

HB98 ENROLLED



1 DQD6HT-2

2 By Representatives Stubbs, Ingram, Starnes (N & P)

3 RFD: Local Legislation

4 First Read: 07-Mar-23

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HB98 Enrolled

1 Enrolled, An Act,

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4 Relating to Elmore County; to levy a lodging tax and
5 room fee and provide for the collection of the tax and the
6 distribution of the proceeds from the tax; to provide and
7 confirm that this act is intended to be retroactive and
8 curative; to provide that the levying and collecting of the
9 taxes authorized by this act be approved and confirmed as of
10 August 1, 2020; to provide that the collection of taxes
11 pursuant to Act 2020-178 is ratified and confirmed; to provide
12 that to the extent any amount of taxes authorized by this act
13 was paid by a person prior to the effective date of this act,
14 such amount shall be deemed to be legally levied and paid and
15 shall be deemed to be a credit against the amount of taxes
16 levied pursuant to this act; and to repeal Sections 45-26-246
17 through 45-26-246.04 and 45-26-246.06, and Section
18 45-26-246.05, Code of Alabama 1975, as last amended by Act
19 2022-49, which authorized the levy of a lodging tax in Elmore
20 County.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) In Elmore County, in addition to all
23 other taxes imposed by law, there is levied a privilege or
24 license tax in the amount prescribed in this section against
25 every person within the county engaging in the business of
26 renting or furnishing a room or rooms, lodging, or
27 accommodations to any transient in any place in which rooms,
28 lodgings, or accommodations are regularly furnished to



HB98 Enrolled

29 transients for a consideration.

30 (b) (1) The amount of the tax shall be equal to a
31 percent of the charge for the rooms, lodgings, or
32 accommodations, including the charge for use of rental or
33 personal property and services furnished in the room or rooms
34 within Elmore County equal to a percent in the corporate
35 limits of each municipality levying a lodging tax and a
36 percent in the remainder of the county outside of the
37 corporate limits of any municipality levying a lodging tax so
38 that the total lodging tax levied in each municipality levying
39 a lodging tax on January 1, 2020, and in the remainder of the
40 county outside of the corporate limits of any municipality
41 levying a lodging tax is equal to 15.5 percent, based on the
42 lodging tax levied by any municipality on January 1, 2020;
43 provided, however, in any municipality levying a lodging tax
44 on January 1, 2020, equal to or exceeding 15.5 percent, no
45 additional lodging tax shall be levied.

46 (2) In any municipality where the municipality levies
47 both a lodging tax and a cooperative district assessment for
48 lodging, the lodging tax and the cooperative district
49 assessment fee on lodging at any lodging establishment shall
50 be added together and the total tax and fees on lodging at the
51 establishments shall not exceed the 15.5 percent considering
52 the combined lodging tax and cooperative district assessment
53 fee that was in effect as of January 1, 2020.

54 (3) In the event that a lodging tax and a cooperative
55 district assessment fee on lodging is required to be added
56 together, the county shall receive a minimum of two percent of



HB98 Enrolled

57 the lodging tax levied by this act prior to distribution to a
58 municipality as provided in this act.

59 (4) In addition, there is levied, in all areas of the
60 county other than within the corporate limits of the City of
61 Prattville, an additional room fee on the rental of a room
62 subject to the lodging tax in the amount of two dollars (\$2)
63 in order to equalize the room fee in Elmore County with the
64 rate in effect on the effective date of this act in the
65 corporate limits of the City of Prattville.

66 Section 2.(a) There are exempted from the provisions of
67 the tax levied by this act and from the computation of the
68 amount of the tax levied or payable both of the following:

69 (1) Charges for property sold or services furnished
70 which are required to be included in the tax levied by the
71 state sales tax act.

72 (2) Charges for the rental of rooms, lodgings, or
73 accommodations to a person for a period of 30 continuous days
74 or more pursuant to the exemption provision of Alabama's
75 Transient Occupancy Tax, Section 40-26-1 of the Code of
76 Alabama 1975. A subsequent amendment or change to the Alabama
77 Transient Occupancy Tax shall also have the effect of
78 similarly changing the exemption provision of this
79 subdivision.

80 (b) Notwithstanding the provisions of this section, the
81 tax shall not apply to the rental of living accommodations
82 which are intended primarily for rental to persons as their
83 principal or permanent place of residence.

84 Section 3.(a) The tax levied by this act, except as



HB98 Enrolled

85 otherwise provided, shall be due and payable to Elmore County
86 on or before the 20th day of the month next succeeding the
87 month in which the tax accrues. On or before the 20th day of
88 each month, every person on whom the tax is levied by this act
89 shall render to the county on a form prescribed by the
90 department a true and correct statement showing the gross
91 proceeds of the business subject to the tax for the then
92 preceding month together with other information as the county
93 requires. At the time of making the monthly report, the
94 taxpayer shall compute and pay to the county the amount of tax
95 shown due. A person subject to the tax who conducts business
96 on a credit basis may defer reporting and paying the tax until
97 after the person has received payment of the items, articles,
98 or accommodations furnished. In the event the taxpayer defers
99 reporting and paying the taxes, he or she shall thereafter
100 include in each monthly report all credit collections made
101 during the then preceding month and shall pay the amount of
102 taxes computed thereon at the time of filing the report.

103 (b) It shall be the duty of every person engaged or
104 continuing in a business subject to the tax levied by this act
105 to keep and preserve suitable records of the gross proceeds of
106 the business and other books or accounts necessary to
107 determine the amount of tax for which he or she is liable. The
108 records shall be kept and preserved for a period of two years
109 and shall be open for examination at all times by the county
110 or by a duly authorized agent, deputy, or employee of the
111 county.

112 (c) A person who fails to pay the tax levied by this



HB98 Enrolled

113 act within the time required by this section shall pay, in
114 addition to the tax, a penalty of 10 percent of the amount of
115 tax due together with interest from the date on which the tax
116 became due and payable at the rate due and payable on the
117 state lodging tax. The penalty and interest shall be assessed
118 and collected as a part of the tax. The county, if good and
119 sufficient reason be shown, may waive or remit the penalty or
120 a portion of the penalty.

121 Section 4. (a) All of the following shall apply to the
122 levied tax:

123 (1) All provisions of the state lodging tax statutes
124 with respect to payment, assessment, and collection of the
125 state lodging tax.

126 (2) Making of reports and keeping and preserving
127 records, interest after due date of tax, or otherwise.

128 (3) The adoption of rules with respect to the state
129 lodging tax.

130 (4) The administration and enforcement of the state
131 lodging tax statutes, which are not inconsistent with this act
132 when applied to the levied tax.

133 (b) The county shall have and exercise the same powers,
134 duties, and obligations with respect to the district taxes
135 levied as imposed on the Commissioner of the Department of
136 Revenue and the department, respectively, by the state lodging
137 tax statutes. All provisions of the state lodging tax statutes
138 that are made applicable to this act, to the taxes levied, and
139 to the administration of this act are incorporated herein by
140 reference and made a part as if fully set forth.



HB98 Enrolled

141 Section 5. The county may contract with an agent for
142 collection of the tax and the agent may deduct from the
143 proceeds of the tax levied an amount equal to the contracted
144 amount for the collections, provided the charge does not
145 exceed five percent of the total amount of tax collected.
146 Following that deduction, the agent shall pay the remainder of
147 the tax proceeds to the county.

148 Section 6. (a) Except as otherwise provided in this
149 act, the balance of the proceeds from the tax levied by this
150 act shall be deposited into the Elmore County Lodging Fund.
151 The net proceeds from the tax collected outside of the
152 municipalities shall be used by the county for economic
153 development purposes. Sixty-seven percent of the remaining
154 funds in the Lodging Fund shall be used by the county for
155 economic development purposes. Thirty-three percent of the
156 remaining funds in the Lodging Fund shall be distributed to
157 the municipalities on an equal basis where the lodging tax was
158 collected to be used by the municipality for economic
159 development purposes pursuant to an agreement with Elmore
160 County. Except as provided in subsection (b), if Elmore County
161 and any municipality fail to agree on the use of the funds by
162 the municipality, that portion shall revert to the Lodging
163 Fund for appropriation by the county for economic development
164 purposes. All of the net proceeds from any room fees shall be
165 deposited in the Elmore County Lodging Fund to be used by the
166 county for economic development purposes. All funds in the
167 lodging fund shall be used for economic development purposes
168 as determined by the Elmore County Commission.



HB98 Enrolled

169 (b) Notwithstanding subsection (a), the portion to be
170 distributed to the City of Prattville of the 33 percent of the
171 net proceeds described in subsection (a) shall be remitted to
172 the City of Prattville by the Elmore County Commission for
173 economic development purposes no later than March 31, 2022.

174 Section 7. It is the intent of the Legislature that
175 this act be construed as retroactive and curative, and the
176 levying and collection of taxes pursuant to Act 2020-178 are
177 hereby ratified, approved, validated, and confirmed. To the
178 extent that any amount of taxes authorized by this act was
179 paid by a person and collected by the county prior to the
180 effective date of this act, such amount shall be deemed to be
181 legally levied and paid and shall be deemed to be a credit
182 against the amount of taxes levied pursuant to this act.

183 Section 8. Sections 45-26-246 through 45-26-246.04 and
184 45-26-246.06, and Section 45-26-246.05, Code of Alabama 1975,
185 as last amended by Act 2022-49, authorizing the levy of a
186 lodging tax in Elmore County, are repealed.

187 Section 9. This act shall become effective immediately
188 following its passage and approval by the Governor, or its
189 otherwise becoming law.

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HB98 Enrolled

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 11-Apr-23.

John Treadwell
Clerk

Senate _____ 18-Apr-23 _____ Passed