

HB406 INTRODUCED



1 HB406
2 94ZWMMB-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 county housing authority has numerous powers.

This bill would provide further powers to a county housing authority to deal with housing projects and community facilities, including powers to 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 county housing authority.

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

This bill would exempt county 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 Relating to county housing authorities; to amend
30 Sections 24-1-61 and 24-1-66, Code of Alabama 1975; to further
31 provide for the powers of a county housing authority; to
32 ratify certain acts of county housing authorities before the
33 effective date of this act; to exempt county housing
34 authorities from all taxes; and to make nonsubstantive,
35 technical revisions to update the existing code language to
36 current style.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

40 "§24-1-61

41 ~~The~~ For the purposes of this article, the following
42 terms, ~~wherever used or referred to in this article shall have~~
43 ~~the following respective meaning, unless a different meaning~~
44 ~~clearly appears from the context~~ have the following 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)~~ (5) COUNTY. All of the county except ~~that~~ any
51 portion which lies within the territorial boundaries of any
52 ~~city or incorporated town~~ municipality.

53 ~~(3)~~ (6) COUNTY COMMISSION. The governing body of any
54 county.

55 ~~(4)~~ (9) HOUSING COMMISSIONER. One of the members of an
56 authority appointed in accordance with the provisions of this



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57 article.

58 ~~(5)~~ (8) GOVERNMENT. ~~Such term shall include the~~ The
59 state ~~and or~~ federal governments ~~and or~~ any subdivision,
60 agency, or instrumentality, corporate or otherwise, of either
61 ~~of them.~~

62 ~~(6)~~ (16) STATE. The State of Alabama.

63 (7) FEDERAL GOVERNMENT. ~~Such term shall include the~~ The
64 United States of America, the ~~federal Secretary~~ United States
65 Department of Housing and Urban Development, or any agency,
66 instrumentality, corporate or otherwise, of the United States
67 of America.

68 ~~(8)~~ (10) HOUSING PROJECT. ~~Such term shall include all~~
69 All real and personal property, buildings and improvements,
70 stores, offices, public school buildings, lands for farming
71 and gardening, and community facilities acquired or
72 constructed, or to be acquired or constructed, pursuant to a
73 single plan of undertaking to demolish, clear, remove, alter,
74 or repair unsanitary or unsafe housing or to provide urban or
75 rural dwelling accommodations at rentals within the means of
76 persons of low income. The term ~~"housing project"~~ may also be
77 applied to the planning of the buildings and improvements~~;~~;
78 the acquisition of property~~;~~; the demolition of existing
79 structures~~;~~; the construction, reconstruction, alteration, and
80 repair of the improvements~~;~~; and all other work in connection
81 therewith.

82 ~~(9)~~ (3) COMMUNITY FACILITIES. ~~Such term shall include~~
83 ~~real~~ Real and personal property and buildings and equipment
84 for recreational or social assemblies~~;~~; for educational,



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85 health, or welfare purposes; and necessary utilities, when
86 designed primarily for the benefit and use of the occupants of
87 the dwelling accommodations.

88 ~~(10)~~ (14) PERSONS OF LOW INCOME. ~~Persons~~ Individuals
89 receiving less than the incomes determined by the authority as
90 the amount ~~persons~~ individuals must receive to enable them to
91 pay the rent necessary to secure safe, sanitary, and
92 uncongested dwelling accommodations, other than dwelling
93 accommodations provided by a public housing agency or
94 authority of the county, within the boundaries of the
95 authority. Such determinations by the authority ~~from time to~~
96 ~~time~~ shall be binding and conclusive for all purposes of this
97 article.

98 ~~(11)~~ (2) BONDS. Any bonds, interim certificates, notes,
99 debentures, warrants, or other obligations of the authority
100 issued pursuant to this article.

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

106 ~~(13)~~ (17) TRUST INDENTURE. ~~Such term shall include~~
107 ~~instruments~~ Instruments pledging the revenues of real or
108 personal properties, but not conveying such properties or
109 conferring a right to foreclose and cause a sale thereof.

110 ~~(14)~~ (4) CONTRACT. Any agreement of an authority with or
111 for the benefit of an obligee, whether contained in a
112 resolution, trust indenture, mortgage, lease, bond, or other



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113 instrument.

114 (15) REAL PROPERTY. ~~Such term shall include lands~~Lands,
115 lands under water, structures, and any and all easements,
116 franchises and incorporeal hereditaments and every estate and
117 right therein, legal and equitable, including terms for years
118 and liens by way of judgment, mortgage or otherwise, but only
119 so far as such may, from time to time, be treated as real
120 property by the laws of Alabama applicable to other persons or
121 corporations.

122 ~~(16)~~ (13) OBLIGEE OF THE AUTHORITY or OBLIGEE. ~~Such term~~
123 ~~shall include any~~ Any bondholder, trustee, or trustees for any
124 bondholders, any lessor demising property to the authority
125 used in connection with a housing project or any assignee or
126 assignees of such lessor's interest, or any part thereof, and
127 the United States of America, when it is a party to any
128 contract with the authority.

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

134 "§24-1-66

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



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141 (1) To investigate ~~into~~ living, dwelling, ~~and or~~ or
142 housing conditions and ~~into~~ the means and methods of improving
143 ~~such~~ conditions~~;~~ .

144 (2) To determine where unsafe or unsanitary dwelling,
145 public school, or housing conditions exist~~;~~ .

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

154 (4) To prepare, carry out, ~~and or~~ or operate housing
155 projects~~;~~ .

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

159 (6) To take over by purchase, lease, or otherwise any
160 housing project undertaken by any government or by the
161 county~~;~~ .

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

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

168 (9) To arrange with any city or town or the county or



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

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

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

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

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

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

192 (15) To insure or provide for the insurance of the
193 property or operations of the authority against ~~such~~ risks as
194 the authority may deem advisable~~r~~.

195 (16) To procure insurance or guarantees from the
196 federal government of the payment of any debts, or parts



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197 ~~thereef~~of debts, secured by mortgages made or held by the
198 authority on any property included in any housing project~~;~~.

199 (17) To borrow money upon its bonds, notes, warrants,
200 debentures, or other evidences of indebtedness and to secure
201 the same by pledges of its revenues, and, subject to the
202 limitations ~~hereinafter~~imposed by this article, by mortgages
203 upon property held or to be held by it, or in any other
204 manner~~;~~.

205 (18) In connection with any loan, to agree to
206 limitations upon its right to dispose of any housing project,
207 or part ~~thereof,~~of a housing project or to undertake
208 additional housing projects~~;~~.

209 (19) In connection with any loan by a government, to
210 agree to limitations upon the exercise of any powers conferred
211 upon the authority by this article~~;~~.

212 (20) To invest any funds held in reserves~~or,~~ sinking
213 funds, or any funds not required for immediate disbursement~~;~~
214 in property or securities in which savings banks may legally
215 invest funds subject to their control~~;~~.

216 (21) To sue and be sued~~;~~.

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

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

220 (24) To make and execute contracts ~~and or~~ other
221 instruments necessary or convenient to the exercise of the
222 powers of the authority~~;~~.

223 (25) To make~~and from time to time,~~ amend~~and,~~ or
224 repeal bylaws, rules, ~~and or~~ regulations, not inconsistent



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225 with this article~~r~~ to carry into effect the powers ~~and~~or
226 purposes of the authority~~r~~.

227 (26) To conduct examinations ~~and~~or investigations~~and~~,
228 to hear testimony~~and~~, or to take proof under oath, at public
229 or private hearings, on any matter material for its
230 information~~r~~.

231 (27) To issue subpoenas requiring the attendance of
232 witnesses or the production of books ~~and~~or papers, and to
233 issue commissions for the examination of witnesses who are out
234 of the state~~or~~, unable to attend before the authority, or
235 excused from attendance~~r~~.

236 (28) To make available to ~~such~~any agencies, boards, or
237 commissions ~~as are~~ charged with the duty of abating nuisances
238 or demolishing unsafe or unsanitary structures within ~~its~~the
239 authority's territorial limits~~r~~ its findings and
240 recommendations with regard to any building or property where
241 conditions exist which are dangerous to the public health,
242 morals, safety, or welfare~~r~~and.

243 (29) To operate, manage, lease, convey, or otherwise
244 deal with any housing project, community facility, or
245 mixed-use project upon terms the authority deems appropriate,
246 useful, or expedient, regardless of who owns, will own, or
247 will acquire the project or facility.

248 (30) To participate in any lawful form of business
249 organization which may be involved in the development or
250 operational activities of any buildings, structures,
251 facilities, or other improvements constituting a housing
252 project, community facility, or mixed-use project that the



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253 board of directors of the authority determines are
254 appropriate, useful, or expedient to the authority's purposes.
255 An authority shall have the power to appoint an individual to
256 a governing body or to enter into a contract or other
257 agreement with another party for the development, operation,
258 design, marketing, maintenance, financing, leasing, or use of
259 any housing project, community facility, or mixed-use project
260 upon terms the authority's board of directors determines are
261 appropriate, useful, or expedient to the authority's purposes.
262 Any determination by the board of directors shall be
263 conclusive.

264 (31) To make or arrange for loans, contributions to
265 capital, or other debt or equity financing for the activities
266 of any lawful business organization of which the authority is
267 a member; to guarantee loans, issue bonds, or incur other
268 forms of indebtedness on behalf of any lawful business
269 organization of which the authority is a member; or to loan
270 funds to other entities upon terms the authority determines
271 are appropriate, useful, or expedient for the authority's
272 purposes. Any determination by the board of directors shall be
273 conclusive. Any agreements or contracts entered into by an
274 authority shall be subject to Section 24-1-40.

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

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



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281 (34) To accomplish or facilitate the creation,
282 establishment, acquisition, development, operation, or support
283 of any subsidiary, affiliate, or other non-affiliated lawful
284 business organization by means of loans of funds, leases of
285 real or personal property, gifts, or grants of funds or
286 guarantees of indebtedness, or contractual performance of
287 subsidiaries, affiliates, or non-affiliated public or private
288 parties.

289 (35) To enter contracts, agreements, or understandings
290 with any other party, including, but not limited to, any of
291 the following:

292 a. Design-build, design-build-operate,
293 design-build-own-operate, design-build-own-operate-maintain,
294 design-build-finance-operate-maintain, or other similar
295 arrangements or agreements pursuant to which the design,
296 right-of-way acquisition, relocation of structures or
297 utilities, construction, financing, ownership, management,
298 maintenance, or operation of a housing project or community
299 facility is accomplished by or on behalf of the authority.

300 b. Leases, licenses, franchises, concessions, or other
301 agreements for the development, operation, management,
302 financing, or undertaking of all or any part of a housing
303 project or community facility on or on behalf of the
304 authority.

305 ~~(29)~~ (36) To do all things necessary or convenient to
306 carry out the powers given in this article.

307 (b) Any of the investigations or examinations provided
308 for in this article may be conducted by the authority ~~;~~ ; by



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309 a committee appointed by ~~it,~~ the authority consisting of one
310 or more housing commissioners, ~~or;~~ by counsel; or by an
311 officer or employee ~~specially~~ specifically authorized by the
312 authority ~~to conduct it~~. Any housing commissioner, counsel ~~for~~
313 ~~the authority,~~ or ~~any other~~ person designated by ~~it~~ the
314 authority to conduct an investigation or examination ~~shall~~
315 ~~have power to~~ may administer oaths, take affidavits, ~~and or~~
316 issue subpoenas or commissions.

317 (c) (1) An authority may exercise any or all of the
318 powers conferred upon it in this article, either generally or,
319 with respect to any specific housing project or
320 ~~projects~~ community facility, through or by an agent or agents
321 which it may designate, including any ~~corporation or~~
322 ~~corporations which are~~ lawful form of business organization
323 that is or ~~shall~~ may be formed under the laws of this state,
324 and for such purposes an authority may cause ~~one or more~~
325 ~~corporations~~ any lawful form of business organization to be
326 formed under the laws of this state or may acquire ~~the capital~~
327 ~~stock of any corporation or corporation~~ equity interest in any
328 lawful form of business organization.

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

334 (3) Any corporate agent established under this section
335 that satisfies each of the following criteria shall constitute
336 a governmental entity under Chapter 93 of Title 11 and any



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337 suits in torts against the agent shall be subject to the
338 limitations and provisions of Chapter 93 of Title 11, as
339 applicable to each corporate agent whose assets, operations,
340 and management are legally and effectively controlled by the
341 housing authority and through which the housing authority's
342 functions or policies are implemented:

343 a. The housing authority's board of commissioners
344 constitutes all of the board of directors of the corporate
345 agent.

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

348 c. The organizational documents of the corporate agent
349 contain provisions that in the event of a change in the
350 controlling interests of the corporate agent, all public
351 housing assets of the corporate agent are returned to the
352 housing authority.

353 d. The sole purpose for which the corporate agent is
354 formed and authorized is to develop, own, manage, operate, or
355 maintain the housing authority's real property that serves as
356 dwelling accommodations for persons of low income or as a
357 community facility, including any real property the housing
358 authority transfers to the corporate agent for the
359 aforementioned purpose.

360 (d) In addition to all of the other powers conferred
361 upon it in this section, an authority may do all things
362 necessary and convenient to carry out the powers expressly
363 given in this article. No provisions with respect to the
364 acquisition, operation, or disposition of property by other



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365 public bodies shall be applicable to an authority, unless ~~the~~
366 ~~Legislature shall~~ specifically ~~so state~~ provided by the
367 Legislature.

368 (e) Any previous creation, establishment,
369 incorporation, or formation by any authority of any business
370 entity wholly owned by the authority, together with all
371 proceedings, acts, or other things undertaken, performed, or
372 done by the entity prior to June 1, 2024, are validated,
373 ratified, confirmed, approved, and declared legal in all
374 respects.

375 (f) Notwithstanding any provision of law to the
376 contrary, proposals under this section may be evaluated or
377 awarded by the authority based on the qualifications of
378 participants or the best value, or both, as evaluated by the
379 procedures of the authority and taking into consideration the
380 best interests of the authority. Evaluation criteria for a
381 contract procured pursuant to this subsection shall be set
382 forth in the contract's request for proposal. A contract may
383 also be awarded through any existing procurement authority,
384 proposal, or any other means of procurement available to the
385 authority."

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

388 (1) A county housing authority and the authority's
389 property and income.

390 (2) Bonds issued by the authority.

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

392 (4) Conveyances to or from the authority.



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393 (5) Leases, mortgages, or deeds of trust to or from the
394 authority.

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

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

401 (d) The exemptions created pursuant to this section
402 shall apply to any wholly-owned subsidiary of a county housing
403 authority.

404 Section 3. This act shall become effective immediately.