

# HB98 INTRODUCED



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

3 RFD: Local Legislation

4 First Read: 07-Mar-23

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A BILL  
TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In Elmore County, in addition to all other taxes imposed by law, there is levied a privilege or



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29 license tax in the amount prescribed in this section against  
30 every person within the county engaging in the business of  
31 renting or furnishing a room or rooms, lodging, or  
32 accommodations to any transient in any place in which rooms,  
33 lodgings, or accommodations are regularly furnished to  
34 transients for a consideration.

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

51 (2) In any municipality where the municipality levies  
52 both a lodging tax and a cooperative district assessment for  
53 lodging, the lodging tax and the cooperative district  
54 assessment fee on lodging at any lodging establishment shall  
55 be added together and the total tax and fees on lodging at the  
56 establishments shall not exceed the 15.5 percent considering



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57 the combined lodging tax and cooperative district assessment  
58 fee that was in effect as of January 1, 2020.

59 (3) In the event that a lodging tax and a cooperative  
60 district assessment fee on lodging is required to be added  
61 together, the county shall receive a minimum of two percent of  
62 the lodging tax levied by this act prior to distribution to a  
63 municipality as provided in this act.

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

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

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

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



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

89           Section 3.(a) The tax levied by this act, except as  
90 otherwise provided, shall be due and payable to Elmore County  
91 on or before the 20th day of the month next succeeding the  
92 month in which the tax accrues. On or before the 20th day of  
93 each month, every person on whom the tax is levied by this act  
94 shall render to the county on a form prescribed by the  
95 department a true and correct statement showing the gross  
96 proceeds of the business subject to the tax for the then  
97 preceding month together with other information as the county  
98 requires. At the time of making the monthly report, the  
99 taxpayer shall compute and pay to the county the amount of tax  
100 shown due. A person subject to the tax who conducts business  
101 on a credit basis may defer reporting and paying the tax until  
102 after the person has received payment of the items, articles,  
103 or accommodations furnished. In the event the taxpayer defers  
104 reporting and paying the taxes, he or she shall thereafter  
105 include in each monthly report all credit collections made  
106 during the then preceding month and shall pay the amount of  
107 taxes computed thereon at the time of filing the report.

108           (b) It shall be the duty of every person engaged or  
109 continuing in a business subject to the tax levied by this act  
110 to keep and preserve suitable records of the gross proceeds of  
111 the business and other books or accounts necessary to  
112 determine the amount of tax for which he or she is liable. The



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113 records shall be kept and preserved for a period of two years  
114 and shall be open for examination at all times by the county  
115 or by a duly authorized agent, deputy, or employee of the  
116 county.

117 (c) A person who fails to pay the tax levied by this  
118 act within the time required by this section shall pay, in  
119 addition to the tax, a penalty of 10 percent of the amount of  
120 tax due together with interest from the date on which the tax  
121 became due and payable at the rate due and payable on the  
122 state lodging tax. The penalty and interest shall be assessed  
123 and collected as a part of the tax. The county, if good and  
124 sufficient reason be shown, may waive or remit the penalty or  
125 a portion of the penalty.

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

128 (1) All provisions of the state lodging tax statutes  
129 with respect to payment, assessment, and collection of the  
130 state lodging tax.

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

133 (3) The adoption of rules with respect to the state  
134 lodging tax.

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

138 (b) The county shall have and exercise the same powers,  
139 duties, and obligations with respect to the district taxes  
140 levied as imposed on the Commissioner of the Department of



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141 Revenue and the department, respectively, by the state lodging  
142 tax statutes. All provisions of the state lodging tax statutes  
143 that are made applicable to this act, to the taxes levied, and  
144 to the administration of this act are incorporated herein by  
145 reference and made a part as if fully set forth.

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

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



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169 purposes. All of the net proceeds from any room fees shall be  
170 deposited in the Elmore County Lodging Fund to be used by the  
171 county for economic development purposes. All funds in the  
172 lodging fund shall be used for economic development purposes  
173 as determined by the Elmore County Commission.

174 (b) Notwithstanding subsection (a), the portion to be  
175 distributed to the City of Prattville of the 33 percent of the  
176 net proceeds described in subsection (a) shall be remitted to  
177 the City of Prattville by the Elmore County Commission for  
178 economic development purposes no later than March 31, 2022.

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

188 Section 8. Sections 45-26-246 through 45-26-246.04 and  
189 45-26-246.06, and Section 45-26-246.05, Code of Alabama 1975,  
190 as last amended by Act 2022-49, authorizing the levy of a  
191 lodging tax in Elmore County, are repealed.

192 Section 9. This act shall become effective immediately  
193 following its passage and approval by the Governor, or its  
194 otherwise becoming law.

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