

1 HB54
2 189160-1
3 By Representative Johnson (R)
4 RFD: State Government
5 First Read: 09-JAN-18
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8 SYNOPSIS: The Alabama Land Bank Authority was created
9 by Act 2009-738 for the purpose of acquiring tax
10 delinquent, non-revenue generating properties in
11 order to provide housing, promote commercial and
12 economic development, and assemble parcels of real
13 property for redevelopment and return to the tax
14 roles of the State. To date, the Authority's
15 governing board has not been formed and, as a
16 result, the Authority is unable to fulfill its
17 intended purpose.

18 This bill will require the Commissioner of
19 the Department of Revenue to convene the first
20 meeting of Alabama Land Bank Authority board.

21 This bill will allow the Alabama Land Bank
22 Authority to obtain the state's interest in real
23 property acquired as a result of its sale for
24 delinquent state taxes of any type and retained in
25 the state's inventory for a period of five or more
26 years.

1 This bill will require the Land Bank
2 Authority to provide notice of its intended action
3 to dispose of property.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 To amend Sections 24-9-5, 24-9-6, 24-9-7, and 24-9-8
10 Code of Alabama 1975, to require the Commissioner of Revenue
11 to convene the first meeting of the Land Bank Authority; to
12 allow the authority to acquire the state's interest in real
13 property acquired as a result of its sale for delinquent state
14 taxes of any type; to require the authority to provide notice
15 of intention to dispose of property.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 24-9-5, 24-9-6, 24-9-7, and
18 24-9-8, Code of Alabama 1975 are amended to read as follows:

19 "§24-9-5.

20 "(a) There is created the Alabama Land Bank
21 Authority Board which shall govern the authority to administer
22 and enforce this chapter.

23 "(b) The board shall consist of the following
24 members:

25 "(1) Four residents of the state appointed by the
26 Governor.

1 "(2) Two representatives from nonprofit
2 organizations engaged in low-income housing appointed by the
3 Governor.

4 "(3) The ~~Lieutenant Governor~~ Presiding Officer of
5 the Senate or his or her designee.

6 "(4) The Speaker of the House of Representatives or
7 his or her designee.

8 "(5) The Chair of the Senate Finance and Taxation,
9 General Fund Committee or his or her designee.

10 "(6) The Chair of the House Government
11 Appropriations Committee or his or her designee.

12 "(7) The State Revenue Commissioner or his or her
13 designee.

14 "(8) The Superintendent of the State Banking
15 Department or his or her designee.

16 "(9) The Director of the Alabama Department of
17 Economic and Community Affairs or his or her designee.

18 "(10) The Secretary of the Alabama Department of
19 Commerce or his or her designee.

20 "(11) The State Finance Director or his or her
21 designee.

22 "(12) The Chair of the Alabama Housing Finance
23 Authority or his or her designee.

24 "(c) The members of the board shall serve four year
25 terms. In appointing the initial members of the board under
26 subdivision (1) of subsection (b), the Governor shall

1 designate two to serve four years, one to serve three years,
2 and one to serve two years.

3 "(d) Members of the board shall receive
4 reimbursement for expenses incurred in the performance of
5 their duties but no other compensation.

6 "(e) The board may employ the necessary personnel
7 for the performance of its functions and fix their
8 compensation.

9 "(f) The board shall elect from its membership a
10 chair, vice chair, and secretary-treasurer. The board shall
11 adopt rules to govern its proceedings. A majority of the
12 membership of the board shall constitute a quorum for all
13 meetings. Approval by a majority of the membership shall be
14 necessary for any action to be taken by the authority. All
15 meetings shall be open to the public, except as otherwise
16 permitted by the Alabama Open Meetings Act, and a written
17 record shall be maintained of all meetings.

18 "(g) The membership of the board shall be inclusive
19 and reflect the racial, gender, geographic, urban/rural, and
20 economic diversity of the state.

21 "(h) The board, when acting in its official
22 capacity, its members, and the authority shall be immune from
23 civil liability against the claims of any individual or other
24 entity of any nature whatsoever arising out of its ownership
25 or administration of properties or related to its decisions or
26 actions, which decisions or actions were made in good faith,

1 without malice, and predicated upon information which was then
2 available to the board.

3 "(i) The authority shall be a public body corporate
4 and politic with the power to accept and issue deeds in its
5 name, including, without limitation, the acceptance of real
6 property in accordance with this chapter, and to institute
7 quiet title actions as provided in Section 24-9-8, and shall
8 have any other powers necessary and incidental to carry out
9 the powers and the purpose granted by this chapter.

10 "(j) In addition to the tax-delinquent property
11 acquired by the authority as provided herein, the authority
12 may acquire, by purchase, donation, exchange, other publicly
13 owned property from local governments, including that which
14 was acquired years earlier as a result of foreclosure
15 proceedings of that property, or property that has become
16 surplus. The authority may also acquire property through
17 voluntary donations and transfers from private owners and may
18 acquire by purchase or lease on the open market property from
19 a private owner to complete an assemblage of property for
20 redevelopment.

21 "(k) No later than October 1, 2018, the State
22 Revenue Commissioner or his or her designee shall convene the
23 first meeting of the authority."

24 "§24-9-6.

25 "(a) The authority may, as such times as it deems to
26 be appropriate, submit a written request to the Land
27 Commissioner of the Alabama Department of Revenue for the

1 transfer of the state's interest in certain ~~tax delinquent~~
2 properties to the authority. Upon receipt of such request, the
3 Land Commissioner shall issue a tax deed conveying the state's
4 interest in the property to the authority. The authority shall
5 not be required to pay the amount deemed to have been bid to
6 cover delinquent taxes or any other amount in order to obtain
7 the tax deed.

8 "(b) (1) Delinquent property which may be
9 transferred by the Land Commissioner to the authority shall be
10 limited to parcels which have been ~~sold to the state~~ bid in
11 for the state pursuant to Chapter 10 of Title 40 for at least
12 five years; and the state's interest in real property acquired
13 pursuant to Chapter 29 of Title 40 for delinquent taxes
14 administered by the state and held for at least five years.

15 "(2) The Land Commissioner or his or her agents or
16 assistants may adopt rules necessary to transfer such
17 properties to the Land Bank Authority.

18 "(c) The authority shall administer ~~tax delinquent~~
19 properties acquired by it as follows:

20 "(1) All ~~tax delinquent~~ property acquired by the
21 authority shall be inventoried and the inventory shall be
22 maintained as a public record.

23 "(2) The authority shall have the power to manage,
24 maintain, protect, rent, lease, repair, insure, alter, sell,
25 trade, exchange, or otherwise dispose of any ~~tax delinquent~~
26 property acquired pursuant to subsection (b) (1), on terms and
27 conditions determined in the sole discretion of the authority.

1 "(d) Nothing contained in Act 2013-249 shall be
2 construed to grant any power of eminent domain to the
3 authority or any local authority."

4 "§24-9-7.

5 "(a) The authority shall adopt rules and regulations
6 for the disposition of property in which the authority holds a
7 legal interest, which rules and regulations shall address the
8 conditions set forth in this section.

9 "(b) The authority may manage, maintain, protect,
10 rent, repair, insure, alter, convey, sell, transfer, exchange,
11 lease as lessor, or otherwise dispose of property or rights or
12 interests in property in which the authority holds a legal
13 interest to any public or private person for value determined
14 by the authority on terms and conditions, and in a manner and
15 for an amount of consideration the authority considers proper,
16 fair, and valuable, including for no monetary consideration.
17 The transfer and use of property under this section and the
18 exercise by the authority of powers and duties under Act
19 2013-249 shall be considered a necessary public purpose and
20 for the benefit of the public.

21 "(c) Before the authority may sell, lease, exchange,
22 trade, or otherwise dispose of any property, it shall either:

23 "(1) Establish a purchase price and conditions for
24 sale purposes.

25 "(2) Establish a price and conditions for rent or
26 lease purposes.

1 "(3) Establish the conditions for trade, exchange,
2 or other disposal of the property.

3 "The conditions made pursuant to this subsection may
4 include a requirement that the transferee must provide a
5 development plan or execute a development agreement with the
6 authority specifying the transferee's commitments regarding
7 the development of the property and the time frame within
8 which the development must occur, the range of permitted uses
9 for the property, and any restrictions on its subsequent
10 resale or transfer.

11 "(d) The disposition of property by the authority
12 shall not be governed by any laws or regulations otherwise
13 applicable to the disposition of property by a state or local
14 agency. Provided however that, prior to the disposition of
15 property, the authority shall give notice of its intent to
16 dispose of any property for which notice was not previously
17 advertised by the Commissioner of Revenue or his or her
18 designee, or a local official in a manner as prescribed by the
19 authority and shall include in such notice the date, time, and
20 place at which persons objecting to the intended action must
21 appear. If no objection is made within 30 days from the date
22 of the notice, the authority may proceed with the disposition
23 of the property as noticed without a public auction.

24 "(e) No property shall be sold, traded, exchanged,
25 or otherwise disposed by the authority to any entity for
26 investment purposes only and with no intent to use the

1 property other than to transfer the property at a future date
2 for monetary gain.

3 "(f) The authority shall not sell, trade, exchange,
4 or otherwise dispose of any property held by the authority to
5 any party who had an interest in the property at the time it
6 was tax delinquent or to any party who transferred the party's
7 interest in the property to the authority by sale, trade,
8 exchange, or otherwise, unless the person pays all the taxes,
9 interest, municipal liens, penalties, fees, and any other
10 charges due and owing under Chapter 10 and Chapter 29 of Title
11 40, including the amount to the Land Commissioner had the
12 property not been transferred to the authority.

13 (g) At the time that the authority sells or
14 otherwise disposes of ~~tax delinquent~~ property as part of its
15 land bank program, the proceeds of the sale shall be
16 distributed equally as follows:

17 "(1) One third to the operations of the authority.

18 "(2) One third to the recovery of authority
19 expenses.

20 "(3) If the property was initially bid in for the
21 state for delinquent ad valorem taxes, one ~~One~~ third to the
22 recipients of ad valorem taxes within the jurisdiction of the
23 tax delinquent property, including the appropriate school
24 districts, in proportion to and to the extent of their
25 respective tax bills and costs. Otherwise, the remaining one
26 third of the proceeds shall be remitted to the State
27 Comptroller to be distributed to the statutorily designated

1 recipient or recipients of the delinquent tax for which the
2 property was seized.

3 (h) Except as otherwise provided herein, the ~~The~~
4 authority shall have full discretion in determining the sale
5 price of the property. No purchaser from the authority ~~and~~
6 ~~bank~~ shall be responsible for the proper disposition of the
7 proceeds paid to the authority ~~and bank~~ for the purchase of
8 property."

9 "§24-9-8.

10 "(a) The authority may initiate a quiet title action
11 under this section to quiet title to real property held by the
12 authority or interests in tax delinquent property held by the
13 authority by recording with the office of the judge of probate
14 in the county in which the property subject to quiet title
15 action is located a notice of pending quiet title action. The
16 notice shall include the name of the taxpayer whose interest
17 was affected by the tax sale, the name of any other party as
18 revealed by a search and examination of the title to the
19 property who may claim an interest in the property, a legal
20 description of the property, the street address of the
21 property if available, the name, address, and telephone number
22 of the authority, a statement that the property is subject to
23 the quiet title proceedings under Act 2013-249, and a
24 statement that any legal interests in the property may be
25 extinguished by a circuit court order vesting title to the
26 property in the authority. Notwithstanding anything in this
27 chapter to the contrary, no quiet title action and nothing in

1 this chapter shall affect any right, title, or interest,
2 whether recorded or unrecorded, in the subject property which
3 was held at the time of the tax sale by any person or entity
4 engaged in the generation, transmission, or distribution of
5 electric power, natural gas, or telecommunications.

6 "(b) After the notice required under subsection (a)
7 has been recorded, the record title to the property shall be
8 examined and an opinion of title rendered by an attorney at
9 law, who is licensed to practice law in this state, or a
10 certificate of title shall be prepared by a Title Agent or
11 Title Insurer duly licensed under the Alabama Title Act as set
12 out in Section 27-25-1, et seq., for the benefit of the
13 authority in order to identify all owners of an interest in
14 the property.

15 "(c) Once the authority has identified the owners of
16 interest in the property, the authority shall file a single
17 petition with the clerk of the circuit court for the judicial
18 district in which the property subject to foreclosure under
19 this section is located listing all property subject to
20 foreclosure by the authority and for which the authority seeks
21 to quiet title. No such action shall be subject to the payment
22 of filing fees. The list of properties shall include a legal
23 description of, a tax parcel identification number for, and
24 the street address of each parcel or property. The petition
25 shall seek a judgment in favor of the authority against each
26 property listed and shall include a date, within 90 days, on
27 which the authority requests a hearing on the petition. The

1 petition shall request that a judgment be entered vesting
2 absolute title in the authority, without right of redemption
3 for each parcel of property listed, as provided in this
4 section. At any time during the pendency of this action, the
5 authority may file a motion to release or dismiss a certain
6 parcel or parcels of land from the petition, which release
7 will not affect the remaining parcels of land subject to the
8 petition.

9 "(d) The case shall be docketed in the circuit court
10 by the clerk, and shall be a preferred case therein. The
11 circuit court in which a petition is filed under subsection
12 (c) shall immediately set the date, time, and place for a
13 hearing on the petition for quiet title. In no event may the
14 clerk schedule the hearing later than 90 days after the filing
15 of a petition by the authority under subsection (c). The
16 court, on the request of a party or as needed to allow
17 completion of service of process on all interested persons,
18 and to allow those persons 30 days after service of process to
19 file an answer or other responsive pleadings to the petition,
20 may extend the 90-day period for good cause shown.

21 "(e) The authority shall serve all persons having
22 record title or interest in or lien upon the property with a
23 notice of the hearing on the petition to quiet title. Such
24 service shall be attempted by personal service and by
25 certified mail; provided if service is perfected by either
26 method, the service will be sufficient to provide service of
27 process upon all persons having record title or interest in or

1 lien upon the property. If the persons entitled to service are
2 located outside the county, they may be served by certified
3 mail.

4 "(f) The notice required under subsection (e) shall
5 include:

6 "(1) The date on which the authority recorded, under
7 subsection (a), the notice of the pending quiet title and
8 foreclosure action.

9 "(2) A statement that a person with a property
10 interest in the property may lose such interest, if any, as a
11 result of the quiet title and foreclosure hearing.

12 "(3) A legal description, tax parcel identification
13 number of the property, and the street address of the
14 property.

15 "(4) The date and time of the hearing on the
16 petition for quiet title and a statement that the judgment of
17 the court may result in title to the property vesting in the
18 authority.

19 "(5) An explanation of any rights of redemption and
20 notice that the judgment of the court may extinguish any
21 ownership interest in or right to redeem the property.

22 "(6) The name, address, and telephone number of the
23 authority.

24 "(g) In the event the sheriff is unable to perfect
25 service or certified mail attempts are returned unclaimed, the
26 authority shall conduct a search for the person with an
27 interest in the property conveyed to the authority.

1 "(1) The search, at a minimum, shall include the
2 following:

3 "a. An examination of the addresses given on the
4 face of the instrument vesting interest or the addresses given
5 to the clerk of the probate court by the transfer declaration
6 form.

7 "b. A search of the current telephone directory for
8 the municipality and the county in which the property is
9 located.

10 "c. A letter of inquiry to the person who sold the
11 property to the owner whose interest was sold in the tax sale
12 at the address shown in the transfer tax declaration or in the
13 telephone directory.

14 "d. A letter of inquiry to the attorney handling the
15 closing prior to the tax sale if such information is provided
16 on the deed forms.

17 "(2) A sign being no less than four feet by four
18 feet shall be erected on the property and maintained by the
19 authority for a minimum of 30 days reading as follows:

20 "THIS PROPERTY HAS BEEN CONVEYED TO THE _____
21 LAND BANK AUTHORITY AND IS SUBJECT TO A QUIET TITLE ACTION.
22 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNERSHIP OF OR
23 INTEREST IN THE PROPERTY ARE REQUESTED TO CONTACT THE LAND
24 BANK AUTHORITY AT _____."

25 "(3) Any additional parties who are identified as
26 having an interest in the property shall be provided notice in
27 accordance with this section.

1 "(h) If the interested party is an individual, the
2 authority shall examine voter registration lists, available
3 municipal archives for records of deaths, and the probate
4 court records of estates opened in the county in which the
5 property is located.

6 "(i) If the interested party is a business entity,
7 the authority shall search the records of the Secretary of
8 State for the name and address of a registered agent.

9 "(j) If an interested party appears at the hearing
10 and asserts a right to redeem the property, that party may
11 redeem in accordance with Chapter 10 and Chapter 29 of Title
12 40.

13 "(k) (1) If the authority has made the search as
14 required by this section and been unable to locate those
15 persons required to be served under subsection (e), having
16 located additional addresses of those persons through such
17 search, attempted without success to serve those persons in
18 either manner provided by subsection (e), the authority shall
19 provide notice by publication. Prior to the hearing, a notice
20 shall be published once each week for 3 successive weeks in a
21 newspaper of general circulation in the county in which the
22 property is located. If no paper is published in that county,
23 publication shall be made in a newspaper of general
24 circulation in an adjoining county. This publication shall
25 substitute for notice under this subsection or subsection (g).
26 The published notice shall include the information required in
27 subsection (f). Should the identity of some or all of the

1 persons who may have an interest in the property be unknown,
2 or should such persons be infants or persons of unsound mind,
3 the court shall appoint a guardian ad litem to represent and
4 defend the interests of such unknown, infant, or incompetent
5 parties in the action.

6 "(2) A person claiming an interest in a parcel of
7 property set forth in the quiet title action who desires to
8 contest that petition shall file an answer containing written
9 objections with the clerk of the circuit court and serve those
10 objections on the authority before the date of the hearing.
11 The circuit court may appoint and utilize as the court
12 considers necessary a special master for assistance with the
13 resolution of any objections to the quiet title action or
14 questions regarding the title to property subject thereto.
15 Within 30 days following the hearing, the circuit court shall
16 enter judgment on a petition to quiet title. The circuit
17 court's judgment shall specify all of the following:

18 "a. The legal description, tax parcel identification
19 number, and, if known, the street address of the subject
20 property.

21 "b. That fee simple title to the property by the
22 judgment is vested absolutely in the authority, except as
23 otherwise provided in paragraph e., without any further rights
24 of redemption.

25 "c. That all liens against the property, including
26 any lien for unpaid taxes or special assessments, are
27 extinguished.

1 "d. That, except as otherwise provided in paragraph
2 e., the authority has good and marketable fee simple title to
3 the property.

4 "e. That all existing recorded and unrecorded
5 interests in the property are extinguished, except a recorded
6 easement or right-of-way, restrictive covenant, prior
7 reservation or severance of all mineral, mining, oil and gas
8 rights within and underlying the property, such state of facts
9 as shown on recorded plats, or restrictions or covenants
10 imposed under the Alabama Land Recycling and Economic
11 Development Act or any other environmental law in effect in
12 the state, severed oil, gas, and mineral rights and mineral
13 leases and agreements are excepted from Act 2013-249 and any
14 quiet title action authorized herein.

15 "f. A finding that all persons entitled to notice
16 and an opportunity to be heard have been provided that notice
17 and opportunity and that the authority provided notice to all
18 interested parties or that the authority complied with the
19 notice procedures in subdivision (1), which compliance shall
20 create a rebuttable presumption that all interested parties
21 received notice and an opportunity to be heard.

22 "(1) Except as otherwise provided in paragraph e. of
23 subsection (k), fee simple title to property set forth in a
24 petition for quiet title filed under subsection (c) shall vest
25 absolutely in the authority upon the effective date of the
26 judgment by the circuit court and the authority shall have
27 absolute title to the property. The authority's title is not

1 subject to any recorded or unrecorded lien, except as provided
2 in paragraph e. of subdivision (2) of subsection (k) and shall
3 not be stayed except as provided in subsection (m). A judgment
4 entered under this section is a final order with respect to
5 the property affected by the judgment.

6 "(m) The authority or a person claiming to have an
7 interest in property under this section may within 42 days
8 following the effective date of the judgment under subsection
9 (k) appeal the circuit court's judgment quieting title to the
10 property to the Court of Appeals. An appeal under this
11 subsection is limited to the record of the proceedings in the
12 circuit court under this section. In the event of a timely
13 appeal, the circuit court's judgment quieting title to the
14 property shall be stayed until the Court of Appeals has
15 reversed, modified, or affirmed that judgment. If an appeal
16 under this subsection stays the circuit court's judgment, the
17 circuit court's judgment is stayed only as to the property
18 that is the subject of that appeal and the circuit court's
19 judgment quieting title to other property that is not the
20 subject of that appeal is not stayed.

21 "(n) The authority shall record an order of judgment
22 for each parcel of property in the office of the judge of
23 probate for the county in which the subject property is
24 located.

25 "(o) Notwithstanding the requirements for adverse
26 possession under Section 40-10-82, or any other law, the
27 authority may initiate a quiet title action under this section

1 at any time after acquiring an interest in the property which
2 is subject to the action. A final decree of an action properly
3 filed in compliance with this section shall extinguish all
4 outstanding rights of redemption."

5 Section 2. This act shall not apply to any lands
6 held by the state pursuant to Chapter 10 of Title 40 which are
7 located in a jurisdiction which has adopted an expedited quiet
8 title procedure authorized by law.

9 Section 3. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.