with  
11 collecting the rental tax and who makes cash or credit leases  
12 or rentals, may report such cash leases or rentals when made,  
13 and shall thereafter include in each monthly report all credit  
14 collections made during the month preceding, and shall remit  
15 the tax due thereon at the time of filing such report, but in  
16 no event shall the tax be owed by the lessor or vendor until  
17 collections of the credit leases or rentals have been made.

18 Section 11. It shall be the duty of every person  
19 required to collect the rental tax to keep and preserve  
20 suitable records of the rental revenues of the business and  
21 the rental tax collected, and such other books or accounts as  
22 may be necessary to determine the amount of rental tax that he  
23 or she collected, and was required to collect, from lessees or  
24 renters hereunder. It shall be the duty of every person to  
25 keep and preserve all invoices of tangible personal property

1 leased or rented, and all such books, invoices, and other  
2 records shall be open for examination at any time by the  
3 county commission or its duly authorized agent. Any person  
4 leasing, who in addition leases for releasing, shall keep his  
5 or her books so as to show separately such transactions and  
6 the rental revenues of leasing for releasing. All transactions  
7 involving the leasing and rental of tangible personal property  
8 shall be subject to the rental tax in the absence of such  
9 separate records.

10 Section 12. Any person subject to the provisions  
11 hereof who shall sell out his or her business or stock of  
12 rental goods, or shall quit business, shall be required to  
13 make out the return provided for by this act within 30 days  
14 after the date he or she sold out his or her business or stock  
15 of rental goods, or quit business, and his or her successor in  
16 business shall be required to withhold sufficient of the  
17 purchase money to cover the amount of tax due and unpaid under  
18 this act until the time the former owner produces a receipt  
19 from the county commission showing that the tax has been paid,  
20 or a certificate that no tax is due. If the purchaser of a  
21 business or stock of rental goods fails to withhold purchase  
22 money and the tax is due and unpaid after the 30-day period  
23 allowed, he or she shall be personally liable for the payment  
24 of the tax accrued and unpaid on the transactions engaged in  
25 by the former owner. If the county commission deems it

1 necessary to collect the taxes due the county, it may make a  
2 jeopardy assessment as provided in Chapter 29 of Title 40 of  
3 the Code of Alabama 1975, as amended.

4 Section 13. If the governing body of the county  
5 elects to levy and impose the rental tax, it shall specify in  
6 the resolution levying and imposing the rental tax the first  
7 day of the second calendar month next following the month  
8 during which the tax levy is made as the effective date of the  
9 levy. The resolution may provide such other terms or  
10 provisions relating to the levy, collection, administration,  
11 and enforcement of the rental tax as are not contrary to or  
12 inconsistent with this act.

13 Section 14. The tax authorized to be levied by this  
14 act shall be conclusively presumed to be a direct tax on the  
15 lessee or renter, precollected for the purposes of convenience  
16 and facility only, and shall not be construed as a gross  
17 receipts or gross proceeds tax on the lessor or vendor charged  
18 with the collection or remittance of this tax. To the extent  
19 that Act 89, adopted during the 1975 Fourth Special Session,  
20 is inconsistent with any provision of this act, such  
21 conflicting provision of Act 89 of the 1975 Fourth Special  
22 Session is superseded and repealed, but only to the extent of  
23 the conflict, and Act 89 of the 1975 Fourth Special Session  
24 shall otherwise remain in full force and effect. Act Number  
25 2017-465 of the 2017 Regular Session is hereby repealed.

1           Section 15. (a) The county commission may anticipate  
2 the proceeds from the tax so required to be paid to it by  
3 issuing funding or refunding bonds, warrants, or other  
4 evidences of indebtedness of the county, and may enter into  
5 funding agreements or other obligations to governmental  
6 entities or public corporations payable from such proceeds,  
7 for any purpose for which the tax proceeds may be used, and  
8 may pledge for the payment thereof the proceeds from the tax  
9 so paid to it. The pledge of such proceeds by the county  
10 commission for payment of the principal of and interest on the  
11 bonds, warrants, funding agreements, or other evidences of  
12 indebtedness or other obligations issued or entered into by  
13 the county commission shall constitute a part of the contract  
14 with the holders of the bonds, warrants, evidences of  
15 indebtedness, or other obligations secured thereby and such  
16 contract shall be protected from impairment to the fullest  
17 extent provided by the federal Constitution and the  
18 Constitution of Alabama of 1901, as amended. Obligations of  
19 the county payable from or secured by the proceeds of the  
20 rental tax shall be issued under the general law of the state  
21 available for those purposes, including, without limitation,  
22 Chapter 28 of Title 11 of the Code of Alabama 1975, as  
23 amended.

24           (b) The county commission shall have the further  
25 power to designate as the agent of the county any other

1 governmental entity or public corporation in the state  
2 heretofore or hereafter organized to undertake any purpose as  
3 the county commission shall determine utilizing proceeds of  
4 the rental tax. When such a governmental entity or public  
5 corporation shall be so designated, the proceeds of the rental  
6 tax (or so much thereof as shall be allocated to the entity so  
7 designated) thereafter collected shall be paid over to it and  
8 shall be used by it for the purposes specified by the county  
9 commission for which the tax is herein authorized to be  
10 levied. Said governmental entity or public corporation may  
11 anticipate the proceeds from the rental tax so required to be  
12 paid to it by issuing, for any of the purposes specified by  
13 the county commission for which the tax is herein authorized  
14 to be levied, funding or refunding bonds, warrants,  
15 certificates of indebtedness or other evidences of  
16 indebtedness of such governmental entity or public  
17 corporation, and may pledge for the payment of the principal  
18 thereof and interest thereon the proceeds from said tax so  
19 paid to it. The designation by the governing body of the  
20 county of a governmental entity or public corporation to  
21 receive proceeds of the rental tax levied pursuant to this  
22 act, the payment of such proceeds over to the governmental  
23 entity or public corporation and the pledge of such proceeds  
24 by the governmental entity or public corporation for the  
25 payment of the principal of and interest on bonds, warrants,

1 certificates of indebtedness or other evidences of  
2 indebtedness issued by such governmental entity or public  
3 corporation shall constitute a part of the contract with the  
4 holders of said bonds, warrants, certificates of indebtedness  
5 or other evidences of indebtedness and such contract shall be  
6 protected from impairment to the fullest extent provided by  
7 the federal Constitution and the Constitution of Alabama of  
8 1901, as amended. Obligations of such a governmental entity or  
9 public corporation payable from or secured by the proceeds of  
10 the rental tax shall be issued under the general laws of the  
11 state available for those purposes.

12 Section 16. No public official or family member of a  
13 public official shall obtain personal gain from the  
14 expenditure of the proceeds of the rental tax levied by this  
15 act.

16 Section 17. The provisions of this act are  
17 severable. If a court of competent jurisdiction adjudges  
18 invalid or unconstitutional any clause, sentence, paragraph,  
19 section, or part of this act, the judgment or decree shall not  
20 affect, impair, invalidate, or nullify the remainder of this  
21 act, but the effect of the decision shall be confined to the  
22 clause, sentence, paragraph, section, or part of this act  
23 adjudged to be invalid or unconstitutional.

24 Section 18. The county commission may prescribe all  
25 necessary or appropriate rules and regulations for the

1 implementation of this act, including all rules and  
2 regulations as may be necessary by reason of any alteration of  
3 law in relation to this act.

4 Section 19. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB212

Senate 04-APR-19

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 14-MAY-19

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By: Senator Burkette