

HB405 INTRODUCED



1 HB405
2 1Q643ZZ-1
3 By Representatives Clarke, Gray, Bracy, Jones, Brown,
4 Chestnut, Almond, Lands
5 RFD: Ways and Means General Fund
6 First Read: 02-Apr-24



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SYNOPSIS:

Under existing law, a municipal housing authority has numerous powers.

This bill would further provide for a municipal housing authority's power to deal with housing projects and community facilities, participate in lawful forms of business organizations, make loans, create subsidiaries or other lawful business organizations, and enter into contracts.

This bill would ratify the creation of any wholly-owned subsidiary of a municipal housing authority.

This bill would further provide for a municipal housing authority's power to evaluate and award contracts.

This bill would exempt public housing authorities from all taxes.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT



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29
30 Relating to municipal housing authorities; to amend
31 Sections 24-1-22 and 24-1-27, Code of Alabama 1975; to further
32 provide for the powers of a municipal housing authority; to
33 exempt public housing authorities from all taxes; and to make
34 nonsubstantive, technical revisions to update the existing
35 code language to current style.

36 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

37 Section 1. Sections 24-1-22 and 24-1-27, Code of
38 Alabama 1975, are amended to read as follows:

39 "§24-1-22

40 ~~The following terms, wherever used or referred to in~~
41 For the purposes of this article, ~~shall have the following~~
42 ~~respective meanings, unless a different meaning clearly~~
43 ~~appears from the context~~the following terms have the following
44 meanings:

45 (1) AUTHORITY or HOUSING AUTHORITY. A public body
46 organized as a body corporate and politic in accordance with
47 the provisions of this article for the purposes, with the
48 powers, and subject to the restrictions set forth in this
49 article.

50 ~~(2)~~ (3) CITY. Any ~~city or incorporated town~~ municipality
51 in ~~the State of Alabama~~ this state.

52 ~~(3)~~ (8) COUNCIL. The legislative body, council, board of
53 commissioners, or other body charged with governing ~~the city~~ a
54 municipality.

55 (4) CITY CLERK and MAYOR. The clerk, and the mayor or
56 president of the board of commissioners, respectively, of the



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57 city, or the officers ~~thereof~~ charged with the duties
58 customarily imposed on the clerk and mayor, respectively.

59 (5) COMMISSIONER. One of the members of an authority
60 appointed in accordance with the provisions of this article.

61 ~~(6)~~ (10) GOVERNMENT. ~~Such term shall include the~~ The
62 state ~~and or~~ federal governments ~~and or~~ any subdivision,
63 agency, or instrumentality, corporate or otherwise, of either
64 ~~of them.~~

65 ~~(7)~~ (17) STATE. The State of Alabama.

66 ~~(8)~~ (9) FEDERAL GOVERNMENT. ~~Such term shall include the~~
67 The United States of America, the ~~federal Secretary~~ United
68 States Department of Housing and Urban Development or any
69 agency, instrumentality, corporate or otherwise, of the United
70 States of America.

71 ~~(9)~~ (11) HOUSING PROJECT. ~~Such term shall include all~~
72 All real and personal property, buildings and improvements,
73 stores, offices, public school buildings, lands for farming
74 and gardening, and community facilities acquired or
75 constructed or to be acquired or constructed pursuant to a
76 single plan of undertaking to demolish, clear, remove, alter
77 or repair unsanitary or unsafe housing, or to provide dwelling
78 accommodations at rentals within the means of persons of low
79 income. ~~This~~ The term may also be applied to the planning of
80 the buildings and improvements; the acquisition of property; the
81 demolition of existing structures; the construction,
82 reconstruction, alteration and repair of the improvements; and
83 all other work in connection therewith.

84 ~~(10)~~ (6) COMMUNITY FACILITIES. ~~Such term shall include~~



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85 ~~real~~Real and personal property and buildings and equipment
86 for recreational or social assemblies~~r;~~ for educational,
87 health~~,~~ or welfare purposes~~r;~~ and necessary utilities, when
88 designed primarily for the benefit and use of the occupants of
89 the dwelling accommodations.

90 ~~(11)~~(15) PERSONS OF LOW INCOME. ~~Persons~~Individuals
91 receiving less than the income determined by the authority as
92 the amount ~~persons~~individuals must receive to enable them to
93 pay the rent necessary to secure safe, sanitary, and
94 uncongested dwelling accommodations, other than dwelling
95 accommodations provided by the authority or any cities, within
96 the boundaries of the authority. Such determinations by the
97 authority ~~from time to time~~ shall be binding and conclusive
98 for all purposes of this article.

99 ~~(12)~~(2) BONDS. Any bonds, interim certificates, notes,
100 debentures, warrants, or other obligations of the authority
101 issued pursuant to this article.

102 (13) MORTGAGES. ~~Such term shall include deeds~~Deeds of
103 trust, mortgages, building and loan contracts~~,~~ or other
104 instruments conveying real or personal property as security
105 for bonds and conferring a right to foreclose and cause a sale
106 thereof.

107 ~~(14)~~(18) TRUST INDENTURE. ~~Such term shall include~~
108 ~~instruments~~Instruments pledging the revenues of real or
109 personal properties but not conveying such properties
110 conferring a right to foreclose and cause a sale thereof.

111 ~~(15)~~(7) CONTRACT. Any agreement of an authority with or
112 for the benefit of an obligee whether contained in a



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113 resolution, trust indenture, mortgage, lease, bond, or other
114 instrument.

115 (16) REAL PROPERTY. ~~Such term shall include lands~~Lands,
116 lands under water, structures and any and all easements,
117 franchises and incorporeal hereditaments and every estate and
118 right therein, legal and equitable, including terms for years
119 and liens by way of judgment, mortgage, or otherwise.

120 ~~(17)~~(14) OBLIGEE OF THE AUTHORITY or OBLIGEE. ~~Such term~~
121 ~~shall include any~~Any bondholder, trustee or trustees for any
122 bondholders, any lessor demising property to the authority
123 used in connection with a housing project or any assignee or
124 assignees of such lessor's interest, or any part thereof, and
125 the United States of America, when it is a party to any
126 contract with the authority.

127 (12) MIXED-USE PROJECT. Any development project that
128 provides more than one use or purpose within a shared building
129 or development and which may include any combination of
130 housing, lodging, office, retail, medical, recreational,
131 commercial, governmental, industrial, or other components."

132 "§24-1-27

133 (a) An authority shall constitute a public body and a
134 body corporate and politic exercising public powers, ~~and~~
135 having all the powers necessary or convenient to carry out and
136 effectuate the purposes and provisions of this article,
137 including the following powers in addition to others granted
138 in this article:

139 (1) To investigate ~~into~~ living, dwelling ~~and~~, or
140 housing conditions and ~~into~~ the means and methods of improving



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141 ~~such~~ the conditions.

142 (2) To determine where unsafe or unsanitary dwelling,
143 public school, l, or housing conditions exist.

144 (3) To study and make recommendations concerning the
145 plan of any city located within its boundaries ~~in relation~~
146 related to the problem of clearing, replanning, and
147 reconstruction of areas in which unsafe or unsanitary
148 dwelling, public school, or housing conditions exist, ~~and;~~ the
149 provision of dwelling accommodations for persons of low
150 income, ~~;~~ and to cooperate or cooperation with any city or
151 regional planning agency.

152 (4) To prepare, carry out, ~~and or~~ operate housing
153 projects.

154 (5) To provide for the construction, reconstruction,
155 improvement, alteration, or repair of any housing project or
156 any part ~~thereof~~ of a housing project.

157 (6) To take over by purchase, lease, or otherwise any
158 housing project undertaken by any government or by any city
159 located within its boundaries.

160 (7) To manage, as agent of any city located within its
161 boundaries, any housing project constructed or owned by ~~such a~~
162 city.

163 (8) To act as agent for the federal government in
164 connection with the acquisition, construction, operation, or
165 management of a housing project, or any part ~~thereof~~ of a
166 housing project.

167 (9) To arrange with any city located within its
168 boundaries or with ~~a~~ any other government for the furnishing,



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169 planning, replanning, opening~~r~~ or closing of streets, roads,
170 roadways, alleys, ~~or other~~ places, or facilities, or for the
171 acquisition by ~~such a~~ city~~r~~ or ~~a~~ other government~~r~~, of
172 property, options, or property rights, or for the furnishing
173 of property or services in connection with a project.

174 (10) To lease or rent any of the ~~dwelling or~~ dwellings,
175 other accommodations ~~or any of the~~, lands, buildings,
176 structures, or facilities embraced in any housing project or
177 community facilities and to establish ~~and~~ or revise ~~the~~ rents
178 or charges ~~therefor~~.

179 (11) To enter ~~upon~~ any building or property in order to
180 conduct investigations or to make surveys or soundings.

181 (12) To purchase, lease, obtain options upon, acquire
182 by eminent domain, gift, grant, bequest, or devise~~r~~ ~~or~~
183 ~~otherwise~~, any property, real or personal, or any interest
184 ~~therein in~~ property from any ~~person, firm, corporation, city,~~
185 ~~or government~~ entity.

186 (13) To sell, exchange, transfer, assign, or pledge any
187 property, real or personal, or any interest ~~therein in~~
188 property to any ~~person, firm, corporation, city, or~~
189 ~~government~~ entity.

190 (14) To own, hold, clear, ~~and~~ or improve property.

191 (15) To pay over to the city in which the authority is
192 organized all or any part of the proceeds received from the
193 sale of any real or personal property; provided, however, that
194 an authority may pay over such proceeds to the city in which
195 it is organized only in ~~such the~~ manner and to ~~such the~~ extent
196 that ~~such the~~ payment will not violate the terms of any then



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197 existing contract to which the authority is a party; and,
198 provided further, that an authority shall have no power to ~~so~~
199 pay over any part of the proceeds derived from the sale of any
200 real or personal property acquired in connection with a
201 redevelopment project, ~~as that term is defined in Section~~
202 ~~24-1-4~~ pursuant to Chapter 2.

203 (16) To insure or provide for the insurance of the
204 property or operations of the authority against ~~such~~ risks as
205 the authority may deem advisable.

206 (17) To procure insurance or guarantees from the
207 federal government of the payment of any debts, or parts
208 ~~thereof~~ of debts, secured by mortgages made or held by the
209 authority on any property included in any housing project.

210 (18) To borrow money upon its bonds, notes, warrants,
211 debentures, or other evidences of indebtedness, and to secure
212 the same by pledges of its revenues, and, subject to the
213 limitations ~~hereinafter~~ imposed by this article, by mortgages
214 upon property held or to be held by it, or in any other
215 manner.

216 (19) In connection with any loan, to agree to
217 limitations upon its right to dispose of any housing project,
218 or part ~~thereof~~, of a housing project or to undertake
219 additional housing projects.

220 (20) In connection with any loan by a government, to
221 agree to limitations upon the exercise of any powers conferred
222 upon the authority by this article.

223 (21) To invest any funds held in reserves ~~or~~, sinking
224 funds, or any funds not required for immediate disbursement,



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225 in property or securities in which savings banks may legally
226 invest funds subject to their control.

227 (22) To sue and be sued.

228 (23) To have a seal and to alter the ~~same at~~
229 ~~pleasure~~seal.

230 (24) To have perpetual succession.

231 (25) To make and execute contracts ~~and or~~ other
232 instruments necessary or convenient to the exercise of the
233 powers of the authority.

234 (26) To make ~~and from time to time,~~ amend ~~and,~~ or
235 repeal bylaws, rules, ~~and or~~ regulations, not inconsistent
236 with this article, to carry into effect the powers ~~and or~~
237 purposes of the authority.

238 (27) To conduct examinations ~~and or~~ investigations ~~and,~~
239 to hear testimony ~~and,~~ or to take proof under oath, at public
240 or private hearings, on any matter material for its
241 information.

242 (28) To issue subpoenas requiring the attendance of
243 witnesses or the production of books ~~and or~~ papers ~~and,~~ or to
244 issue commissions for the examination of witnesses who are out
245 of the state ~~or,~~ unable to attend before the authority, or
246 excused from attendance.

247 (29) To make available to ~~such any~~ agencies, boards, or
248 commissions ~~as are~~ charged with the duty of abating nuisances
249 or demolishing unsafe or unsanitary structures within ~~its the~~
250 authority's territorial limits, its findings and
251 recommendations with regard to any building or property where
252 conditions exist which are dangerous to the public health,



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253 morals, safety, or welfare.

254 (30) To operate, manage, lease, convey, or otherwise
255 deal with any housing project, community facility, or
256 mixed-use project upon terms the authority deems appropriate,
257 useful, or expedient, regardless of who owns, will own, or
258 will acquire the project or facility.

259 (31) To participate in any lawful form of business
260 organization which may be involved in the development or
261 operational activities of any buildings, structures,
262 facilities, or other improvements constituting a housing
263 project, community facility, or mixed-use project that the
264 board of directors of the authority determines are
265 appropriate, useful, or expedient to the authority's purposes.
266 An authority shall have the power to appoint an individual to
267 a governing body or to enter into a contract or other
268 agreement with another party for the development, operation,
269 design, marketing, maintenance, financing, leasing, or use of
270 any housing project, community facility, or mixed-use project
271 upon terms the authority's board of directors determines are
272 appropriate, useful, or expedient to the authority's purposes.
273 Any determination by the board of directors shall be
274 conclusive.

275 (32) To make or arrange for loans, contributions to
276 capital, or other debt or equity financing for the activities
277 of any lawful business organization of which the authority is
278 a member; to guarantee loans, issue bonds, or incur other
279 forms of indebtedness on behalf of any lawful business
280 organization of which the authority is a member; or to loan



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281 funds to other entities upon terms the authority determines
282 are appropriate, useful, or expedient for the authority's
283 purposes. Any determination by the board of directors shall be
284 conclusive. Any agreements or contracts entered into by an
285 authority shall be subject to Section 24-1-40.

286 (33) To create, establish, acquire, operate, or support
287 for-profit or not-for-profit subsidiaries or affiliates to
288 assist the authority in fulfilling its purposes.

289 (34) To create, establish, or support other
290 non-affiliated lawful business organizations that further the
291 authority's purposes.

292 (35) To accomplish or facilitate the creation,
293 establishment, acquisition, development, operation, or support
294 of any subsidiary, affiliate, or other non-affiliated lawful
295 business organization by means of loans of funds, leases of
296 real or personal property, gifts, or grants of funds or
297 guarantees of indebtedness or contractual performance of
298 subsidiaries, affiliates, or non-affiliated public or private
299 parties.

300 (36) To enter contracts, agreements, or understandings
301 with any other party, including, but not limited to, any of
302 the following:

303 a. Design-build, design-build-operate,
304 design-build-own-operate, design-build-own-operate-maintain,
305 design-build-finance-operate-maintain, or other similar
306 arrangements or agreements pursuant to which the design,
307 right-of-way acquisition, relocation of structures or
308 utilities, construction, financing, ownership, management,



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309 maintenance, or operation of a housing project or community
310 facility is accomplished by or on behalf of the authority.

311 b. Leases, licenses, franchises, concessions, or other
312 agreements for the development, operation, management,
313 financing, or undertaking of all or any part of a housing
314 project or community facility of or on behalf of the
315 authority.

316 ~~(30)~~ (37) To do all things necessary or convenient to
317 carry out the powers given in this article.

318 (b) Any of the investigations or examinations provided
319 for in this article may be conducted by the authority, ~~or;~~ by
320 a committee appointed by ~~it,~~ the authority consisting of one
321 or more commissioners, ~~or;~~ by counsel, ~~;~~ or by an officer or
322 employee ~~especially~~ specifically authorized by the authority
323 ~~to conduct it~~. Any commissioner, counsel ~~for the authority,~~ or
324 ~~any other~~ person designated by ~~it~~ the authority to conduct an
325 investigation or examination shall have the power to
326 administer oaths, take affidavits, ~~and~~ or issue subpoenas or
327 commissions.

328 (c) (1) An authority may exercise any or all of the
329 powers conferred upon it in this article either generally, or
330 with respect to any specific housing project or
331 ~~projects~~ community facility, through or by an agent or agents
332 which it may designate, including any ~~corporation or~~
333 ~~corporations~~ lawful form of business organization which ~~are~~ is
334 or ~~shall~~ may be formed under the laws of this state, and for
335 such purposes an authority may cause ~~one or more corporations~~
336 any lawful form of business organization to be formed under



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337 the laws of this state or may acquire ~~the capital stock of any~~
338 ~~corporation or corporations~~equity interest in any lawful form
339 of business organization.

340 (2) Any corporate agent, ~~all of the stock of~~ which
341 shall be solely owned by the authority or its nominee or
342 nominees, may, to the extent permitted by law, exercise any of
343 the powers conferred upon the authority in this article.

344 (3) Any corporate agent established under this section
345 that satisfies each of the following criteria shall constitute
346 a governmental entity under Chapter 93 of Title 11 and any
347 suits in tort against the agent shall be subject to the
348 limitations and provisions of Chapter 93 of Title 11, as
349 applicable to each ~~such~~ corporate agent whose assets,
350 operations, and management are legally and effectively
351 controlled by the housing authority and through which the
352 housing authority's functions or policies are implemented:

353 a. The housing authority's board of commissioners
354 constitutes all of the board of directors of the corporate
355 agent.

356 b. The housing authority's executive director serves as
357 the president of the corporate agent.

358 c. The organizational documents of the corporate agent
359 contain provisions that in the event of a change in the
360 controlling interest of the corporate agent, all public
361 housing assets of the corporate agent are returned to the
362 housing authority.

363 d. The sole purpose for which the corporate agent is
364 formed and authorized is to develop, own, manage, operate, or



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365 maintain the housing authority's real property that serves as
366 dwelling accommodations for persons of low income or as a
367 community facility, including any real property the housing
368 authority transfers to the corporate agent for the
369 aforementioned purpose.

370 (d) In addition to all of the other powers conferred
371 upon it in this section, an authority may do all things
372 necessary and convenient to carry out the power expressly
373 given in this article. No provisions with respect to the
374 acquisition, operation, or disposition of property by other
375 public bodies shall be applicable to an authority, unless ~~the~~
376 ~~Legislature shall~~ specifically ~~so state~~ provided by the
377 Legislature.

378 (e) Any previous creation, establishment,
379 incorporation, or formation by any authority of any business
380 entity wholly-owned by the authority, together with all
381 proceedings, acts, or other things undertaken, performed, or
382 done by the entity prior to June 1, 2024, are validated,
383 ratified, confirmed, approved, and declared legal in all
384 respects.

385 (f) Notwithstanding any provision of law to the
386 contrary, proposals under this section may be evaluated or
387 awarded by the authority based on the qualifications of
388 participants or the best value, or both, as evaluated by the
389 procedures of the authority and taking into consideration the
390 best interests of the authority. Evaluation criteria for a
391 contract procured pursuant to this subsection shall be set
392 forth in the contract's request for proposal. A contract may



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393 also be awarded through any existing procurement authority,
394 proposal, or any other means of procurement available to the
395 authority."

396 Section 2. (a) All of the following shall be exempt
397 from all taxation in this state:

398 (1) A municipal housing authority and the authority's
399 property and income.

400 (2) Bonds issued by the authority.

401 (3) Income from bonds issued by the authority.

402 (4) Conveyances to or from the authority.

403 (5) Leases, mortgages, or deeds of trust to or from the
404 authority shall be exempt from all taxation in this state.

405 (b) An authority shall be exempt from all taxes levied
406 by any county, municipality, or other political subdivision of
407 the state, including, but not limited to, deed taxes, mortgage
408 taxes, license taxes, or excise taxes.

409 (c) A municipal housing authority shall be exempt from
410 all fees, taxes, or other costs imposed by a judge of probate.

411 (d) The exemptions created pursuant to this section
412 shall apply to any wholly-owned subsidiary of a municipal
413 housing authority.

414 Section 3. This act shall become effective immediately.