

1 SB187
2 116085-2
3 By Senators Bedford, Barron, Coleman, Little (T), Mitchell,
4 Smitherman, and Keahey
5 RFD: Finance and Taxation General Fund
6 First Read: 12-JAN-10

1 SB187

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4 ENROLLED, An Act,

5 To amend Sections 24-1A-2 and 24-1A-5, Code of
6 Alabama 1975, relating to the Alabama Housing Finance
7 Authority, to authorize the authority to service mortgage
8 loans that are not secured by eligible housing units.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 24-1A-2 and 24-1A-5, Code of
11 Alabama 1975, are amended to read as follows:

12 "§24-1A-2.

13 "The following words and phrases used in this
14 chapter, and others evidently intended as the equivalent
15 thereof, shall, in the absence of clear implication otherwise,
16 have the following respective meanings:

17 "(1) AUTHORITY. The public corporation and
18 instrumentality of the state organized pursuant to the
19 provisions of this chapter.

20 "(2) AUTHORIZED INVESTMENTS. Bonds or other
21 obligations of, or guaranteed by, the United States of America
22 or the state; interest bearing bank and savings and loan
23 association deposits; obligations of any agency of the United
24 States of America; any obligations in which a state chartered
25 savings and loan association may invest its funds; any

1 agreement to repurchase any of the foregoing; or any
2 combination thereof.

3 "(3) BOARD OF DIRECTORS. The board of directors of
4 the authority.

5 "(4) BONDS. Bonds or other securities representing
6 an obligation to pay money.

7 "(5) ELIGIBLE HOUSING UNIT. Real and personal
8 properties located in the state constituting a single family
9 dwelling unit for occupancy by low and moderate income
10 families or a multi-family dwelling unit for occupancy by any
11 persons and families without restriction as to the income of
12 such persons or families other than any applicable federal
13 restrictions imposed upon multi-family dwelling units financed
14 from the proceeds of bonds the interest on which is exempt
15 from federal income taxes.

16 "(6) LOW AND MODERATE INCOME FAMILIES. Persons and
17 families of one or more persons, irrespective of race, creed,
18 national origin or sex, determined by the authority to require
19 such assistance as is made available by this chapter on
20 account of insufficient personal or family income taking into
21 consideration, without limitation, such factors as follows:

22 "a. The amount of the total income of such persons
23 and families available for housing needs;

24 "b. The size of the family;

1 "c. The cost and condition of housing facilities
2 available;

3 "d. The ability of such persons and families to
4 compete successfully in the normal private housing market and
5 to pay the amounts at which private enterprise is providing
6 sanitary, decent and safe housing; and

7 "e. If appropriate, standards established for
8 various federal programs with respect to housing determining
9 eligibility based on income of such persons and families.

10 " (7) MORTGAGE LENDERS. National banking
11 associations, banks chartered under the laws of the state,
12 savings or building and loan associations chartered under the
13 laws of the state or of the United States of America, Federal
14 National Mortgage Association approved mortgage bankers and
15 federal or state credit unions. The terms shall also include
16 other financial institutions or governmental agencies which
17 customarily originate or service mortgage loans and mortgages.

18 " (8) MORTGAGE LOANS. Notes and other evidences of
19 indebtedness secured by mortgages.

20 " (9) MORTGAGE PROPERTY. All properties, real,
21 personal and mixed, and all interests therein including grants
22 or subsidies with respect thereto, mortgaged, pledged or
23 otherwise provided in any manner as security for (i) mortgage
24 loans or (ii) loans to mortgage lenders.

1 "(10) MORTGAGES. Mortgages, deeds of trust and other
2 instruments granting security interests in real and personal
3 properties constituting eligible housing units.

4 "(11) MULTI-FAMILY MORTGAGE LOANS. Mortgages on
5 eligible housing units constituting residential dwelling units
6 leased to or occupied by more than one family unit.

7 "(12) SERVICING QUALIFIED MORTGAGE LOANS. Notes and
8 other evidences of indebtedness secured by servicing qualified
9 mortgages.

10 "(13) SERVICING QUALIFIED MORTGAGED PROPERTY. All
11 properties, real, personal, or mixed, and all interests
12 therein, mortgaged, pledged, or otherwise provided in any
13 manner as security for servicing qualified mortgage loans.

14 "(14) SERVICING QUALIFIED MORTGAGES. Mortgages,
15 deeds of trust, and other instruments granting security
16 interests in real and personal property of any kind.

17 "(15) SINGLE FAMILY MORTGAGE LOANS. Mortgages on
18 eligible housing units constituting residential dwelling units
19 occupied as the principal residence of the owner-mortgagor by
20 a single-family unit, including, without limitation, detached
21 single family houses, attached single family houses or
22 townhouses and condominium units within larger structures.

23 "(16) STATE. The State of Alabama.

24 "§24-1A-5.

25 "The authority shall have the following powers:

1 "(1) To have succession by its corporate name until
2 the principal of and interest on the bonds shall have been
3 fully paid and until it shall have been dissolved as provided
4 in this chapter;

5 "(2) To sue and be sued and to prosecute and defend
6 in any court having jurisdiction of the subject matter and of
7 the parties thereto;

8 "(3) To adopt and use a corporate seal and to alter
9 the seal at pleasure;

10 "(4) To establish a fiscal year;

11 "(5) To maintain an office in the City of
12 Montgomery;

13 "(6) To adopt, and from time to time amend and
14 repeal, bylaws and rules and regulations, not inconsistent
15 with this chapter, to carry into effect the powers and
16 purposes of the authority in the conduct of its business;

17 "(7) To purchase mortgage loans from mortgage
18 lenders;

19 "(8) To contract with mortgage lenders for the
20 origination of, or the servicing, of mortgage loans to be made
21 by such mortgage lenders and the servicing of the mortgages
22 securing such mortgage loans;

23 "(9) To make loans to mortgage lenders, provided
24 that (i) the proceeds of such loans shall be required to be
25 used by such mortgage lenders for the making of mortgage

1 loans, and (ii) the mortgages in connection with the mortgage
2 loans so made, together with any additional security required
3 by the authority, shall be mortgaged, pledged, assigned or
4 otherwise provided as security for such loans to mortgage
5 lenders;

6 "(10) To exercise any and all rights accorded to the
7 owner and holder of a mortgage under and in accordance with
8 the terms of said instruments and the applicable laws of the
9 state with respect to the mortgaged property, directly or
10 through mortgage lenders or others acting on behalf of the
11 authority or on behalf of the holders of its bonds, including,
12 but without limitation, the power to foreclose, to sell the
13 equity of redemption, to purchase the equity of redemption and
14 otherwise to sell and dispose of the mortgaged property, all
15 as shall seem in the best interests of the authority and the
16 holders of its bonds;

17 "(11) To sell and issue bonds in order to provide
18 funds for any corporate function, use or purpose;

19 "(12) To mortgage, pledge, assign or grant security
20 interests in any or all of its mortgage loans, mortgages and
21 its interests created thereby in the underlying real and
22 personal properties covered by such mortgages as security for
23 the payment of the principal of, and interest on, any bonds
24 issued by the authority, or as security for any agreements
25 made in connection therewith, whether then owned or thereafter

1 acquired, and to pledge the revenues from which said bonds are
2 payable as security for the payment of the principal of, and
3 interest on, said bonds and any agreements made in connection
4 therewith;

5 "(13) To establish such reserves from the proceeds
6 of any issue of bonds or from revenues of the authority as the
7 board of directors shall determine to be necessary and
8 desirable in connection with the payment and retirement of the
9 bonds of the authority or in connection with any other
10 purpose, power or function of the authority;

11 "(14) To execute and deliver, in accordance with the
12 provisions of this section and of Section 24-1A-6, mortgages
13 and deeds of trust and trust indentures, or either;

14 "(15) To appoint, employ, contract with and provide
15 for the compensation of, such employees, attorneys, fiscal
16 advisers and agents as the business of the authority may
17 require;

18 "(16) To provide for such insurance as the board of
19 directors may deem advisable, including, but without
20 limitation, casualty insurance, mortgage payment guarantee
21 insurance and bond insurance;

22 "(17) To invest in authorized investments any funds
23 of the authority that the board of directors may determine are
24 not presently needed for other uses, purposes or functions of
25 the authority;

1 "(18) To enter into a management agreement or
2 agreements with any person, firm or corporation for the
3 performance by said person, firm or corporation for the
4 authority of any of its functions or powers upon such terms
5 and conditions as may be mutually agreeable;

6 "(19) To sell, exchange and convey any or all of its
7 properties whenever its board of directors shall find any such
8 action to be in furtherance of the purposes for which the
9 authority was organized;

10 "(20) To make, enter into and execute such
11 contracts, agreements, leases and other instruments and to
12 take such other actions as may be necessary or desirable to
13 accomplish any purpose for which the authority is organized or
14 to exercise any power granted by this chapter;

15 "(21) To issue mortgage credit certificates to those
16 persons and families who have received financing from any
17 mortgage lender for the purpose of acquiring, rehabilitating,
18 or improving single-family residential housing in Alabama. The
19 authority shall have the power and the authority to take all
20 steps, make all conditions, and do all things necessary in
21 order to issue the certificates and implement and enforce the
22 mortgage credit certificate program within the parameters and
23 following the procedures specified by federal law and federal
24 regulations governing the mortgage credit certificate program,
25 notwithstanding any contrary provision in this chapter. The

1 authority shall be the sole and exclusive issuer of mortgage
2 credit certificates in and for the state;

3 "(22) To administer other federal programs, present
4 or future, which assist in the provision and financing of
5 housing, including, but not limited to, allocation and
6 issuance of low income housing tax credits under federal law
7 and regulations including Section 42 of the Internal Revenue
8 Code of 1986, as amended, and to take all other actions
9 necessary or convenient to the implementation and
10 administration of such programs; and

11 "(23) To acquire, hold and dispose of real and
12 personal property.

13 "(24) To contract with such entities as the
14 authority shall deem reasonable and appropriate for the
15 acquisition, servicing, and disposition of servicing qualified
16 mortgage loans made or to be made by other entities.

17 "(25) To exercise any and all rights accorded to the
18 owner and holder of a servicing qualified mortgage under and
19 in accordance with the terms of such instruments and the
20 applicable laws with respect to the servicing qualified
21 mortgaged property, directly or through others acting on
22 behalf of the authority or the owners of the servicing
23 qualified mortgage loans, as the case may be, including, but
24 without limitation, the power to foreclose, to sell the equity
25 of redemption, to purchase the equity of redemption, and

1 otherwise to sell and dispose of servicing qualified mortgaged
2 property, all as the authority shall deem reasonable and
3 appropriate in light of contractual or legal requirements."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB187

Senate 11-FEB-10

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 03-MAR-10

By: Senator Bedford