

1 HB450
2 157881-2
3 By Representative Hill
4 RFD: Financial Services
5 First Read: 11-FEB-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a person commits the
9 crime of negotiating a worthless negotiable
10 instrument if he or she negotiates or delivers the
11 instrument for a thing of value and with the
12 intent, knowledge, or expectation that it will not
13 be honored by the drawee.

14 This bill would specify that the term
15 "negotiable instrument" includes electronic drafts.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 13A-9-13.1, Code of Alabama 1975,
16 relating to the crime of negotiating a worthless negotiable
17 instrument; to specify that a negotiable instrument includes
18 electronic drafts; and in connection therewith would have as
19 its purpose or effect the requirement of a new or increased
20 expenditure of local funds within the meaning of Amendment 621
21 of the Constitution of Alabama of 1901, now appearing as
22 Section 111.05 of the Official Recompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 13A-9-13.1, Code of Alabama 1975,
26 is amended to read as follows:

27 "§13A-9-13.1.

1 "(a) A person commits the crime of negotiating a
2 worthless negotiable instrument if the person negotiates or
3 delivers a negotiable instrument for a thing of value and with
4 the intent, knowledge, or expectation that it will not be
5 honored by the drawee.

6 "(b) For the purposes of this section, it is prima
7 facie evidence that the maker or drawer intended, knew, or
8 expected that the instrument would not be honored in any of
9 the following instances:

10 "(1) The maker or drawer had no account with the
11 drawee at the time the negotiable instrument was negotiated or
12 delivered, as determined according to Section 7-3-503(2).

13 "(2) Payment was refused by the drawee for lack of
14 funds, upon presentation within 30 days after delivery, and
15 the maker or drawer shall not have paid the holder thereof the
16 amount due thereon, together with a service charge of not more
17 than (fill in appropriate amount as provided by law), within
18 10 days after receiving written notice from the holder of the
19 instrument that payment was refused upon the instrument, as
20 provided in Section 13A-9-13.2.

21 "(3) Notice that payment was refused is mailed by
22 certified or registered mail and is returned undelivered to
23 the sender, when the notice is mailed within a reasonable time
24 after dishonor to the address printed on the instrument or
25 given by the maker or drawer at the time of issuance of the
26 instrument.

1 "(c) Negotiating a worthless negotiable instrument
2 is a Class A misdemeanor.

3 "(d) The definition of "negotiable instrument" in
4 Section 7-3-104 applies to this section and Sections
5 13A-9-13.2 and 13A-9-13.3. For the purposes of this section
6 and Sections 13A-9-13.2 and 13A-9-13.3, the term "negotiable
7 instrument" shall include electronic drafts.

8 "(e) The definition of "negotiation" in Section
9 7-3-202 applies to this section and Sections 13A-9-13.2 and
10 13A-9-13.3.

11 "(f) The definition of "delivery" in Section
12 7-1-201(14) applies to this section and Sections 13A-9-13.2
13 and 13A-9-13.3."

14 Section 2. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

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