

1 HB329
2 114310-1
3 By Representatives Baker (A), Shiver, Faust, McMillan,
4 Thigpen, Harper and Dukes
5 RFD: Government Operations
6 First Read: 19-JAN-10

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8 SYNOPSIS: Under existing law, certain state-owned
9 real property is exempt from statutory procedures
10 governing the sale or transfer of state property.

11 This bill would decrease from five to three
12 years the time frame in which the state may
13 repurchase property sold by the state.

14 This bill would include municipal commercial
15 development authorities within the exemption.

16 This bill would be retroactive to June 29,
17 1995.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 To amend Section 9-15-82, Code of Alabama 1975,
24 exempting the transfer or sale of certain state-owned real
25 property from the normal statutory procedure; to decrease from
26 five to three years the time frame in which the state may
27 repurchase property sold by the state; to include municipal

1 commercial development authorities within the exemption; and
2 to provide for a retroactive effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 9-15-82 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§9-15-82.

7 "(a) This article shall not apply to the transfers
8 of real property between departments, boards, bureaus,
9 commissions, institutions, corporations, or agencies of the
10 state. These transfers may be made by mutual agreements
11 between the chief executive officers of the respective
12 departments with the approval of the Governor. This article
13 shall not apply to the leasing or sale of timber from unused
14 lands under Section 9-15-1 et seq.; to the leasing or sale of
15 timber from school lands and swamp and overflowed lands under
16 Section 9-15-30 et seq.; to the leasing of oil, gas, and other
17 minerals under Section 9-17-60 et seq.; real property sold by
18 the Department of Revenue under tax sales and redemptions; to
19 the sale of property by the Alabama Historical Commission
20 under Section 41-9-249(7); to reversions made under Section
21 31-4-18; to the sale or conveyance of real property by the
22 Alabama Housing Finance Authority; to the sale or lease of any
23 interest in real property owned for investment purposes by any
24 trust fund administered by the Division of Risk Management; or
25 to property traded in right of way negotiations or sales of
26 excess right of way or uneconomic remnants by the State
27 Department of Transportation. Notwithstanding any other

1 provisions of this article, the Alabama Forestry Commission
2 shall have the authority to conduct real property sales in
3 accordance with this article without going through the Lands
4 Division. In so doing, the Alabama Forestry Commission shall
5 comply with all other provisions of this article. This article
6 shall not apply to the granting of easements, rights-of-way
7 for utilities, roads, streets, and sidewalks where there is no
8 competitive market. Notwithstanding any other provision of
9 this article, institutions and systems of higher education
10 with separately constituted boards of trustees or those
11 institutions of higher education subject to the supervision
12 and authority of the State Board of Education that have
13 written policies and procedures governing transfers of
14 interest in real property have the authority to conduct real
15 property sales and leases by public auction or publicly sought
16 sealed bid in accordance with procedures in the article for
17 advertising and receiving bids, without going through the
18 Lands Division of the state Department of Conservation and
19 Natural Resources. Furthermore, in those cases in which it can
20 be economically justified and it is deemed to be in the best
21 interest of the institution or system and the State of Alabama
22 to offer an interest in real property for sale or lease
23 through a listing with a duly licensed real estate broker who
24 shall publicize the offer in accordance with customary
25 practices or through negotiation after publicly announced
26 requests for proposals to sell or lease the property are made,
27 rather than through a procedure otherwise described in this

1 article, the institution or system may do so, provided that a
2 written declaration setting forth the specific reasons why it
3 is deemed to be in the best interest of the institution or
4 system and the State of Alabama to make specific sale or lease
5 in question in such manner is made by an agent of the
6 institution authorized by the board of trustees or the State
7 Board of Education, and subsequently ratified by the board of
8 trustees or the State Board of Education and the document
9 shall be retained and made a part of the permanent file and
10 shall be open to public inspection. Sales and leases
11 transacted as described in this section shall be deemed to be
12 in compliance with all provisions of this article. Ground
13 leases and leases of facilities by institutions of higher
14 education to social or professional organizations, faculty
15 members, employees, or for institution-related purposes which
16 are designed to enhance the operation of the institution and
17 are declared to be in the best interest of the institution by
18 the board of trustees or the State Board of Education, are
19 exempt from the provisions of this article. Such declaration
20 shall be maintained as aforesaid.

21 "(b) Except as set out hereinafter, nothing herein
22 contained shall be construed to apply in any manner to the
23 sale or lease of any real property or any interest therein
24 owned in whole or in part by any county or municipal board of
25 education, any county or municipal government or any of their
26 respective boards, agencies, departments, corporations, or
27 instrumentalities including corporations and/or boards in

1 regard to which any county or municipal governing body is a
2 determining or appointing authority. Provided that nothing
3 herein contained shall be construed to apply in any manner to
4 the sale or lease of any real property or interest therein
5 owned by the State of Alabama and the departments, boards,
6 bureaus, commissions, instrumentalities, corporations, and
7 agencies of the state to the United States government, any
8 county or municipal board of education, any county or
9 municipal governing body or any of their respective boards,
10 agencies, departments, corporations, or instrumentalities
11 including corporations and/or boards in regard to which any
12 county or municipal governing body is a determining or
13 appointing authority, subject to the condition that such
14 property or any interest therein is not resold, leased, or
15 otherwise transferred in whole or in part, within three years,
16 to any private person, firm, or corporation without compliance
17 with the provisions of this article. Provided, however, that
18 if the property is to be sold within ~~five~~ three years from the
19 date it was acquired, the state shall have the right to
20 repurchase the property at the price it was sold by the state.
21 Provided, further, that all such transactions between the
22 United States government, any county or municipal board of
23 education, any county or municipal government, or any of their
24 respective boards, agencies, departments, corporations, or
25 instrumentalities including corporations or boards and the
26 state or any department, board, bureau, commissions,
27 instrumentalities, corporations, and agencies of the state

1 shall have the approval of the Governor and written notice of
2 such transaction shall be given to the Lands Division of the
3 Department of Conservation and Natural Resources at least 30
4 days before the closing of such transaction.

5 "(c) Notwithstanding ~~Provided, further, that~~
6 ~~notwithstanding~~ any other provision of this article, this
7 article shall not apply to lease-leaseback transactions
8 entered into by institutions and systems of higher education
9 with separately constituted boards of trustees provided that
10 any such institution or system of higher education shall at
11 all times remain the owner of any real property the subject of
12 any such lease-leaseback transaction.

13 "(d) Notwithstanding any other provision of this
14 article, this section shall not apply to the sale, lease, or
15 transfer of any property owned by a municipal commercial
16 development authority subject to Article 6, commencing with
17 Section 11-54-170, of Chapter 54 of Subtitle 2 of Title 11."

18 Section 2. The exemption provided in subsection (d)
19 of Section 9-15-82, Code of Alabama 1975, as amended by this
20 act, shall be effective retroactive to June 29, 1995.

21 Section 3. This act shall become effective
22 immediately, following its passage and approval by the
23 Governor, or its otherwise becoming law, and shall be
24 retroactive to June 29, 1995.