

1 SB326  
2 117200-2  
3 By Senators Coleman, Mitchell, and Ross  
4 RFD: Judiciary  
5 First Read: 02-FEB-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 2, 4, 5, 6, 7, and 8 of Act  
12 2009-738, 2009 Regular Session (Acts 2009, p. 2203), now  
13 appearing as Sections 24-9-2, 24-9-4, 24-9-5, 24-9-6, 24-9-7,  
14 and 24-9-8 of the Code of Alabama 1975, relating to the  
15 Alabama Land Bank Authority; to expand the purpose of the  
16 Alabama Land Bank Authority; to remove the minimum date that  
17 taxes have been unpaid from the definition of the term  
18 "tax-delinquent property"; to require that a majority of the  
19 membership of the board is needed to approve any action taken  
20 by the authority; to provide for civil immunity to the members  
21 of the board of the authority; to provide that the authority  
22 would be a public corporation; to expand the powers of the  
23 authority; to allow the authority to hold in its name certain  
24 property that has been sold for delinquent taxes and to allow  
25 the property to be redeemed for taxes; to allow the authority  
26 to repeal and rescind all unpaid state taxes at the time it  
27 sells or disposes of the property purchased for nonpayment of

1 taxes; to provide that the authority may provide for  
2 distribution of property for economic development; to limit  
3 the time that the authority may retain ownership of tax  
4 delinquent property; and to allow the authority to extinguish  
5 the right of redemption for property sold for delinquent taxes  
6 and otherwise provide the procedure for notice of foreclosure.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 2, 4, 5, 6, 7, and 8 of Act  
9 2009-738, 2009 Regular Session (Acts 2009, p. 2203), now  
10 appearing as Sections 24-9-2, 24-9-4, 24-9-5, 24-9-6, 24-9-7,  
11 and 24-9-8 of the Code of Alabama 1975, are amended to read as  
12 follows:

13 "§24-9-2.

14 "The Alabama Land Bank Authority ~~Act~~ is ~~enacted~~  
15 hereby created for the purpose of acquiring tax delinquent  
16 properties in order to foster the public purpose of  
17 rehabilitating land which is in a nonrevenue-generating,  
18 nontax-producing status to an effective utilization status in  
19 order to provide housing, new industry, ~~and new commercial and~~  
20 economic development, other productive uses, jobs for the  
21 citizens, and assembling parcels of real property for  
22 redevelopment, stabilizing property values, and removing  
23 blight.

24 "§24-9-4.

25 "When used in the chapter, the following words shall  
26 have the following meanings:

1           "(1) AGREEMENT. The ~~interlocal~~ intergovernmental  
2 cooperation agreement entered into by the parties pursuant to  
3 this chapter.

4           "(2) AUTHORITY. The Alabama Land Bank Authority.

5           "(3) BOARD. The Alabama Land Bank Authority Board.

6           "(4) PROPERTY. Real property, including any  
7 improvements thereon.

8           "(5) TAX-DELINQUENT PROPERTY. Any property on which  
9 the taxes levied and assessed by any party remain in whole or  
10 in part unpaid on the date due and payable ~~for at least five~~  
11 ~~or more calendar years.~~

12           "§24-9-5.

13           "(a) There is created the Alabama Land Bank  
14 Authority Board which shall govern the authority to administer  
15 and enforce this chapter.

16           "(b) The board shall consist of the following  
17 members:

18           "(1) Four residents of the state appointed by the  
19 Governor.

20           "(2) Two representatives from nonprofit  
21 organizations engaged in low-income housing appointed by the  
22 Governor.

23           "(3) The Lieutenant Governor or his or her designee.

24           "(4) The Speaker of the House of Representatives or  
25 his or her designee.

26           "(5) The Chair of the Senate Finance and Taxation,  
27 General Fund Committee or his or her designee.

1                   "(6) The Chair of the House Government  
2 Appropriations Committee or his or her designee.

3                   "(7) The State Revenue Commissioner or his or her  
4 designee.

5                   "(8) The Superintendent of the State Banking  
6 Department or his or her designee.

7                   "(9) The Director of the Alabama Department of  
8 Economic and Community Affairs or his or her designee.

9                   "(10) The Director of the Alabama Development Office  
10 or his or her designee.

11                  "(11) The State Finance Director or his or her  
12 designee.

13                  "(12) The Chair of the Alabama Housing Finance  
14 Authority or his or her designee.

15                  "(c) The members of the board shall serve four year  
16 terms. In appointing the initial members of the board under  
17 subdivision (1) of subsection (b), the Governor shall  
18 designate two to serve four years, one to serve three years,  
19 and one to serve two years.

20                  "(d) Members of the board shall receive  
21 reimbursement for expenses incurred in the performance of  
22 their duties but no other compensation.

23                  "(e) The board may employ the necessary personnel  
24 for the performance of its functions and fix their  
25 compensation.

26                  "(f) The board shall elect from its membership a  
27 chair, vice chair, and secretary-treasurer. The board shall

1 adopt rules to govern its proceedings. A majority of the  
2 membership of the board shall constitute a quorum for all  
3 meetings. Approval by a majority of the membership shall be  
4 necessary for any action to be taken by the authority. All  
5 meetings shall be open to the public, except as otherwise  
6 permitted by the Alabama Open Meetings Act, providing for open  
7 meetings, and a written record shall be maintained of all  
8 meetings.

9 "(g) The membership of the board shall be inclusive  
10 and reflect the racial, gender, geographic, urban/rural, and  
11 economic diversity of the state.

12 "(h) The board, when acting in its official  
13 capacity, its members, and the authority shall be immune from  
14 civil liability against the claims of any individual or other  
15 entity of any nature whatsoever arising out of its ownership  
16 or administration of properties or related to its decisions or  
17 actions, which decisions or actions were made in good faith,  
18 without malice, and predicated upon information which was then  
19 available to the board.

20 "(i) The authority shall be a public body corporate  
21 and politic with the power to accept and issue deeds in its  
22 name, including, without limitation, the acceptance of real  
23 property in accordance with the provisions of this chapter,  
24 and to institute quiet title (quia timet) actions and shall  
25 have any other powers necessary and incidental to carry out  
26 the powers and the purpose granted by this chapter.

1           "(j) In addition to the tax-delinquent property  
2 acquired by the authority as provided herein, the authority  
3 may acquire other publicly owned property from local  
4 governments, including that which was acquired years earlier  
5 as a result of foreclosure proceedings of that property, or  
6 property that has become surplus. The authority may also  
7 acquire property through voluntary donations and transfers  
8 from private owners and has the authority to acquire by  
9 purchase or lease on the open market property from a private  
10 owner to complete an assemblage of property for redevelopment.

11           "\$24-9-6.

12           "(a) In the event that the local governing body,  
13 city, or county elects to participate in the program under  
14 this chapter by entering into an intergovernmental cooperation  
15 agreement with the authority, the authority shall hold in its  
16 name any tax delinquent properties within the territorial  
17 jurisdiction of the local governing body which have been sold  
18 to the state due to a three-year tax delinquency upon  
19 expiration of a five-year period from the date of the sale of  
20 the property for delinquent taxes, at which time a tax deed  
21 conveying the state's interest in the property shall be issued  
22 to the authority by the Alabama Department of Revenue. The  
23 governing body of the municipality within which the delinquent  
24 properties are located can reclaim, or in the event the  
25 property is not within the cooperate limits of any  
26 municipality, the county can reclaim the tax delinquent  
27 properties held by the authority in its name, at any time, in

1 which event the authority shall convey title to the  
2 municipality or county. Neither the authority nor any local  
3 government shall be required to pay the amount deemed to have  
4 been bid to cover delinquent taxes or any other amount.

5 ~~"(b) Eligible delinquent property shall be limited~~  
6 ~~to parcels of less than one acre and parcels with at least~~  
7 ~~five years of tax delinquency.~~

8 "(b) Eligible delinquent property shall be limited  
9 to ~~parcels of less than one acre and parcels with at least~~  
10 five years of tax delinquency.

11 "(c) To be eligible to purchase tax delinquent  
12 properties, ~~buyers from the authority, purchasers must, within~~  
13 ~~two years from the date of the transfer deed, redevelop, or~~  
14 ~~sell, or donate their the property within a two-year time~~  
15 ~~frame to another entity for redevelopment; otherwise, the~~  
16 ~~property will revert back to the authority. The deed from the~~  
17 ~~authority to the purchaser shall contain such reversionary~~  
18 ~~clause.~~

19 "(d) The authority shall administer tax delinquent  
20 properties acquired by it as follows:

21 "(1) All tax delinquent property acquired by the  
22 authority shall be inventoried ~~and appraised~~ and the inventory  
23 shall be maintained as a public record.

24 "(2) The authority shall organize and classify such  
25 properties on the basis of suitability for use.

26 "(3) The authority shall have the power to manage,  
27 maintain, protect, rent, lease, repair, insure, alter, sell,



1 trade, exchange, or otherwise dispose of any tax delinquent  
2 property on terms and conditions determined in the sole  
3 discretion of the authority.

4 "§24-9-7.

5 "(a) When a tax delinquent property is acquired by  
6 the authority, the authority shall have the power to repeal  
7 and rescind all delinquent state, county, and city taxes,  
8 including school district taxes, at the time it sells or  
9 otherwise disposes of such property; provided, however, that,  
10 with respect to school district taxes, the authority shall  
11 first obtain the consent of the board of education governing  
12 the school district in which the property is located. In  
13 determining whether or not to repeal and rescind delinquent  
14 taxes, the authority shall consider the public benefit to be  
15 gained by tax forgiveness with primary consideration given to  
16 purchasers who intend to build or rehabilitate low-income  
17 housing.

18 "(b) Prior to the sale of a tax delinquent property,  
19 the authority shall provide notice to the political  
20 subdivision in which the delinquent property is located, and  
21 if a rezoning or reclassification will be required for  
22 redevelopment for the development to be consistent with the  
23 planning and zoning of the political subdivision.

24 "(c) At the time that the authority sells or  
25 otherwise disposes of tax delinquent property as part of its  
26 land bank program, the proceeds of the sale shall be  
27 distributed equally as follows:

1           "(1) One third to the operations of the authority.

2           "(2) One third to the recovery of authority  
3 expenses.

4           "(3) One third to the recipients of ad valorem taxes  
5 within the jurisdiction of the tax delinquent property,  
6 including the appropriate school districts, in proportion to  
7 and to the extent of their respective tax bills and costs.

8           "(d) The authority shall have full discretion in  
9 determining the sale price of the property. The agreement of  
10 the parties shall provide for a distribution of property that  
11 favors neighborhood nonprofit entities obtaining the land for  
12 low-income housing and, secondarily, other entities for the  
13 development of new industry, new commercial and economic  
14 development, and other productive uses, as well as those  
15 intending to produce low-income or moderate-income housing.

16           "(e) The expenses of the authority shall be limited  
17 to the amount of funds generated by the authority from the  
18 sale or disposition of property, or from grants or other gifts  
19 and donations received.

20           "(f) Tax delinquent property may not be held by the  
21 authority for a period of longer than 10 years. At the  
22 expiration of 10 years, title shall revert to and the  
23 authority shall convey the property to the municipality in  
24 which such property is located, or if in no municipality, then  
25 to the county in which the property is located. If the  
26 municipality or county rejects the reversion, the tax

1 delinquent property may be held by the authority beyond the  
2 10-year period.

3 "§24-9-8.

4 "The (a) Notwithstanding any other law to the  
5 contrary, the authority may extinguish or foreclose the any  
6 right of redemption to tax delinquent any state or local  
7 property tax lien and any other local governmental lien on the  
8 property conveyed to the authority pursuant to a tax sale,  
9 which right of redemption may exist beyond three years from  
10 the date of the sale of the property for taxes, in the  
11 following manner:

12 "(1) The record title to the property shall be  
13 examined and a certificate of title shall be prepared for the  
14 benefit of the authority.

15 "(2) The authority shall serve the prior owner whose  
16 interest was foreclosed upon for delinquent taxes or otherwise  
17 and all persons having record title or interest in or lien  
18 upon the property with a notice of foreclosure and the right  
19 to redeem. Such service shall be attempted by personal  
20 service, certified mail, or by publishing the notice of  
21 foreclosure in a newspaper published in the county for three  
22 consecutive weeks; provided, if service is perfected by any of  
23 these methods, such service will be sufficient to fulfill the  
24 extinguishment or foreclosure proceedings.

25 "(3) In the event persons entitled to service are  
26 located outside the county, they may be served by certified  
27 mail.

1           "(4) In the event the sheriff is unable to perfect  
2 service or certified mail attempts are returned unclaimed, the  
3 authority shall conduct a search for the person with an  
4 interest in the property conveyed to the authority, which  
5 shall, at a minimum, include the following:

6           "a. An examination of the addresses given on the  
7 face of the instrument vesting interest or the addresses given  
8 to the clerk of the ~~superior~~ probate court by the transfer tax  
9 declaration form. The clerk of the circuit court and the tax  
10 official charged with assessing the property are required to  
11 share information contained in the transfer tax declaration  
12 form with one another in a timely manner.

13           "b. A search of the current telephone directory for  
14 the municipality and the county in which the property is  
15 located.

16           "c. A letter of inquiry to the person who sold the  
17 property to the ~~defendant~~ owner whose interest was sold in the  
18 tax sale at the address shown in the transfer tax declaration  
19 form or in the telephone directory.

20           "d. A letter of inquiry to the attorney handling the  
21 closing prior to the tax sale if provided on the deed forms.

22           "e. A sign being no less than four feet by ~~six~~ four  
23 feet shall be erected on the property and maintained by the  
24 authority for a minimum of 30 days reading as follows:

25           ""THIS PROPERTY HAS BEEN CONVEYED TO THE ALABAMA  
26 LAND BANK AUTHORITY BY VIRTUE OF A SALE FOR UNPAID TAXES.

1 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE  
2 PROPERTY ARE REQUESTED TO CALL \_\_\_\_\_."

3 "f. If the authority has made the search required by  
4 this subdivision and is unable to locate those persons  
5 required to be served under subdivision (2) of this section,  
6 having located additional addresses of those persons through  
7 such search, attempted without success to serve those persons  
8 in either manner provided by subdivisions (2) or (3) of this  
9 section, the authority shall make a written summary of the  
10 attempts made to serve the notice, in recordable form, and may  
11 authorize the foreclosure of the redemption rights of record."

12 Section 2. The provisions of this act are severable.  
13 If any part of this act is declared invalid or  
14 unconstitutional, that declaration shall not affect the part  
15 which remains.

16 Section 3. This act shall become effective  
17 immediately following its passage and approval by the  
18 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Judiciary .....	02-FEB-10
Read for the second time and placed on the calen- dar 1 amendment .....	11-FEB-10
Read for the third time and passed as amended ...	23-FEB-10

Yeas 19  
Nays 2

McDowell Lee  
Secretary