

1 HB57  
2 196434-1  
3 By Representative Sells  
4 RFD: Judiciary  
5 First Read: 05-MAR-19  
6 PFD: 03/04/2019

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8 SYNOPSIS: This bill would create the offense of  
9 aggravated fraud and establish penalties for  
10 violations.

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

24 The purpose or effect of this bill would be  
25 to require a new or increased expenditure of local  
26 funds within the meaning of the amendment. However,  
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to  
2 become effective because it comes within one of the  
3 specified exceptions contained in the amendment.  
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5 A BILL  
6 TO BE ENTITLED  
7 AN ACT  
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9 Relating to crimes and offenses; to add Section  
10 13A-8-220 to the Code of Alabama 1975, to provide for the  
11 crime of aggravated fraud; and in connection therewith would  
12 have as its purpose or effect the requirement of a new or  
13 increased expenditure of local funds within the meaning of  
14 Amendment 621 of the Constitution of Alabama of 1901, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Article 11, beginning with Section  
19 13A-8-220, is added to the Code of Alabama 1975, to read as  
20 follows:

21 §13A-8-220.

22 (a) A person commits the crime of aggravated fraud  
23 if he or she does any of the following:

24 (1) He or she commits a theft of foreign or domestic  
25 funds, cash, or cash equivalent, that includes but is not  
26 limited to, stocks, bonds, investments, or retirement

1 accounts, that exceeds two hundred thousand dollars (\$200,000)  
2 in value, if obtained by deception.

3 (2) He or she commits a theft of public funds or  
4 revenue of any state, county, or municipal government agency  
5 or department, or any governmental or political subdivision  
6 that exceeds one hundred thousand dollars (\$100,000) in value,  
7 if obtained by deception.

8 (b) The limitations period for any prosecution under  
9 this section does not commence or begin to accrue until the  
10 discovery of the facts constituting the deception, after which  
11 the prosecution shall be commenced within six years.

12 (c) Deception occurs when a person knowingly does  
13 any of the following:

14 (1) Creates or confirms another's impression which  
15 is false and which the defendant does not believe to be true.

16 (2) Fails to correct a false impression which the  
17 defendant previously has created or confirmed.

18 (3) Fails to correct a false impression when the  
19 defendant is under a duty to do so.

20 (4) Prevents another from acquiring information  
21 pertinent to the disposition of the property involved.

22 (5) Sells or otherwise transfers or encumbers  
23 property, failing to disclose a lien, adverse claim, or other  
24 legal impediment to the enjoyment of the property when the  
25 defendant is under a duty to do so, whether that impediment is  
26 or is not valid, or is not a matter of official record.

1                   (6) Promises performance which the defendant does  
2 not intend to perform or knows will not be performed.

3                   (e) Aggravated fraud is a Class A felony.

4                   Section 2. Although this bill would have as its  
5 purpose or effect the requirement of a new or increased  
6 expenditure of local funds, the bill is excluded from further  
7 requirements and application under Amendment 621, now  
8 appearing as Section 111.05 of the Official ReCompilation of  
9 the Constitution of Alabama of 1901, as amended, because the  
10 bill defines a new crime or amends the definition of an  
11 existing crime.

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