HB130

180476-2

By Representatives Collins, Baker, McMillan, Williams (P) and Scott

RFD: Ways and Means Education

First Read: 07-FEB-17

180476-2:n:01/19/2017:LFO-HP*/jmb

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

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

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

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

"§40-9-12.

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

Lodges, the Salvation Army, Inc., the Elks Memorial Center, and all real and personal property of the Salvation Army, Inc., and the Elks Memorial Center, all ~~community chests and united appeal funds, and all charitable, civic and eleemosynary organizations and institutions for whom they solicit funds~~ United Way organizations and United Way member agencies in Alabama, other qualifying united appeal funds and their recipients as provided in subsection (d), and the real and personal property of all ~~community chests and united appeal funds and of all charitable, civic and eleemosynary institutions for whom they solicit funds~~ United Way organizations and United Way member agencies in Alabama, other qualifying united appeal funds and their recipients as provided in subsection (d), and the Alabama Masonic Home, the American Cancer Society, Ala-Division, Inc., and all real and personal property of American Cancer Society, Alabama Division, Inc., the New Hope Industries of Dothan, and all real and personal property of the New Hope Industries of Dothan, the Helping Hand Club of Anniston, and all real and personal property of the Helping Hand Club of Anniston, Childhaven, Inc., and all real and personal property of Childhaven, Inc., Presbyterian Home for Children and all real and personal property of Presbyterian Home for Children, Freewill Baptist Children's Home and all real and personal property of Freewill Baptist Children's Home, Methodist Homes for the Aging and all real and personal property of Methodist Homes for the Aging, and United Methodist Children's Home and all real and personal property of United Methodist Children's Home, Birmingham Building Trades Towers of Birmingham, Alabama, a nonprofit corporation, the Holy Comforter House, Inc., of Gadsden, Alabama, a nonprofit corporation, the University of Alabama Huntsville Foundation and all real and personal property of the University of Alabama Huntsville Foundation, the Birmingham Football Foundation, Inc., a nonprofit corporation, and all real and personal property of the Birmingham Football Foundation, Inc., and of any branch or department of any of same heretofore or hereafter organized and existing in good faith in the State of Alabama, for other than pecuniary gain and not for individual profit, when such real or personal property shall be used by such associations or nonprofit corporations, their branches or departments in and about the conducting, maintaining, operating and carrying out of the program, work, principles, objectives, and policies of such associations or nonprofit corporations, their branches or departments, in any city or county of the State of Alabama, are exempt from the payment of any and all state, county, and municipal taxes, licenses, fees, and charges of any nature whatsoever, including any privilege or excise tax heretofore or hereafter levied by the State of Alabama or any county or municipality thereof. The receipt, assessment or collection of any fee, admission, service charge, rent, dues, or any other item or charge by any such association or nonprofit corporation, its branches or departments from any person, firm, or corporation for any services rendered by any such association or nonprofit corporation, its branches or departments or for the use or occupancy of any real or personal property of any such association or nonprofit corporation, its branches or departments in or about the conducting, maintaining, operating, and carrying out of the program, work, principles, objectives, and policies of any such association or nonprofit corporation, its branches, or departments shall not be held or construed by any court, agency, officer, or commission of the State of Alabama, or any county or municipality thereof, to constitute pecuniary gain or individual profit by any such association or nonprofit corporation, its branches or departments, or the doing of business in such a manner as to prejudice or defeat, in any manner, the right and privilege of any such association or nonprofit corporation, its branches or departments to claim or rely upon or receive the exemption of such association or nonprofit corporation, its branches or departments and of all real and personal property thereof from taxation, as herein provided.

"(b) With respect to gasoline, tobacco, playing card tax or any other tax required by law to be prepaid by the retailer, the associations, nonprofit corporations, or organizations exempt under this section shall pay the appropriate tax at the time purchases are made, and the amount of such tax shall be refunded to such associations, nonprofit corporations, or organizations by the Department of Revenue pursuant to the procedures for refunds provided in Chapter 2A of this title.

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

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

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

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

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

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

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

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

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

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

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

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

"(d) (1) Each supported charity must be separately identified by name in the principal governing documents of the united appeal fund entity, and by name and federal employer identification number at the request of the Department of Revenue. Each supported charity must agree, in its own principal governing documents, to become or remain a member of the united appeal fund that funded the supported charity.

"(2) The special rules provided in this subsection shall not apply to any United Way organization or any United Way member agency.

"(e) (1) Each United Way organization shall provide the Department of Revenue with a list of its constituent United Way member agencies on an annual basis.

"(2) The Department of Revenue, by rule, shall provide the date on which United Way organizations shall submit the list required by this subsection."

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