

HB406 ENGROSSED



1 HB406
2 7ZJCVVEE-2
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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A BILL
TO BE ENTITLED
AN ACT

Relating to county housing authorities; to amend Sections 24-1-61 and 24-1-66, Code of Alabama 1975; to further provide for the powers of a county housing authority; to ratify certain acts of county housing authorities before the effective date of this act; to exempt county housing authorities from taxes in certain circumstances; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 24-1-61 and 24-1-66, Code of Alabama 1975, are amended to read as follows:

"§24-1-61

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

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



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29 article.

30 ~~(2)~~ (5) COUNTY. All of the county except ~~that~~ any
31 portion which lies within the territorial boundaries of any
32 ~~city or incorporated town~~ municipality.

33 ~~(3)~~ (6) COUNTY COMMISSION. The governing body of any
34 county.

35 ~~(4)~~ (9) HOUSING COMMISSIONER. One of the members of an
36 authority appointed in accordance with the provisions of this
37 article.

38 ~~(5)~~ (8) GOVERNMENT. ~~Such term shall include the~~ The
39 state ~~and or~~ or federal governments ~~and or~~ or any subdivision,
40 agency, or instrumentality, corporate or otherwise, of either
41 ~~of them~~.

42 ~~(6)~~ (16) STATE. The State of Alabama.

43 (7) FEDERAL GOVERNMENT. ~~Such term shall include the~~ The
44 United States of America, the ~~federal Secretary~~ United States
45 Department of Housing and Urban Development, or any agency,
46 instrumentality, corporate or otherwise, of the United States
47 of America.

48 ~~(8)~~ (10) HOUSING PROJECT. ~~Such term shall include all~~
49 All real and personal property, buildings and improvements,
50 stores, offices, public school buildings, lands for farming
51 and gardening, and community facilities acquired or
52 constructed, or to be acquired or constructed, pursuant to a
53 single plan of undertaking to demolish, clear, remove, alter,
54 or repair unsanitary or unsafe housing or to provide urban or
55 rural dwelling accommodations at rentals within the means of
56 persons of low income. The term ~~"housing project"~~ may also be



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57 applied to the planning of the buildings and improvements~~;~~
58 the acquisition of property~~;~~ the demolition of existing
59 structures~~;~~ the construction, reconstruction, alteration, and
60 repair of the improvements~~;~~ and all other work in connection
61 therewith.

62 ~~(9)~~ (3) COMMUNITY FACILITIES. ~~Such term shall include~~
63 ~~real~~ Real and personal property and buildings and equipment
64 for recreational or social assemblies~~;~~ for educational,
65 health, or welfare purposes~~;~~ and necessary utilities, when
66 designed primarily for the benefit and use of the occupants of
67 the dwelling accommodations.

68 ~~(10)~~ (14) PERSONS OF LOW INCOME. ~~Persons~~ Individuals
69 receiving less than the incomes determined by the authority as
70 the amount ~~persons~~ individuals must receive to enable them to
71 pay the rent necessary to secure safe, sanitary, and
72 uncongested dwelling accommodations, other than dwelling
73 accommodations provided by a public housing agency or
74 authority of the county, within the boundaries of the
75 authority. Such determinations by the authority ~~from time to~~
76 ~~time~~ shall be binding and conclusive for all purposes of this
77 article.

78 ~~(11)~~ (2) BONDS. Any bonds, interim certificates, notes,
79 debentures, warrants, or other obligations of the authority
80 issued pursuant to this article.

81 (12) MORTGAGE. ~~Such term shall include deeds~~ Deeds of
82 trust, mortgages, building and loan contracts, or other
83 instruments conveying real or personal property as security
84 for bonds and conferring a right to foreclose and cause a sale



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85 thereof.

86 ~~(13)~~ (17) TRUST INDENTURE. ~~Such term shall include~~
87 ~~instruments~~ Instruments pledging the revenues of real or
88 personal properties, but not conveying such properties or
89 conferring a right to foreclose and cause a sale thereof.

90 ~~(14)~~ (4) CONTRACT. Any agreement of an authority with or
91 for the benefit of an obligee, whether contained in a
92 resolution, trust indenture, mortgage, lease, bond, or other
93 instrument.

94 (15) REAL PROPERTY. ~~Such term shall include lands~~ Lands,
95 lands under water, structures, and any and all easements,
96 franchises and incorporeal hereditaments and every estate and
97 right therein, legal and equitable, including terms for years
98 and liens by way of judgment, mortgage or otherwise, but only
99 so far as such may, from time to time, be treated as real
100 property by the laws of Alabama applicable to other persons or
101 corporations.

102 ~~(16)~~ (13) OBLIGEE OF THE AUTHORITY or OBLIGEE. ~~Such term~~
103 ~~shall include any~~ Any bondholder, trustee, or trustees for any
104 bondholders, any lessor demising property to the authority
105 used in connection with a housing project or any assignee or
106 assignees of such lessor's interest, or any part thereof, and
107 the United States of America, when it is a party to any
108 contract with the authority.

109 (11) MIXED-USE PROJECT. Any development project that
110 provides more than one use or purpose within a shared building
111 or development and which may include any combination of
112 housing, lodging, office, retail, medical, recreational,



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113 commercial, governmental, industrial, or other components."

114 "§24-1-66

115 (a) An authority shall constitute a public body and a
116 body corporate and politic exercising public powers,~~and~~
117 having all the powers necessary or convenient to carry out and
118 effectuate the purposes ~~and provisions~~ of this article,
119 including the following powers in addition to others granted
120 in this article:

121 (1) To investigate ~~into~~ living, dwelling, ~~and or~~
122 housing conditions and ~~into~~ the means and methods of improving
123 ~~such conditions~~ †.

124 (2) To determine where unsafe or unsanitary dwelling,
125 public school, or housing conditions exist †.

126 (3) To study and make recommendations concerning the
127 plan of the county ~~in relation~~ related to the problem of
128 clearing, replanning, and reconstruction of areas in which
129 unsafe or unsanitary dwelling, public school, or housing
130 conditions exist, ~~and;~~ the provision of dwelling
131 accommodations for persons of low income, ~~and to cooperate;~~
132 and cooperation with the county or any regional planning
133 agency †.

134 (4) To prepare, carry out, ~~and or~~ operate housing
135 projects †.

136 (5) To provide for the construction, reconstruction,
137 improvement, alteration, or repair of any housing project or
138 any part ~~thereof;~~ of a housing project.

139 (6) To take over by purchase, lease, or otherwise any
140 housing project undertaken by any government or by the



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141 county~~;~~.

142 (7) To manage as agent of the county any housing
143 project constructed or owned by the county~~;~~.

144 (8) To act as agent for the federal government in
145 connection with the acquisition, construction, operation, or
146 management of a housing project or any part ~~thereof;~~of a
147 housing project.

148 (9) To arrange with any city or town or the county or
149 with ~~a~~any other government for the furnishing, planning,
150 replanning, opening~~;~~ or closing of streets, roads, roadways,
151 alleys, ~~or other~~ places, or facilities, or for the acquisition
152 by the county or ~~a~~another government~~;~~ of property, options or
153 property rights, or for the furnishing of property or services
154 in connection with a project~~;~~.

155 (10) To lease or rent any of the ~~dwelling or dwellings,~~
156 other accommodations ~~or any of the,~~ lands, buildings,
157 structures, or facilities embraced in any housing project or
158 community facility and to establish ~~and or~~ or revise ~~the~~ rents or
159 charges ~~therefor;~~.

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

162 (12) To purchase, lease, obtain options upon, acquire
163 by eminent domain, gift, grant, bequest, or devise~~;~~ ~~or~~
164 ~~otherwise;~~ any property, real or personal, or any interest
165 ~~therein~~ in property from any person, firm, corporation, city,
166 county, ~~or government;~~ entity.

167 (13) To sell, exchange, transfer, assign, or pledge any
168 property, real or personal, or any interest ~~therein~~ in



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169 property to any person, firm, corporation, city, county, or
170 government, entity.

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

172 (15) To insure or provide for the insurance of the
173 property or operations of the authority against ~~such~~ risks as
174 the authority may deem advisable.

175 (16) To procure insurance or guarantees from the
176 federal government of the payment of any debts, or parts
177 ~~thereof~~ of debts, secured by mortgages made or held by the
178 authority on any property included in any housing project.

179 (17) To borrow money upon its bonds, notes, warrants,
180 debentures, or other evidences of indebtedness and to secure
181 the same by pledges of its revenues, and, subject to the
182 limitations ~~hereinafter~~ imposed by this article, by mortgages
183 upon property held or to be held by it, or in any other
184 manner.

185 (18) In connection with any loan, to agree to
186 limitations upon its right to dispose of any housing project,
187 or part ~~thereof~~, of a housing project or to undertake
188 additional housing projects.

189 (19) In connection with any loan by a government, to
190 agree to limitations upon the exercise of any powers conferred
191 upon the authority by this article.

192 (20) To invest any funds held in reserves ~~or~~, sinking
193 funds, or any funds not required for immediate disbursement,
194 in property or securities in which savings banks may legally
195 invest funds subject to their control.

196 (21) To sue and be sued.



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197 (22) To have a seal and to alter the ~~same at~~
198 ~~pleasure;~~seal.

199 (23) To have perpetual succession~~;~~.

200 (24) To make and execute contracts ~~and or~~ other
201 instruments necessary or convenient to the exercise of the
202 powers of the authority~~;~~.

203 (25) To make ~~and from time to time,~~ amend and, or
204 repeal bylaws, rules, ~~and or~~ regulations, not inconsistent
205 with this article~~;~~ to carry into effect the powers ~~and or~~
206 purposes of the authority~~;~~.

207 (26) To conduct examinations ~~and or~~ investigations and,
208 to hear testimony ~~and,~~ or to take proof under oath, at public
209 or private hearings, on any matter material for its
210 information~~;~~.

211 (27) To issue subpoenas requiring the attendance of
212 witnesses or the production of books ~~and or~~ papers, and to
213 issue commissions for the examination of witnesses who are out
214 of the state ~~or,~~ unable to attend before the authority, or
215 excused from attendance~~;~~.

216 (28) To make available to ~~such any~~ agencies, boards, or
217 commissions ~~as are~~ charged with the duty of abating nuisances
218 or demolishing unsafe or unsanitary structures within ~~its~~ the
219 authority's territorial limits~~;~~ its findings and
220 recommendations with regard to any building or property where
221 conditions exist which are dangerous to the public health,
222 morals, safety, or welfare~~;~~ and.

223 (29) To operate, manage, lease, convey, or otherwise
224 deal with any housing project, community facility, or



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225 mixed-use project upon terms the authority deems appropriate,
226 useful, or expedient, regardless of who owns, will own, or
227 will acquire the project or facility.

228 (30) To participate in any lawful form of business
229 organization which may be involved in the development or
230 operational activities of any buildings, structures,
231 facilities, or other improvements constituting a housing
232 project, community facility, or mixed-use project that the
233 board of directors of the authority determines are
234 appropriate, useful, or expedient to the authority's purposes.
235 An authority shall have the power to appoint an individual to
236 a governing body or to enter into a contract or other
237 agreement with another party for the development, operation,
238 design, marketing, maintenance, financing, leasing, or use of
239 any housing project, community facility, or mixed-use project
240 upon terms the authority's board of directors determines are
241 appropriate, useful, or expedient to the authority's purposes.
242 Any determination by the board of directors shall be
243 conclusive. A business organization, affiliate, or subsidiary
244 not wholly owned by the authority, or a partnership entered
245 into or created by the authority with a private business
246 entity, shall not have the power of eminent domain.

247 (31) To make or arrange for loans, contributions to
248 capital, or other debt or equity financing for the activities
249 of any lawful business organization of which the authority is
250 a member; to guarantee loans, issue bonds, or incur other
251 forms of indebtedness on behalf of any lawful business
252 organization of which the authority is a member; or to loan



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

258 (32) To create, establish, acquire, operate, or support
259 for profit or not-for-profit subsidiaries or affiliates to
260 assist the authority in fulfilling its purposes.

261 (33) To create, establish, or support other
262 non-affiliated lawful business organizations that further the
263 authority's purposes.

264 (34) To accomplish or facilitate the creation,
265 establishment, acquisition, development, operation, or support
266 of any subsidiary, affiliate, or other non-affiliated lawful
267 business organization by means of loans of funds, leases of
268 real or personal property, gifts, or grants of funds or
269 guarantees of indebtedness, or contractual performance of
270 subsidiaries, affiliates, or non-affiliated public or private
271 parties.

272 (35) To enter contracts, agreements, or understandings
273 with any other party, including, but not limited to, any of
274 the following:

275 a. Design-build, design-build-operate,
276 design-build-own-operate, design-build-own-operate-maintain,
277 design-build-finance-operate-maintain, or other similar
278 arrangements or agreements pursuant to which the design,
279 right-of-way acquisition, relocation of structures or
280 utilities, construction, financing, ownership, management,



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281 maintenance, or operation of a housing project or community
282 facility is accomplished by or on behalf of the authority. To
283 the extent that an authority is using any state or local
284 public funds to pay for goods or services in connection with
285 this paragraph, the authority shall comply with Title 39.

286 b. Leases, licenses, franchises, concessions, or other
287 agreements for the development, operation, management,
288 financing, or undertaking of all or any part of a housing
289 project or community facility on or on behalf of the
290 authority.

291 ~~(29)~~ (36) To do all things necessary or convenient to
292 carry out the powers given in this article.

293 (b) Any of the investigations or examinations provided
294 for in this article may be conducted by the authority, ~~or;~~ by
295 a committee appointed by ~~it,~~ the authority consisting of one
296 or more housing commissioners, ~~or;~~ by counsel; or by an
297 officer or employee ~~specially~~ specifically authorized by the
298 authority ~~to conduct it.~~ Any housing commissioner, counsel ~~for~~
299 ~~the authority,~~ or ~~any other person~~ designated by ~~it~~ the
300 authority to conduct an investigation or examination ~~shall~~
301 ~~have power to~~ may administer oaths, take affidavits, ~~and or~~
302 issue subpoenas or commissions.

303 (c) (1) An authority may exercise any or all of the
304 powers conferred upon it in this article, ~~either generally or,~~
305 with respect to any specific housing project or
306 ~~projects~~ community facility, through or by an agent or agents
307 which it may designate, including any ~~corporation or~~
308 ~~corporations which are~~ lawful form of business organization



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309 that is or shall may be formed under the laws of this state,
310 and for such purposes an authority may cause ~~one or more~~
311 ~~corporations~~ any lawful form of business organization to be
312 formed under the laws of this state or may acquire ~~the capital~~
313 ~~stock of any corporation or corporation~~ equity interest in any
314 lawful form of business organization.

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

320 (3) Any corporate agent established under this section
321 that satisfies each of the following criteria shall constitute
322 a governmental entity under Chapter 93 of Title 11 and any
323 suits in torts against the agent shall be subject to the
324 limitations and provisions of Chapter 93 of Title 11, as
325 applicable to each corporate agent whose assets, operations,
326 and management are legally and effectively controlled by the
327 housing authority and through which the housing authority's
328 functions or policies are implemented:

329 a. The housing authority's board of commissioners
330 constitutes all of the board of directors of the corporate
331 agent.

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

334 c. The organizational documents of the corporate agent
335 contain provisions that in the event of a change in the
336 controlling interests of the corporate agent, all public



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337 housing assets of the corporate agent are returned to the
338 housing authority.

339 d. The sole purpose for which the corporate agent is
340 formed and authorized is to develop, own, manage, operate, or
341 maintain the housing authority's real property that serves as
342 dwelling accommodations for persons of low income or as a
343 community facility, including any real property the housing
344 authority transfers to the corporate agent for the
345 aforementioned purpose.

346 (d) In addition to all of the other powers conferred
347 upon it in this section, an authority may do all things
348 necessary and convenient to carry out the powers expressly
349 given in this article. No provisions with respect to the
350 acquisition, operation, or disposition of property by other
351 public bodies shall be applicable to an authority, unless ~~the~~
352 ~~Legislature shall specifically so state~~provided by the
353 Legislature.

354 (e) Any previous creation, establishment,
355 incorporation, or formation by any authority of any business
356 entity wholly owned by the authority, together with all
357 proceedings, acts, or other things undertaken, performed, or
358 done by the entity prior to June 1, 2024, are validated,
359 ratified, confirmed, approved, and declared legal in all
360 respects.

361 (f) To the extent that an authority is using any state
362 or local funds, evaluation criteria for a contract procured
363 pursuant to this section shall be made in compliance with
364 Title 39."



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365 Section 2. (a) All of the following shall be exempt
366 from all state taxes:

367 (1) A county housing authority and the authority's
368 property and income.

369 (2) Bonds issued by the authority.

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

371 (4) Conveyances to or from the authority.

372 (5) Leases, mortgages, or deeds of trust to or from the
373 authority.

374 (b) An authority may be exempted from the taxes levied
375 by a county, municipality, or other political subdivision of
376 the state, including, but not limited to, deed taxes, mortgage
377 taxes, license taxes, or excise taxes. The exemption provided
378 by this subsection shall only apply if approved by a
379 resolution or ordinance adopted by the local governing body.

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

382 Section 3. This act shall become effective immediately.

