

1 HB102  
2 155803-1  
3 By Representative Hill  
4 RFD: Insurance  
5 First Read: 14-JAN-14  
6 PFD: 01/10/2014

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8 SYNOPSIS: This bill would amend and supplement the  
9 Alabama Home Buyers Initiative Act in order to make  
10 the mortgage guarantee fund established by the act  
11 available for alternative housing programs.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) In order to offset the adverse  
25 effects of the global and national recession on Alabama's  
26 housing industry and its economic development activity and to  
27 provide a boost to the state's housing industry and its

1 economic development and industrial recruitment, the  
2 Legislature adopted the Alabama Home Buyers Initiative Act,  
3 codified as Sections 24-1A-40 to 24-1A-43, inclusive, Code of  
4 Alabama 1975, which established a mortgage guarantee fund to  
5 reimburse investors for a portion of any foreclosure losses  
6 suffered as a result of purchasing qualified mortgage loans on  
7 eligible properties located within the State of Alabama.

8 (b) Pursuant to the act, six million dollars  
9 (\$6,000,000) was appropriated and irrevocably deposited in the  
10 mortgage guarantee fund. The fund is held by the State  
11 Treasurer and administered by the Alabama Housing Finance  
12 Authority, a public corporation and instrumentality of the  
13 State of Alabama.

14 (c) It is hereby found and determined that, due to  
15 dramatic changes in the mortgage industry during the recent  
16 economic crisis, no qualified mortgage loans have been  
17 purchased by investors under the act and no such loans are  
18 reasonably expected to be purchased in the future, and as a  
19 result, none of the money appropriated by the act and  
20 deposited in the mortgage guarantee fund has been deployed for  
21 its initial purposes.

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

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

3           "§24-1A-42.

4           "As used in this article, the following terms shall  
5 have the following meanings:

6           "(1) ALABAMA HOME BUYERS INITIATIVE. A program that  
7 includes a conventional mortgage program not to exceed one  
8 billion dollars (\$1,000,000,000) in aggregate loan amount to  
9 be administered by the program administrator, under which  
10 single family mortgage loans, as defined in Section 24-1A-2,  
11 are purchased by the program administrator and sold to the  
12 initial holder, and one or more alternative housing programs.

13 No mortgage loan shall be made to any person who is not a  
14 citizen of the United States or is not legally present in the  
15 United States with appropriate documentation from the federal  
16 government.

17           "(2) ALTERNATIVE HOUSING PROGRAM. Any program or  
18 other activity that is certified to the State Treasurer by the  
19 program administrator under Section 24-1A-44(c)(2), that will  
20 be administered by the program administrator, and that will  
21 promote home ownership in Alabama, including, without  
22 limitation, the establishment of reserve funds for housing  
23 initiatives, the payment of mortgage insurance premiums, and  
24 the establishment and administration of homeowner education  
25 programs. The program administrator may certify one or more  
26 alternative housing programs in order to utilize all funds on  
27 deposit in the mortgage guarantee fund.

1           "(3) CERTIFIED AMOUNT. The dollar amount of funds on  
2           deposit in the mortgage guarantee fund that is certified to  
3           the State Treasurer by the program administrator under Section  
4           24-1A-44(c) (1) as available for an alternative housing  
5           program.

6           "~~(2)~~(4) ELIGIBLE PROPERTIES. Both newly constructed  
7           residences and existing homes.

8           "~~(3)~~(5) FORECLOSURE BALANCE. The sum of (a) the  
9           unpaid principal balance of a qualified mortgage loan, (b) any  
10          interest accrued thereon through the date of foreclosure, and  
11          (c) foreclosure expenses, which shall include attorney fees,  
12          title work, recording or filing fees, escrow advances, and  
13          other actual expenses associated with a foreclosure sale.

14          "~~(4)~~(6) FORECLOSURE LOSS. The foreclosure balance  
15          for a qualified mortgage loan less its resale proceeds.

16          "~~(5)~~(7) HOLDER. Any person that owns a qualified  
17          mortgage loan.

18          "~~(6)~~(8) INVESTOR. The holder of a qualified mortgage  
19          loan on the date on which a foreclosure loss occurs with  
20          respect to such loan.

21          "~~(7)~~(9) MORTGAGE GUARANTEE FUND. The fund  
22          established under Section 24-1A-43.

23          "~~(8)~~(10) MORTGAGE GUARANTEE FUND FEE. A fee equal to  
24          one percent (1%) of the sales price of each home financed with  
25          a qualified mortgage loan under the Alabama Home Buyers  
26          Initiative.

1           "~~(9)~~(11) PERSON. Any individual, trust, estate,  
2 corporation, association, partnership, limited liability  
3 company, or other entity of any kind.

4           "~~(10)~~(12) PROGRAM ADMINISTRATOR. The Alabama Housing  
5 Finance Authority.

6           "~~(11)~~(13) QUALIFIED MORTGAGE LOAN. A mortgage loan  
7 secured by an eligible property originated under the Alabama  
8 Home Buyers Initiative.

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

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

18           §24-1A-44. Alternative housing programs; certified  
19 amounts; modification and depletion.

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

1 (b) Investment income on mortgage guarantee fund.

2 All interest or investment income, if any, on funds deposited  
3 in the mortgage guarantee fund shall be credited to, and shall  
4 remain part of, the mortgage guarantee fund.

5 (c) Establishment of alternative housing programs.

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

1 in the mortgage guarantee fund in an amount equal to the  
2 certified amount for the alternative housing program for which  
3 such account is established.

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

24 (e) Modification of certified amounts. The program  
25 administrator, at any time, may deliver a written  
26 certification to the State Treasurer that increases,  
27 decreases, or terminates the certified amount with respect to



1 any alternative housing program; provided, however, that the  
2 certified amount for any alternative housing program may not  
3 be reduced under any circumstances to an amount less than the  
4 aggregate amount payable under the then outstanding warrants  
5 issued by the Comptroller, including any warrants that have  
6 been requested but not yet issued, with respect to such  
7 alternative housing program.

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

16 (g) Availability of mortgage guarantee fund. The  
17 mortgage guarantee fund shall remain available until it is  
18 depleted through the funding of alternative housing programs.

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