

HB405 ENGROSSED



1 HB405
2 UFZ2XDD-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 municipal housing authorities; to amend Sections 24-1-22 and 24-1-27, Code of Alabama 1975; to further provide for the powers of a municipal housing authority; to exempt public 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 24-1-22 and 24-1-27, Code of Alabama 1975, are amended to read as follows:

"§24-1-22

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



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29 ~~(2)~~ (3) CITY. Any ~~city or incorporated town~~ municipality
30 in ~~the State of Alabama~~ this state.

31 ~~(3)~~ (8) COUNCIL. The legislative body, council, board of
32 commissioners, or other body charged with governing the city
33 municipality.

34 (4) CITY CLERK and MAYOR. The clerk, ~~and the mayor or~~
35 president of the board of commissioners, respectively, of the
36 city, or the officers thereof charged with the duties
37 customarily imposed on the clerk and mayor, respectively.

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

40 ~~(6)~~ (10) GOVERNMENT. ~~Such term shall include the~~ The
41 state ~~and or~~ federal governments ~~and or~~ any subdivision,
42 agency, or instrumentality, corporate or otherwise, of either
43 ~~of them~~.

44 ~~(7)~~ (17) STATE. The State of Alabama.

45 ~~(8)~~ (9) FEDERAL GOVERNMENT. ~~Such term shall include the~~
46 The United States of America, the federal Secretary United
47 States Department of Housing and Urban Development or any
48 agency, instrumentality, corporate or otherwise, of the United
49 States of America.

50 ~~(9)~~ (11) HOUSING PROJECT. ~~Such term shall include all~~
51 All real and personal property, buildings and improvements,
52 stores, offices, public school buildings, lands for farming
53 and gardening, and community facilities acquired or
54 constructed or to be acquired or constructed pursuant to a
55 single plan of undertaking to demolish, clear, remove, alter
56 or repair unsanitary or unsafe housing, or to provide dwelling



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57 accommodations at rentals within the means of persons of low
58 income. ~~This~~The term may also be applied to the planning of
59 the buildings and improvements~~;~~; the acquisition of property~~;~~;
60 the demolition of existing structures~~;~~; the construction,
61 reconstruction, alteration and repair of the improvements~~;~~; and
62 all other work in connection therewith.

63 ~~(10)~~(6) COMMUNITY FACILITIES. ~~Such term shall include~~
64 ~~real~~Real and personal property and buildings and equipment
65 for recreational or social assemblies~~;~~; for educational,
66 health~~,~~, or welfare purposes~~;~~; and necessary utilities, when
67 designed primarily for the benefit and use of the occupants of
68 the dwelling accommodations.

69 ~~(11)~~(15) PERSONS OF LOW INCOME. ~~Persons~~Individuals
70 receiving less than the income determined by the authority as
71 the amount ~~persons~~individuals must receive to enable them to
72 pay the rent necessary to secure safe, sanitary, and
73 uncongested dwelling accommodations, other than dwelling
74 accommodations provided by the authority or any cities, within
75 the boundaries of the authority. Such determinations by the
76 authority ~~from time to time~~ shall be binding and conclusive
77 for all purposes of this article.

78 ~~(12)~~(2) BONDS. Any bonds, interim certificates, notes,
79 debentures, warrants, or other obligations of the authority
80 issued pursuant to this article.

81 (13) MORTGAGES. ~~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 ~~(14)~~(18) TRUST INDENTURE. ~~Such term shall include~~
87 ~~instruments~~ Instruments pledging the revenues of real or
88 personal properties but not conveying such properties
89 conferring a right to foreclose and cause a sale thereof.

90 ~~(15)~~(7) 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 (16) 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.

99 ~~(17)~~(14) OBLIGEE OF THE AUTHORITY or OBLIGEE. ~~Such term~~
100 ~~shall include any~~ Any bondholder, trustee or trustees for any
101 bondholders, any lessor demising property to the authority
102 used in connection with a housing project or any assignee or
103 assignees of such lessor's interest, or any part thereof, and
104 the United States of America, when it is a party to any
105 contract with the authority.

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

111 "§24-1-27

112 (a) An authority shall constitute a public body and a



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113 body corporate and politic exercising public powers,~~and~~
114 having all the powers necessary or convenient to carry out and
115 effectuate the purposes and provisions of this article,
116 including the following powers in addition to others granted
117 in this article:

118 (1) To investigate ~~into~~ living, dwelling ~~and, or~~
119 housing conditions and ~~into~~ the means and methods of improving
120 ~~such~~ the conditions.

121 (2) To determine where unsafe or unsanitary dwelling,
122 public school, or housing conditions exist.

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

131 (4) To prepare, carry out, ~~and or~~ operate housing
132 projects.

133 (5) To provide for the construction, reconstruction,
134 improvement, alteration, or repair of any housing project or
135 any part ~~thereof~~ of a housing project.

136 (6) To take over by purchase, lease, or otherwise any
137 housing project undertaken by any government or by any city
138 located within its boundaries.

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



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141 city.

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

146 (9) To arrange with any city located within its
147 boundaries or with ~~a~~ any other government for the furnishing,
148 planning, replanning, opening~~7~~ or closing of streets, roads,
149 roadways, alleys, ~~or other places,~~ or facilities, or for the
150 acquisition by ~~such a city,~~ or a other government~~7~~ of
151 property, options, or property rights~~,~~ or for the furnishing
152 of property or services in connection with a project.

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

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

160 (12) To purchase, lease, obtain options upon, acquire
161 by eminent domain, gift, grant, bequest, or devise~~7~~ ~~or~~
162 ~~otherwise,~~ any property, real or personal, or any interest
163 ~~therein~~ in property from any ~~person, firm, corporation, city,~~
164 ~~or government~~ entity.

165 (13) To sell, exchange, transfer, assign, or pledge any
166 property, real or personal, or any interest ~~therein~~ in
167 property to any ~~person, firm, corporation, city, or~~
168 ~~government~~ entity.



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

170 (15) To pay over to the city in which the authority is
171 organized all or any part of the proceeds received from the
172 sale of any real or personal property; provided, however, that
173 an authority may pay over such proceeds to the city in which
174 it is organized only in ~~such~~ the manner and to ~~such~~ the extent
175 that ~~such~~ the payment will not violate the terms of any then
176 existing contract to which the authority is a party; and,
177 provided further, that an authority shall have no power to ~~se~~
178 pay over any part of the proceeds derived from the sale of any
179 real or personal property acquired in connection with a
180 redevelopment project, ~~as that term is defined in Section~~
181 24-1-4 pursuant to Chapter 2.

182 (16) To insure or provide for the insurance of the
183 property or operations of the authority against ~~such~~ risks as
184 the authority may deem advisable.

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

189 (18) To borrow money upon its bonds, notes, warrants,
190 debentures, or other evidences of indebtedness, and to secure
191 the same by pledges of its revenues, and, subject to the
192 limitations ~~hereinafter~~ imposed by this article, by mortgages
193 upon property held or to be held by it, or in any other
194 manner.

195 (19) In connection with any loan, to agree to
196 limitations upon its right to dispose of any housing project,



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197 or part thereof, of a housing project or to undertake
198 additional housing projects.

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

202 (21) To invest any funds held in reserves ~~or~~, sinking
203 funds, or any funds not required for immediate disbursement,
204 in property or securities in which savings banks may legally
205 invest funds subject to their control.

206 (22) To sue and be sued.

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

209 (24) To have perpetual succession.

210 (25) To make and execute contracts ~~and or~~ other
211 instruments necessary or convenient to the exercise of the
212 powers of the authority.

213 (26) To make ~~and from time to time~~, amend and, or
214 repeal bylaws, rules, ~~and or~~ regulations, not inconsistent
215 with this article, to carry into effect the powers ~~and or~~
216 purposes of the authority.

217 (27) To conduct examinations ~~and or~~ investigations and,
218 to hear testimony ~~and~~, or to take proof under oath, at public
219 or private hearings, on any matter material for its
220 information.

221 (28) To issue subpoenas requiring the attendance of
222 witnesses or the production of books ~~and or~~ papers and, or to
223 issue commissions for the examination of witnesses who are out
224 of the state ~~or~~, unable to attend before the authority, or



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225 excused from attendance.

226 (29) To make available to ~~such~~any agencies, boards, or
227 commissions ~~as are~~ charged with the duty of abating nuisances
228 or demolishing unsafe or unsanitary structures within ~~its~~the
229 authority's territorial limits, its findings and
230 recommendations with regard to any building or property where
231 conditions exist which are dangerous to the public health,
232 morals, safety, or welfare.

233 (30) To operate, manage, lease, convey, or otherwise
234 deal with any housing project, community facility, or
235 mixed-use project upon terms the authority deems appropriate,
236 useful, or expedient, regardless of who owns, will own, or
237 will acquire the project or facility.

238 (31) To participate in any lawful form of business
239 organization which may be involved in the development or
240 operational activities of any buildings, structures,
241 facilities, or other improvements constituting a housing
242 project, community facility, or mixed-use project that the
243 board of directors of the authority determines are
244 appropriate, useful, or expedient to the authority's purposes.
245 An authority shall have the power to appoint an individual to
246 a governing body or to enter into a contract or other
247 agreement with another party for the development, operation,
248 design, marketing, maintenance, financing, leasing, or use of
249 any housing project, community facility, or mixed-use project
250 upon terms the authority's board of directors determines are
251 appropriate, useful, or expedient to the authority's purposes.
252 Any determination by the board of directors shall be



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253 conclusive. A business organization, affiliate, or subsidiary
254 not wholly owned by the authority, or a partnership entered
255 into or created by the authority with a private business
256 entity, shall not have the power of eminent domain.

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

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

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

274 (35) To accomplish or facilitate the creation,
275 establishment, acquisition, development, operation, or support
276 of any subsidiary, affiliate, or other non-affiliated lawful
277 business organization by means of loans of funds, leases of
278 real or personal property, gifts, or grants of funds or
279 guarantees of indebtedness or contractual performance of
280 subsidiaries, affiliates, or non-affiliated public or private



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281 parties.

282 (36) To enter contracts, agreements, or understandings
283 with any other party, including, but not limited to, any of
284 the following:

285 a. Design-build, design-build-operate,
286 design-build-own-operate, design-build-own-operate-maintain,
287 design-build-finance-operate-maintain, or other similar
288 arrangements or agreements pursuant to which the design,
289 right-of-way acquisition, relocation of structures or
290 utilities, construction, financing, ownership, management,
291 maintenance, or operation of a housing project or community
292 facility is accomplished by or on behalf of the authority. To
293 the extent that an authority is using any state or local
294 public funds to pay for goods or services in connection with
295 this paragraph, the authority shall comply with the provisions
296 of Title 39.

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

302 ~~(30)~~ (37) To do all things necessary or convenient to
303 carry out the powers given in this article.

304 (b) Any of the investigations or examinations provided
305 for in this article may be conducted by the authority, ~~or;~~ by
306 a committee appointed by ~~it,~~ the authority consisting of one
307 or more commissioners, ~~or;~~ by counsel, ~~i;~~ or by an officer or
308 employee ~~especially~~ specifically authorized by the authority



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309 ~~to conduct it.~~ Any commissioner, counsel ~~for the authority,~~ or
310 ~~any other person~~ designated by ~~it~~ the authority to conduct an
311 investigation or examination shall have the power to
312 administer oaths, take affidavits, ~~and or~~ issue subpoenas or
313 commissions.

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

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

330 (3) Any corporate agent established under this section
331 that satisfies each of the following criteria shall constitute
332 a governmental entity under Chapter 93 of Title 11 and any
333 suits in tort against the agent shall be subject to the
334 limitations and provisions of Chapter 93 of Title 11, as
335 applicable to each ~~such~~ corporate agent whose assets,
336 operations, and management are legally and effectively



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337 controlled by the housing authority and through which the
338 housing authority's functions or policies are implemented:

339 a. The housing authority's board of commissioners
340 constitutes all of the board of directors of the corporate
341 agent.

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

344 c. The organizational documents of the corporate agent
345 contain provisions that in the event of a change in the
346 controlling interest of the corporate agent, all public
347 housing assets of the corporate agent are returned to the
348 housing authority.

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

356 (d) In addition to all of the other powers conferred
357 upon it in this section, an authority may do all things
358 necessary and convenient to carry out the power expressly
359 given in this article. No provisions with respect to the
360 acquisition, operation, or disposition of property by other
361 public bodies shall be applicable to an authority, unless ~~the~~
362 ~~Legislature shall specifically so state~~ provided by the
363 Legislature.

364 (e) Any previous creation, establishment,



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365 incorporation, or formation by any authority of any business
366 entity wholly-owned by the authority, together with all
367 proceedings, acts, or other things undertaken, performed, or
368 done by the entity prior to June 1, 2024, are validated,
369 ratified, confirmed, approved, and declared legal in all
370 respects.

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

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

377 (1) A municipal housing authority and the authority's
378 property and income.

379 (2) Bonds issued by the authority.

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

381 (4) Conveyances to or from the authority.

382 (5) Leases, mortgages, or deeds of trust to or from the
383 authority.

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

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

392 Section 3. This act shall become effective immediately.



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House of Representatives

396 Read for the first time and referred02-Apr-24
397 to the House of Representatives
398 committee on Ways and Means General
399 Fund
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401 Read for the second time and placed25-Apr-24
402 on the calendar:
403 2 amendments
404
405 Read for the third time and passed30-Apr-24
406 as amended
407 Yeas 100
408 Nays 0
409 Abstains 2
410
411

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John Treadwell
Clerk