

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

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8 SYNOPSIS: Under existing law, the Alabama Land Bank
9 Authority may acquire tax delinquent properties for
10 rehabilitation of the properties.

11 This bill would expand the purpose of the
12 Alabama Land Bank Authority.

13 This bill would remove the minimum date that
14 taxes have been unpaid from the definition of the
15 term "tax-delinquent property."

16 This bill would require that a majority of
17 the membership of the board is needed to approve
18 any action taken by the authority.

19 This bill would provide for civil immunity
20 to the members of the board of the authority.

21 This bill would provide that the authority
22 would be a public corporation and would expand the
23 powers of the authority.

24 This bill would allow the authority to hold
25 in its name certain property that has been sold for
26 delinquent taxes and to allow the property to be
27 redeemed for taxes.

1 by the authority; to provide for civil immunity to the members
2 of the board of the authority; to provide that the authority
3 would be a public corporation; to expand the powers of the
4 authority; to allow the authority to hold in its name certain
5 property that has been sold for delinquent taxes and to allow
6 the property to be redeemed for taxes; to allow the authority
7 to repeal and rescind all unpaid state taxes at the time it
8 sells or disposes of the property purchased for nonpayment of
9 taxes; to provide that the authority may provide for
10 distribution of property for economic development; to limit
11 the time that the authority may retain ownership of tax
12 delinquent property; and to allow the authority to extinguish
13 the right of redemption for property sold for delinquent taxes
14 and otherwise provide the procedure for notice of foreclosure.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 2, 4, 5, 6, 7, and 8 of Act
17 2009-738, 2009 Regular Session (Acts 2009, p. 2203), now
18 appearing as Sections 24-9-2, 24-9-4, 24-9-5, 24-9-6, 24-9-7,
19 and 24-9-8 of the Code of Alabama 1975, are amended to read as
20 follows:

21 "§24-9-2.

22 "The Alabama Land Bank Authority ~~Act~~ is ~~enacted~~
23 hereby created for the purpose of acquiring tax delinquent
24 properties in order to foster the public purpose of
25 rehabilitating land which is in a nonrevenue-generating,
26 nontax-producing status to an effective utilization status in
27 order to provide housing, new industry, ~~and~~ new commercial and

1 economic development, other productive uses, jobs for the
2 citizens, and assembling parcels of real property for
3 redevelopment, stabilizing property values, and removing
4 blight.

5 "§24-9-4.

6 "When used in the chapter, the following words shall
7 have the following meanings:

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

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

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

13 "(4) PROPERTY. Real property, including any
14 improvements thereon.

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

19 "§24-9-5.

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

23 "(b) The board shall consist of the following
24 members:

25 "(1) Four residents of the state appointed by the
26 Governor.

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

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

5 "(4) The Speaker of the House of Representatives or
6 his or her designee.

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

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

11 "(7) The State Revenue Commissioner or his or her
12 designee.

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

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

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

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

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

23 "(c) The members of the board shall serve four year
24 terms. In appointing the initial members of the board under
25 subdivision (1) of subsection (b), the Governor shall
26 designate two to serve four years, one to serve three years,
27 and one to serve two years.

1 "(d) Members of the board shall receive
2 reimbursement for expenses incurred in the performance of
3 their duties but no other compensation.

4 "(e) The board may employ the necessary personnel
5 for the performance of its functions and fix their
6 compensation.

7 "(f) The board shall elect from its membership a
8 chair, vice chair, and secretary-treasurer. The board shall
9 adopt rules to govern its proceedings. A majority of the
10 membership of the board shall constitute a quorum for all
11 meetings. Approval by a majority of the membership shall be
12 necessary for any action to be taken by the authority. All
13 meetings shall be open to the public, except as otherwise
14 permitted by the Alabama Open Meetings Act, providing for open
15 meetings, and a written record shall be maintained of all
16 meetings.

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

20 "(h) The board, when acting in its official
21 capacity, its members, and the authority shall be immune from
22 civil liability against the claims of any individual or other
23 entity of any nature whatsoever arising out of its ownership
24 or administration of properties or related to its decisions or
25 actions, which decisions or actions were made in good faith,
26 without malice, and predicated upon information which was then
27 available to the board.

1 "(i) The authority shall be a public body corporate
2 and politic with the power to accept and issue deeds in its
3 name, including, without limitation, the acceptance of real
4 property in accordance with the provisions of this chapter,
5 and to institute quiet title (quia timet) actions and shall
6 have any other powers necessary and incidental to carry out
7 the powers and the purpose granted by this chapter.

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

18 "§24-9-6.

19 "(a) In the event that the local governing body,
20 city, or county elects to participate in the program under
21 this chapter by entering into an intergovernmental cooperation
22 agreement with the authority, the authority shall hold in its
23 name any tax delinquent properties within the territorial
24 jurisdiction of the local governing body which have been sold
25 to the state ~~due to a three-year tax delinquency upon~~
26 expiration of a five-year period from the date of the sale of
27 the property for delinquent taxes, at which time a tax deed

1 conveying the state's interest in the property shall be issued
2 to the authority by the Alabama Department of Revenue. The
3 governing body of the municipality within which the delinquent
4 properties are located can reclaim, or in the event the
5 property is not within the cooperate limits of any
6 municipality, the county can reclaim the tax delinquent
7 properties held by the authority in its name, at any time, in
8 which event the authority shall convey title to the
9 municipality or county. Neither the authority nor any local
10 government shall be required to pay the amount deemed to have
11 been bid to cover delinquent taxes or any other amount.

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

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

23 ~~"(d)(c) The authority shall administer tax~~
24 ~~delinquent properties acquired by it as follows:~~

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

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

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

8 "§24-9-7.

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

22 "(b) Prior to the sale of a tax delinquent property,
23 the authority shall provide notice to the political
24 subdivision in which the delinquent property is located, and
25 if a rezoning or reclassification will be required for
26 redevelopment for the development to be consistent with the
27 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
26 expiration of 10 years, title shall revert to and the
27 authority shall convey the property to the municipality in

1 which such property is located, or if in no municipality, then
2 to the county in which the property is located. If the
3 municipality or county rejects the reversion, the tax
4 delinquent property may be held by the authority beyond the
5 10-year period.

6 "§24-9-8.

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

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

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

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

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

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

16 "b. A search of the current telephone directory for
17 the municipality and the county in which the property is
18 located.

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

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

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

1 ""THIS PROPERTY HAS BEEN CONVEYED TO THE ALABAMA
2 LAND BANK AUTHORITY BY VIRTUE OF A SALE FOR UNPAID TAXES.
3 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE
4 PROPERTY ARE REQUESTED TO CALL _____."

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

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

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