

1 HB102
2 155803-4
3 By Representative Hill
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ENROLLED, An Act,

To amend Section 24-1A-42, Code of Alabama 1975, of the Alabama Home Buyers Initiative Act, and to add a new Section 24-1A-44 to the Code of Alabama 1975, in order to make the mortgage guarantee fund established by the Alabama Home Buyers Initiative Act available for alternative housing programs.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In order to offset the adverse effects of the global and national recession on Alabama's housing industry and its economic development activity and to provide a boost to the state's housing industry and its economic development and industrial recruitment, the Legislature adopted the Alabama Home Buyers Initiative Act, codified as Sections 24-1A-40 to 24-1A-43, inclusive, Code of Alabama 1975, which established a mortgage guarantee fund to reimburse investors for a portion of any foreclosure losses suffered as a result of purchasing qualified mortgage loans on eligible properties located within the State of Alabama.

(b) Pursuant to the act, six million dollars (\$6,000,000) was appropriated and irrevocably deposited in the mortgage guarantee fund. The fund is held by the State Treasurer and administered by the Alabama Housing Finance

1 Authority, a public corporation and instrumentality of the
 2 State of Alabama.

3 (c) It is hereby found and determined that, due to
 4 dramatic changes in the mortgage industry during the recent
 5 economic crisis, no qualified mortgage loans have been
 6 purchased by investors under the act and no such loans are
 7 reasonably expected to be purchased in the future, and as a
 8 result, none of the money appropriated by the act and
 9 deposited in the mortgage guarantee fund has been deployed for
 10 its initial purposes.

11 (d) Therefore, in accordance with the original
 12 intent of Section 24-1A-43, Code of Alabama 1975, the
 13 Legislature intends to make the funds on deposit in the
 14 mortgage guarantee fund available for alternative housing
 15 programs.

16 Section 2. Section 24-1A-42, Code of Alabama 1975,
 17 is amended to read as follows:

18 "§24-1A-42.

19 "As used in this article, the following terms shall
 20 have the following meanings:

21 "(1) ALABAMA HOME BUYERS INITIATIVE. A program that
 22 includes a conventional mortgage program not to exceed one
 23 billion dollars (\$1,000,000,000) in aggregate loan amount to
 24 be administered by the program administrator, under which
 25 single family mortgage loans, as defined in Section 24-1A-2,

1 are purchased by the program administrator and sold to the
2 initial holder, and one or more alternative housing programs.
3 No mortgage loan shall be made to any person who is not a
4 citizen of the United States or is not legally present in the
5 United States with appropriate documentation from the federal
6 government.

7 "(2) ALTERNATIVE HOUSING PROGRAM. Any program or
8 other activity that is certified to the State Treasurer by the
9 program administrator under Section 24-1A-44(c) (2), that will
10 be administered by the program administrator, and that will
11 promote home ownership in Alabama, including, without
12 limitation, the establishment of reserve funds for housing
13 initiatives, the payment of mortgage insurance premiums, and
14 the establishment and administration of homeowner education
15 programs. The program administrator may certify one or more
16 alternative housing programs in order to utilize all funds on
17 deposit in the mortgage guarantee fund.

18 "(3) CERTIFIED AMOUNT. The dollar amount of funds on
19 deposit in the mortgage guarantee fund that is certified to
20 the State Treasurer by the program administrator under Section
21 24-1A-44(c) (1) as available for an alternative housing
22 program.

23 "~~(2)~~(4) ELIGIBLE PROPERTIES. Both newly constructed
24 residences and existing homes.

1 "~~(3)~~(5) FORECLOSURE BALANCE. The sum of (a) the
 2 unpaid principal balance of a qualified mortgage loan, (b) any
 3 interest accrued thereon through the date of foreclosure, and
 4 (c) foreclosure expenses, which shall include attorney fees,
 5 title work, recording or filing fees, escrow advances, and
 6 other actual expenses associated with a foreclosure sale.

7 "~~(4)~~(6) FORECLOSURE LOSS. The foreclosure balance
 8 for a qualified mortgage loan less its resale proceeds.

9 "~~(5)~~(7) HOLDER. Any person that owns a qualified
 10 mortgage loan.

11 "~~(6)~~(8) INVESTOR. The holder of a qualified mortgage
 12 loan on the date on which a foreclosure loss occurs with
 13 respect to such loan.

14 "~~(7)~~(9) MORTGAGE GUARANTEE FUND. The fund
 15 established under Section 24-1A-43.

16 "~~(8)~~(10) MORTGAGE GUARANTEE FUND FEE. A fee equal to
 17 one percent (1%) of the sales price of each home financed with
 18 a qualified mortgage loan under the Alabama Home Buyers
 19 Initiative.

20 "~~(9)~~(11) PERSON. Any individual, trust, estate,
 21 corporation, association, partnership, limited liability
 22 company, or other entity of any kind.

23 "~~(10)~~(12) PROGRAM ADMINISTRATOR. The Alabama Housing
 24 Finance Authority.

1 "~~(11)~~(13) QUALIFIED MORTGAGE LOAN. A mortgage loan
2 secured by an eligible property originated under the Alabama
3 Home Buyers Initiative.

4 "~~(12)~~(14) RESALE PROCEEDS. The net sales proceeds
5 from the remarketing or resale of a residence following a
6 foreclosure sale conducted under a qualified mortgage loan,
7 which shall be equal to the sales price received in an arm's
8 length sale less closing costs, commissions, property
9 preservation, and reasonable and customary expenses associated
10 with the sale of a residential property."

11 Section 3. Section 24-1A-44 is added to the Code of
12 Alabama 1975, to read as follows:

13 §24-1A-44. Alternative housing programs; certified
14 amounts; modification and depletion.

15 (a) Mortgage guarantee fund. In addition to the uses
16 provided in Section 24-1A-43, commencing on the effective date
17 of this act, the mortgage guarantee fund established by the
18 Alabama Home Buyers Initiative Act, including all funds
19 appropriated for the mortgage guarantee fund and all interest
20 or investment earnings thereon, shall be made available to
21 fund alternative housing programs in accordance with this act.

22 (b) Investment income on mortgage guarantee fund.
23 All interest or investment income, if any, on funds deposited
24 in the mortgage guarantee fund shall be credited to, and shall
25 remain part of, the mortgage guarantee fund.

1 (c) Establishment of alternative housing programs.

2 In order to establish an alternative housing program, the
3 program administrator shall certify in writing to the State
4 Treasurer that: (1) There is a specific dollar amount of funds
5 on deposit in the mortgage guarantee fund, up to and including
6 the full amount then on deposit in the mortgage guarantee
7 fund, that is available to be used for an alternative housing
8 program (the "certified amount"); (2) There is an alternative
9 housing program for which the certified amount can be used;
10 and (3) The designation assigned by the program administrator
11 to the alternative housing program in order to differentiate
12 it from other alternative housing programs. The State
13 Treasurer's receipt of a written certification from the
14 program administrator containing the above statements, without
15 further detail, shall be sufficient for purposes of this act
16 to establish an alternative housing program and to make the
17 certified amount available to fund such program, and the State
18 Treasurer shall have no obligation to review or approve any
19 alternative housing program so certified. The State Treasurer,
20 in his or her discretion, may establish a separate account
21 within the mortgage guarantee fund for each alternative
22 housing program established under this subsection, which
23 account shall be funded solely from existing money on deposit
24 in the mortgage guarantee fund in an amount equal to the

1 certified amount for the alternative housing program for which
2 such account is established.

3 (d) Funding of alternative housing programs. If the
4 program administrator provides a written certification to the
5 ~~State Treasurer~~ Comptroller that: (1) Requests a specific
6 amount of funding from the mortgage guarantee fund; (2)
7 Identifies by assigned designation the alternative housing
8 program for which the funding is requested; (3) Specifies the
9 name and address of the payee to whom such amount shall be
10 paid; and (4) Certifies that the amount of funding being
11 requested for the alternative housing program, together with
12 the aggregate amount of all prior funding requested for such
13 program, does not exceed the certified amount with respect to
14 the ~~alternative housing program being funded, then the State~~
15 ~~Treasurer shall instruct the Comptroller to issue a warrant in~~
16 ~~the amount requested payable to the payee specified by the~~
17 ~~program administrator; provided, however, that each warrant so~~
18 ~~issued shall specify that it is a limited obligation payable~~
19 ~~solely from the certified amount established for the~~
20 ~~alternative housing program for which such warrant is issued~~
21 ~~and does not constitute indebtedness of the State of Alabama,~~
22 ~~the program administrator, or any other person. alternative~~
23 housing program being funded, then the Comptroller shall issue
24 a warrant in the amount requested payable to the payee
25 specified by the program administrator.

1 (e) Modification of certified amounts. The program
2 administrator, at any time, may deliver a written
3 certification to the State Treasurer that increases,
4 decreases, or terminates the certified amount with respect to
5 any alternative housing program; provided, however, that the
6 certified amount for any alternative housing program may not
7 be reduced under any circumstances to an amount less than the
8 aggregate amount payable under the then outstanding warrants
9 issued by the Comptroller, including any warrants that have
10 been requested but not yet issued, with respect to such
11 alternative housing program.

12 (f) Modification of alternative housing programs.
13 The program administrator, in his or her sole discretion, may
14 modify, amend, expand, reduce, or otherwise alter any
15 alternative housing program being funded under this act
16 without notice to, consent from, or any other action by the
17 State Treasurer or Comptroller so long as the alternative
18 housing program, as modified, constitutes an alternative
19 housing program within the meaning of this act.

20 (g) Availability of mortgage guarantee fund. The
21 mortgage guarantee fund shall remain available until it is
22 depleted through the funding of alternative housing programs.

23 Section 4. The provisions of this act are severable.
24 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

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

