

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

1 SB326

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3  
4 ENROLLED, An Act,

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

1 the right of redemption for property sold for delinquent taxes  
2 and otherwise provide the procedure for notice of foreclosure.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

9 "§24-9-2.

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

19 "§24-9-4.

20 "When used in the chapter, the following words shall  
21 have the following meanings:

22 "(1) AGREEMENT. The intergovernmental cooperation  
23 agreement entered into by the parties pursuant to this  
24 chapter.

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

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

2           "(4) PROPERTY. Real property, including any  
3 improvements thereon.

4           "(5) TAX-DELINQUENT PROPERTY. Any property on which  
5 the taxes levied and assessed by any party remain in whole or  
6 in part unpaid on the date due and payable .

7           "§24-9-5.

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

11           "(b) The board shall consist of the following  
12 members:

13           "(1) Four residents of the state appointed by the  
14 Governor.

15           "(2) Two representatives from nonprofit  
16 organizations engaged in low-income housing appointed by the  
17 Governor.

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

19           "(4) The Speaker of the House of Representatives or  
20 his or her designee.

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

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

1           "(7) The State Revenue Commissioner or his or her  
2     designee.

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

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

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

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

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

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

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

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

24          "(f) The board shall elect from its membership a  
25    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

1 have any other powers necessary and incidental to carry out  
2 the powers and the purpose granted by this chapter.

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

13 "§24-9-6.

14 "(a) In the event that the local governing body,  
15 city, or county elects to participate in the program under  
16 this chapter by entering into an intergovernmental cooperation  
17 agreement with the authority, the authority shall hold in its  
18 name any tax delinquent properties within the territorial  
19 jurisdiction of the local governing body which have been sold  
20 to the state upon expiration of a five-year period from the  
21 date of the sale of the property for delinquent taxes, at  
22 which time a tax deed conveying the state's interest in the  
23 property shall be issued to the authority by the Alabama  
24 Department of Revenue. The governing body of the municipality  
25 within which the delinquent properties are located can

1       reclaim, or in the event the property is not within the  
2       cooperate limits of any municipality, the county can reclaim  
3       the tax delinquent properties held by the authority in its  
4       name, at any time, in which event the authority shall convey  
5       title to the municipality or county. Neither the authority nor  
6       any local government shall be required to pay the amount  
7       deemed to have been bid to cover delinquent taxes or any other  
8       amount.

9               "(b) Eligible delinquent property shall be limited  
10       to parcels with at least five years of tax delinquency.

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

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

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

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



1           "(3) The authority shall have the power to manage,  
2 maintain, protect, rent, lease, repair, insure, alter, sell,  
3 trade, exchange, or otherwise dispose of any tax delinquent  
4 property on terms and conditions determined in the sole  
5 discretion of the authority.

6           "§24-9-7.

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

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

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

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

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

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

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

20           "(e) The expenses of the authority shall be limited  
21 to the amount of funds generated by the authority from the  
22 sale or disposition of property, or from grants or other gifts  
23 and donations received.

24           "(f) Tax delinquent property may not be held by the  
25 authority for a period of longer than 10 years. At the

1 expiration of 10 years, title shall revert to and the  
2 authority shall convey the property to the municipality in  
3 which such property is located, or if in no municipality, then  
4 to the county in which the property is located. If the  
5 municipality or county rejects the reversion, the tax  
6 delinquent property may be held by the authority beyond the  
7 10-year period.

8 "§24-9-8.

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

16 "(1) The record title to the property shall be  
17 examined and a certificate of title shall be prepared for the  
18 benefit of the authority.

19 "(2) The authority shall serve the prior owner whose  
20 interest was foreclosed for delinquent taxes or otherwise and  
21 all persons having record title or interest in or lien upon  
22 the property with a notice of foreclosure and the right to  
23 redeem. Such service shall be attempted by personal service,  
24 certified mail, or by publishing the notice of foreclosure in  
25 a newspaper published in the county for three consecutive

1 weeks; provided, if service is perfected by any of these  
2 methods, such service will be sufficient to fulfill the  
3 extinguishment or foreclosure proceedings.

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

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

12 "a. An examination of the addresses given on the  
13 face of the instrument vesting interest or the addresses given  
14 to the clerk of the probate court by the transfer tax  
15 declaration form. The clerk of the circuit court and the tax  
16 official charged with assessing the property are required to  
17 share information contained in the transfer tax declaration  
18 form with one another in a timely manner.

19 "b. A search of the current telephone directory for  
20 the municipality and the county in which the property is  
21 located.

22 "c. A letter of inquiry to the person who sold the  
23 property to the owner whose interest was sold in the tax sale  
24 at the address shown in the transfer tax declaration form or  
25 in the telephone directory.

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

3           "e. A sign being no less than four feet by four feet  
4 shall be erected on the property and maintained by the  
5 authority for a minimum of 30 days reading as follows:

6           ""THIS PROPERTY HAS BEEN CONVEYED TO THE ALABAMA  
7 LAND BANK AUTHORITY BY VIRTUE OF A SALE FOR UNPAID TAXES.  
8 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE  
9 PROPERTY ARE REQUESTED TO CALL \_\_\_\_\_."

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

19          Section 2. The provisions of this act are severable.  
20 If any part of this act is declared invalid or  
21 unconstitutional, that declaration shall not affect the part  
22 which remains.

23          Section 3. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.

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President and Presiding Officer of  
the Senate

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Speaker of the House of Representa-  
tives

SB326  
Senate 23-FEB-10  
I hereby certify that the within Act originated in  
and passed the Senate, as amended.

McDowell Lee  
Secretary

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House of Representatives  
Passed: 21-APR-10

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By: Senators Coleman and Mitchell