

1 HB457  
2 204441-3  
3 By Representative Dismukes (N & P)  
4 RFD: Local Legislation  
5 First Read: 12-MAR-20

2  
3  
4  
5  
6  
7  
8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 Relating to Elmore County; authorizing the levy of a  
14 lodging tax and providing for the distribution of the proceeds  
15 from the tax.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. In Elmore County, in addition to all  
18 other taxes imposed by law, the Elmore County Commission may  
19 levy a privilege or license tax in the amount prescribed in  
20 this section against every person within the county engaging  
21 in the business of renting or furnishing a room or rooms,  
22 lodging or accommodations, to a transient in a hotel, motel,  
23 inn, condominium, house, tourist court, or another place in  
24 which rooms, lodgings, or accommodations are regularly  
25 furnished to transients for a consideration. The amount of the  
26 tax shall be equal to a percent of the charge for the rooms,  
27 lodgings, or accommodations, including the charge for use of

1 rental or personal property and services furnished in the room  
2 or rooms within Elmore County equal to a percent in the  
3 corporate limits of each municipality levying a lodging tax  
4 and a percent in the remainder of the county outside of the  
5 corporate limits of any municipality levying a lodging tax so  
6 that the total lodging tax levied in each municipality levying  
7 a lodging tax on January 1, 2020, and in the remainder of the  
8 county outside of the corporate limits of any municipality  
9 levying a lodging tax is equal to 15.5 percent, based on the  
10 lodging tax levied by any municipality on January 1, 2020,  
11 except in any municipality levying a lodging tax on January 1,  
12 2020, equal to or exceeding 15.5 percent, no additional  
13 lodging tax shall be levied. In addition, the Elmore County  
14 Commission may levy an additional room fee on the rental of a  
15 room subject to the lodging tax in the amount of two dollars  
16 (\$2) in order to equalize the room fee in Elmore County with  
17 the present rate in the City of Prattville in Autauga County.

18 Section 2. (a) There are exempted from the  
19 provisions of the tax levied by this act and from the  
20 computation of the amount of the tax levied or payable all of  
21 the following: Charges for property sold or services furnished  
22 which are required to be included in the tax levied by the  
23 state sales tax act; charges for the rental of rooms,  
24 lodgings, or accommodations to a person for a period of 30  
25 continuous days or more pursuant to the exemption provision of  
26 Alabama's Transient Occupancy Tax, Section 40-26-1 of the Code  
27 of Alabama 1975. A subsequent amendment or change to the

1 Alabama Transient Occupancy Tax shall also have the effect of  
2 similarly changing the exemption provision of this act.

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

7 Section 3. (a) The tax levied by this act, except as  
8 otherwise provided, shall be due and payable to Elmore County  
9 on or before the 20th day of the month next succeeding the  
10 month in which the tax accrues. Notwithstanding any provision  
11 of this act providing for the responsibility of the county to  
12 collect and administer the tax provided in this act, the  
13 county may contract with an agent to perform all or any part  
14 of its duties pursuant to this act. On or before the 20th day  
15 of each month, every person on whom the tax is levied by this  
16 act shall render to the county on a form prescribed by the  
17 department, a true and correct statement showing the gross  
18 proceeds of the business subject to the tax for the then  
19 preceding month, together with other information as the county  
20 requires. At the time of making the monthly report, the  
21 taxpayer shall compute and pay to the county the amount of tax  
22 shown due. A person subject to the tax who conducts business  
23 on a credit basis may defer reporting and paying the tax until  
24 after the person has received payment of the items, articles,  
25 or accommodations furnished. In the event the taxpayer defers  
26 reporting and paying the taxes, he or she shall thereafter  
27 include in each monthly report all credit collections made

1 during the then preceding month and shall pay the amount of  
2 taxes computed thereon at the time of filing the report.

3 (b) It shall be the duty of every person engaged or  
4 continuing in a business subject to the tax levied by this act  
5 to keep and preserve suitable records of the gross proceeds of  
6 the business and other books or accounts necessary to  
7 determine the amount of tax for which he or she is liable  
8 pursuant to this act. The records shall be kept and preserved  
9 for a period of two years and shall be open for examination at  
10 all times by the county or by a duly authorized agent, deputy,  
11 or employee of the county.

12 (c) A person who fails to pay the tax levied by this  
13 act within the time required by this act shall pay in addition  
14 to the tax a penalty of 10 percent of the amount of tax due,  
15 together with interest from the date on which the tax became  
16 due and payable at the rate due and payable on the state  
17 lodging tax. The penalty and interest shall be assessed and  
18 collected as a part of the tax. The county may, if good and  
19 sufficient reason be shown, waive or remit the penalty or a  
20 portion of the penalty.

21 Section 4. All provisions of the state lodging tax  
22 statutes with respect to payment, assessment, and collection  
23 of the state lodging tax, making of reports and keeping and  
24 preserving records, interest after due date of tax, or  
25 otherwise; the promulgation of rules with respect to the state  
26 lodging tax; and the administration and enforcement of the  
27 state lodging tax statutes, which are not inconsistent with

1 the provisions of this act when applied to the tax levied by  
2 this act, shall apply to the levied tax. The county shall have  
3 and exercise the same powers, duties, and obligations with  
4 respect to the district taxes levied as imposed on the  
5 Commissioner of the Department of Revenue and the department,  
6 respectively, by the state lodging tax statutes. All  
7 provisions of the state lodging tax statutes that are made  
8 applicable to this act, to the taxes levied, and to the  
9 administration of this act are incorporated herein by  
10 reference and made a part as if fully set forth.

11 Section 5. The county shall contract with an agent  
12 for collection of the tax and the agent may deduct from the  
13 proceeds of the tax levied an amount equal to the contracted  
14 amount for the collections, provided the charge does not  
15 exceed five percent of the total amount of tax collected.  
16 Following that deduction, the agent shall pay the remainder of  
17 the tax proceeds to the county.

18 Section 6. Except as otherwise provided in this act,  
19 the balance of the proceeds from the tax levied by this act  
20 shall be deposited into the Elmore County Lodging Fund. The  
21 net proceeds from the tax collected outside of the  
22 municipalities shall be used by the county for economic  
23 development purposes. Sixty-seven percent of the remaining  
24 funds in the Lodging Fund shall be used by the county for  
25 economic development purposes. Thirty-three percent of the  
26 remaining funds in the Lodging Fund shall be distributed to  
27 the municipalities on an equal basis where the lodging tax was

1 collected to be used by the municipality for economic  
2 development purposes pursuant to an agreement with Elmore  
3 County. If Elmore County and any municipality fail to agree on  
4 the use of the funds by the municipality, that portion shall  
5 revert to the Lodging Fund for appropriation by the county for  
6 economic development purposes. All of the net proceeds from  
7 any room fees shall be deposited in the Elmore County Lodging  
8 Fund to be used by the county for economic development  
9 purposes. All funds in the Elmore County Lodging Fund shall be  
10 used for economic development purposes as determined by the  
11 Elmore County Commission.

12 Section 7. The provisions of this act shall not be  
13 applied in a manner to violate the Commerce Clause of the  
14 United States Constitution. If a provision of this act is held  
15 invalid, the invalidity shall not affect the remaining  
16 provisions of this act.

17 Section 8. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.