

1 HB651  
2 150368-1  
3 By Representative Hill  
4 RFD: Financial Services  
5 First Read: 23-APR-13

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8 SYNOPSIS: This bill would authorize the Alabama  
9 Housing Finance Authority to purchase mortgage  
10 loans from mortgage lenders, directly or  
11 indirectly, both to finance the original purchase  
12 of eligible housing units and to refinance eligible  
13 housing units for present owners, and to make and  
14 originate second mortgage loans secured by eligible  
15 housing units.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 To amend Sections 24-1A-1, 24-1A-2, 24-1A-5,  
22 24-1A-15, and 24-1A-20, Code of Alabama 1975, relating to the  
23 Alabama Housing Finance Authority; to authorize the authority  
24 to purchase mortgage loans from mortgage lenders, directly or  
25 indirectly, both to finance the original purchase of eligible  
26 housing units and to refinance eligible housing units for

1 present owners; and to make and originate second mortgage  
2 loans secured by eligible housing units.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 24-1A-1, 24-1A-2, 24-1A-5,  
5 24-1A-15, and 24-1A-20, Code of Alabama 1975, are amended to  
6 read as follows:

7 "§24-1A-1.

8 "(a) It is hereby found and declared that from time  
9 to time there has existed and at the present time there exists  
10 an inadequate supply of funds at interest rates sufficiently  
11 low to enable the financing of safe and sanitary multi-family  
12 dwelling units for citizens of this state and single family  
13 dwelling units for citizens of this state with low and  
14 moderate income; that the inability to finance such single and  
15 multi-family dwelling units results in an inability of  
16 builders to construct such housing causing unemployment or  
17 underemployment in the housing construction and related  
18 businesses and causes a lack of safe and sanitary housing to  
19 be available to the citizens of this state; that such  
20 unemployment or underemployment in the housing construction  
21 and related businesses and an inadequate supply of safe and  
22 sanitary housing wastes human resources, increases the public  
23 assistance burden of the state, impairs the security of family  
24 life, impedes the economic and physical development of the  
25 state, adversely affects the welfare and prosperity of all of  
26 the people of the state and accordingly creates and fosters  
27 conditions adverse to the general health and welfare of the

1 citizens of the state, that the making available in the manner  
2 provided in this chapter of a more adequate supply of funds at  
3 interest rates sufficiently low to enable the financing of  
4 safe and sanitary multi-family dwelling units for citizens of  
5 this state and single family dwelling units for citizens of  
6 low and moderate income will result in the alleviation or  
7 reduction of the adverse consequences which have resulted and  
8 may result from continued unemployment and underemployment in  
9 the housing construction and related businesses and the  
10 inadequate supply of such housing for such persons.

11 "(b) It is hereby further found and determined that  
12 the conditions adverse to the general health and welfare of  
13 the citizens of the state as noted in subsection (a) of this  
14 section can best be solved by a cooperative effort as provided  
15 in this chapter between the authority acting on behalf of the  
16 state and those engaged in the business of making mortgage  
17 loans and ~~such is the purpose of this chapter and it is not~~  
18 ~~the intent of the Legislature that the authority have the~~  
19 ~~power to make direct loans to individuals or to acquire or~~  
20 ~~construct housing units for lease or sale or that the~~  
21 ~~authority have urban development or slum clearance functions,~~  
22 ~~although its functions under this chapter are expected to be~~  
23 ~~complementary to and supportive of those functions~~ by the  
24 authority having the power and authority to purchase mortgage  
25 loans from mortgage lenders, directly or indirectly, both to  
26 finance the original purchase of eligible housing units and to  
27 refinance eligible housing units for present owners, and to

1 make and originate second mortgage loans secured by eligible  
2 housing units.

3 "§24-1A-2.

4 "The following words and phrases used in this  
5 chapter, and others evidently intended as the equivalent  
6 thereof, shall, in the absence of clear implication otherwise,  
7 have the following respective meanings:

8 "(1) AUTHORITY. The public corporation and  
9 instrumentality of the state organized pursuant to the  
10 provisions of this chapter.

11 "(2) AUTHORIZED INVESTMENTS. Bonds or other  
12 obligations of, or guaranteed by, the United States of America  
13 or the state; interest bearing bank and savings and loan  
14 association deposits; obligations of any agency of the United  
15 States of America; any obligations in which a state chartered  
16 savings and loan association may invest its funds; any  
17 agreement to repurchase any of the foregoing; or any  
18 combination thereof.

19 "(3) BOARD OF DIRECTORS. The board of directors of  
20 the authority.

21 "(4) BONDS. Bonds or other securities representing  
22 an obligation to pay money.

23 "(5) ELIGIBLE HOUSING UNIT. Real and personal  
24 properties located in the state constituting a single family  
25 dwelling unit for occupancy by low and moderate income  
26 families or a multi-family dwelling unit for occupancy by any  
27 persons and families without restriction as to the income of

1 such persons or families other than any applicable federal  
2 restrictions imposed upon multi-family dwelling units financed  
3 from the proceeds of bonds the interest on which is exempt  
4 from federal income taxes.

5 "(6) LOW AND MODERATE INCOME FAMILIES. Persons and  
6 families of one or more persons, irrespective of race, creed,  
7 national origin or sex, determined by the authority to require  
8 such assistance as is made available by this chapter on  
9 account of insufficient personal or family income taking into  
10 consideration, without limitation, such factors as follows:

11 "a. The amount of the total income of such persons  
12 and families available for housing needs;

13 "b. The size of the family;

14 "c. The cost and condition of housing facilities  
15 available;

16 "d. The ability of such persons and families to  
17 compete successfully in the normal private housing market and  
18 to pay the amounts at which private enterprise is providing  
19 sanitary, decent and safe housing; and

20 "e. If appropriate, standards established for  
21 various federal programs with respect to housing determining  
22 eligibility based on income of such persons and families.

23 "(7) MORTGAGE LENDERS. National banking  
24 associations, banks chartered under the laws of the state,  
25 savings or building and loan associations chartered under the  
26 laws of the state or of the United States of America, Federal  
27 National Mortgage Association approved mortgage bankers and

1 federal or state credit unions. The terms shall also include  
2 the authority and other financial institutions or governmental  
3 agencies which customarily originate or service mortgage loans  
4 and mortgages.

5 "(8) MORTGAGE LOANS. Notes and other evidences of  
6 indebtedness secured by mortgages.

7 "(9) MORTGAGE PROPERTY. All properties, real,  
8 personal and mixed, and all interests therein including grants  
9 or subsidies with respect thereto, mortgaged, pledged or  
10 otherwise provided in any manner as security for (i) mortgage  
11 loans or (ii) loans to mortgage lenders.

12 "(10) MORTGAGES. Mortgages, deeds of trust and other  
13 instruments granting security interests in real and personal  
14 properties constituting eligible housing units.

15 "(11) MULTI-FAMILY MORTGAGE LOANS. Mortgages on  
16 eligible housing units constituting residential dwelling units  
17 leased to or occupied by more than one family unit.

18 "(12) SECOND MORTGAGE LOANS. Notes and other  
19 evidences of indebtedness secured by second mortgages.

20 "(13) SECOND MORTGAGES. Mortgages that are secondary  
21 or subordinate in priority to other mortgages on the same  
22 eligible housing units.

23 "~~(12)~~ (14) SERVICING QUALIFIED MORTGAGE LOANS. Notes  
24 and other evidences of indebtedness secured by servicing  
25 qualified mortgages.

26 "~~(13)~~ (15) SERVICING QUALIFIED MORTGAGED PROPERTY.  
27 All properties, real, personal, or mixed, and all interests

1       therein, mortgaged, pledged, or otherwise provided in any  
2       manner as security for servicing qualified mortgage loans.

3               "~~(14)~~(16) SERVICING QUALIFIED MORTGAGES. Mortgages,  
4       deeds of trust, and other instruments granting security  
5       interests in real and personal property of any kind.

6               "~~(15)~~(17) SINGLE FAMILY MORTGAGE LOANS. Mortgages on  
7       eligible housing units constituting residential dwelling units  
8       occupied as the principal residence of the owner-mortgagor by  
9       a single-family unit, including, without limitation, detached  
10      single family houses, attached single family houses or  
11      townhouses and condominium units within larger structures.

12              "~~(16)~~(18) STATE. The State of Alabama.

13              "§24-1A-5.

14              "The authority shall have the following powers:

15              "(1) To have succession by its corporate name until  
16      the principal of and interest on the bonds shall have been  
17      fully paid and until it shall have been dissolved as provided  
18      in this chapter;

19              "(2) To sue and be sued and to prosecute and defend  
20      in any court having jurisdiction of the subject matter and of  
21      the parties thereto;

22              "(3) To adopt and use a corporate seal and to alter  
23      the seal at pleasure;

24              "(4) To establish a fiscal year;

25              "(5) To maintain an office in the City of  
26      Montgomery;



1           "(6) To adopt, and from time to time amend and  
2 repeal, bylaws and rules and regulations, not inconsistent  
3 with this chapter, to carry into effect the powers and  
4 purposes of the authority in the conduct of its business;

5           "(7) To purchase mortgage loans from mortgage  
6 lenders, directly or indirectly, whether to finance the  
7 original purchase of eligible housing units or to refinance  
8 eligible housing units for the present owner, and to make and  
9 originate second mortgage loans secured by eligible housing  
10 units;

11           "(8) To contract with mortgage lenders for the  
12 origination ~~of,~~ or ~~the~~ servicing, or both, of mortgage loans  
13 to be made by such mortgage lenders and the servicing of the  
14 mortgages securing such mortgage loans;

15           "(9) To make loans to mortgage lenders, provided  
16 that (i) the proceeds of such loans shall be required to be  
17 used by such mortgage lenders for the making of mortgage  
18 loans, and (ii) the mortgages in connection with the mortgage  
19 loans so made, together with any additional security required  
20 by the authority, shall be mortgaged, pledged, assigned or  
21 otherwise provided as security to the authority for such loans  
22 to mortgage lenders;

23           "(10) To exercise any and all rights accorded to the  
24 owner and holder of a mortgage under and in accordance with  
25 the terms of said instruments and the applicable laws of the  
26 state with respect to the mortgaged property, directly or  
27 through mortgage lenders or others acting on behalf of the

1 authority or on behalf of the holders of its bonds, including,  
2 but without limitation, the power to foreclose, to sell the  
3 equity of redemption, to purchase the equity of redemption and  
4 otherwise to sell and dispose of the mortgaged property, all  
5 as shall seem in the best interests of the authority, and ~~the~~  
6 ~~holders of its bonds~~ if bonds issued by the authority are  
7 secured directly or indirectly by such mortgaged property, in  
8 the best interests of the bondholders;

9 "(11) To sell and issue bonds in order to provide  
10 funds for any corporate function, use or purpose;

11 "(12) To mortgage, pledge, assign or grant security  
12 interests in any or all of its mortgage loans, mortgages and  
13 its interests created thereby in the underlying real and  
14 personal properties covered by such mortgages as security for  
15 the payment of the principal of, and interest on, any bonds  
16 issued by the authority, or as security for any agreements  
17 made in connection therewith, whether then owned or thereafter  
18 acquired, and to pledge the revenues from which said bonds are  
19 payable as security for the payment of the principal of, and  
20 interest on, said bonds and any agreements made in connection  
21 therewith;

22 "(13) To establish such reserves from the proceeds  
23 of any issue of bonds or from revenues of the authority as the  
24 board of directors shall determine to be necessary and  
25 desirable in connection with the payment and retirement of the  
26 bonds of the authority or in connection with any other  
27 purpose, power or function of the authority;

1           "(14) To execute and deliver, in accordance with the  
2 provisions of this section and of Section 24-1A-6, mortgages  
3 and deeds of trust and trust indentures, or either;

4           "(15) To appoint, employ, contract with and provide  
5 for the compensation of, such employees, attorneys, fiscal  
6 advisers and agents as the business of the authority may  
7 require;

8           "(16) To provide for such insurance as the board of  
9 directors may deem advisable, including, but without  
10 limitation, casualty insurance, mortgage payment guarantee  
11 insurance and bond insurance;

12           "(17) To invest in authorized investments any funds  
13 of the authority that the board of directors may determine are  
14 not presently needed for other uses, purposes or functions of  
15 the authority;

16           "(18) To enter into a management agreement or  
17 agreements with any person, firm or corporation for the  
18 performance by said person, firm or corporation for the  
19 authority of any of its functions or powers upon such terms  
20 and conditions as may be mutually agreeable;

21           "(19) To sell, exchange and convey any or all of its  
22 properties whenever its board of directors shall find any such  
23 action to be in furtherance of the purposes for which the  
24 authority was organized;

25           "(20) To make, enter into and execute such  
26 contracts, agreements, leases and other instruments and to  
27 take such other actions as may be necessary or desirable to

1 accomplish any purpose for which the authority is organized or  
2 to exercise any power granted by this chapter;

3 "(21) To issue mortgage credit certificates to those  
4 persons and families who have received financing from any  
5 mortgage lender for the purpose of acquiring, rehabilitating,  
6 or improving single-family residential housing in Alabama, and  
7 to reissue mortgage credit certificates to those persons and  
8 families who have received financing from any mortgage lender  
9 for the purpose of refinancing single-family residential  
10 housing in Alabama. The authority shall have the power and the  
11 authority to take all steps, make all conditions, and do all  
12 things necessary in order to issue the certificates and  
13 implement and enforce the mortgage credit certificate program  
14 within the parameters and following the procedures specified  
15 by federal law and federal regulations governing the mortgage  
16 credit certificate program, notwithstanding any contrary  
17 provision in this chapter. The authority shall be the sole and  
18 exclusive issuer of mortgage credit certificates in and for  
19 the state;

20 "(22) To administer other federal programs, present  
21 or future, which assist in the provision and financing of  
22 housing, including, but not limited to, allocation and  
23 issuance of low income housing tax credits under federal law  
24 and regulations including Section 42 of the Internal Revenue  
25 Code of 1986, as amended, and to take all other actions  
26 necessary or convenient to the implementation and  
27 administration of such programs;

1           "(23) To acquire, hold and dispose of real and  
2 personal property;

3           "(24) To contract with such entities as the  
4 authority shall deem reasonable and appropriate for the  
5 acquisition, servicing, and disposition of servicing qualified  
6 mortgage loans made or to be made by other entities; and

7           "(25) To exercise any and all rights accorded to the  
8 owner and holder of a servicing qualified mortgage under and  
9 in accordance with the terms of such instruments and the  
10 applicable laws with respect to the servicing qualified  
11 mortgaged property, directly or through others acting on  
12 behalf of the authority or the owners of the servicing  
13 qualified mortgage loans, as the case may be, including, but  
14 without limitation, the power to foreclose, to sell the equity  
15 of redemption, to purchase the equity of redemption, and  
16 otherwise to sell and dispose of servicing qualified mortgaged  
17 property, all as the authority shall deem reasonable and  
18 appropriate in light of contractual or legal requirements.

19           "§24-1A-15.

20           "This chapter is intended to aid the state through  
21 the furtherance of the purposes of the chapter by providing an  
22 appropriate and independent instrumentality of the state with  
23 full and adequate powers to fulfill its functions. Except as  
24 expressly provided in this chapter, no proceeding, notice or  
25 approval shall be required for the incorporation of the  
26 authority, the purchase of any mortgage loans, directly or  
27 indirectly, or the making of any second mortgage loans, or the

1 making of any loan to a mortgage lender, the acquisition of  
2 any mortgage or second mortgage, the acquisition of, or any  
3 dealing with respect to, any mortgaged property, the issuance  
4 of any bonds, the execution of any mortgage and deed of trust  
5 or trust indenture or the exercise of any other of its powers  
6 by the authority.

7           "\$24-1A-20.

8           ~~"This chapter shall not be used to assist any~~  
9 ~~present owner for refinancing purposes. [Reserved]"~~

10           Section 2. The provisions of this act are severable.  
11 If any part of this act is declared invalid or  
12 unconstitutional, that declaration shall not affect the part  
13 which remains.

14           Section 3. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.