

1 SB195
2 155803-1
3 By Senator Ward
4 RFD: Banking and Insurance
5 First Read: 15-JAN-14

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8 SYNOPSIS: This bill would amend and supplement the
9 Alabama Home Buyers Initiative Act in order to make
10 the mortgage guarantee fund established by the act
11 available for alternative housing programs.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT

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17 To amend Section 24-1A-42, Code of Alabama 1975, of
18 the Alabama Home Buyers Initiative Act, and to add a new
19 Section 24-1A-44 to the Code of Alabama 1975, in order to make
20 the mortgage guarantee fund established by the Alabama Home
21 Buyers Initiative Act available for alternative housing
22 programs.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) In order to offset the adverse
25 effects of the global and national recession on Alabama's
26 housing industry and its economic development activity and to
27 provide a boost to the state's housing industry and its

1 economic development and industrial recruitment, the
2 Legislature adopted the Alabama Home Buyers Initiative Act,
3 codified as Sections 24-1A-40 to 24-1A-43, inclusive, Code of
4 Alabama 1975, which established a mortgage guarantee fund to
5 reimburse investors for a portion of any foreclosure losses
6 suffered as a result of purchasing qualified mortgage loans on
7 eligible properties located within the State of Alabama.

8 (b) Pursuant to the act, six million dollars
9 (\$6,000,000) was appropriated and irrevocably deposited in the
10 mortgage guarantee fund. The fund is held by the State
11 Treasurer and administered by the Alabama Housing Finance
12 Authority, a public corporation and instrumentality of the
13 State of Alabama.

14 (c) It is hereby found and determined that, due to
15 dramatic changes in the mortgage industry during the recent
16 economic crisis, no qualified mortgage loans have been
17 purchased by investors under the act and no such loans are
18 reasonably expected to be purchased in the future, and as a
19 result, none of the money appropriated by the act and
20 deposited in the mortgage guarantee fund has been deployed for
21 its initial purposes.

22 (d) Therefore, in accordance with the original
23 intent of Section 24-1A-43, Code of Alabama 1975, the
24 Legislature intends to make the funds on deposit in the
25 mortgage guarantee fund available for alternative housing
26 programs.

1 Section 2. Section 24-1A-42, Code of Alabama 1975,
2 is amended to read as follows:

3 "§24-1A-42.

4 "As used in this article, the following terms shall
5 have the following meanings:

6 "(1) ALABAMA HOME BUYERS INITIATIVE. A program that
7 includes a conventional mortgage program not to exceed one
8 billion dollars (\$1,000,000,000) in aggregate loan amount to
9 be administered by the program administrator, under which
10 single family mortgage loans, as defined in Section 24-1A-2,
11 are purchased by the program administrator and sold to the
12 initial holder, and one or more alternative housing programs.
13 No mortgage loan shall be made to any person who is not a
14 citizen of the United States or is not legally present in the
15 United States with appropriate documentation from the federal
16 government.

17 "(2) ALTERNATIVE HOUSING PROGRAM. Any program or
18 other activity that is certified to the State Treasurer by the
19 program administrator under Section 24-1A-44(c) (2), that will
20 be administered by the program administrator, and that will
21 promote home ownership in Alabama, including, without
22 limitation, the establishment of reserve funds for housing
23 initiatives, the payment of mortgage insurance premiums, and
24 the establishment and administration of homeowner education
25 programs. The program administrator may certify one or more
26 alternative housing programs in order to utilize all funds on
27 deposit in the mortgage guarantee fund.

1 "(3) CERTIFIED AMOUNT. The dollar amount of funds on
2 deposit in the mortgage guarantee fund that is certified to
3 the State Treasurer by the program administrator under Section
4 24-1A-44(c) (1) as available for an alternative housing
5 program.

6 "~~(2)~~(4) ELIGIBLE PROPERTIES. Both newly constructed
7 residences and existing homes.

8 "~~(3)~~(5) FORECLOSURE BALANCE. The sum of (a) the
9 unpaid principal balance of a qualified mortgage loan, (b) any
10 interest accrued thereon through the date of foreclosure, and
11 (c) foreclosure expenses, which shall include attorney fees,
12 title work, recording or filing fees, escrow advances, and
13 other actual expenses associated with a foreclosure sale.

14 "~~(4)~~(6) FORECLOSURE LOSS. The foreclosure balance
15 for a qualified mortgage loan less its resale proceeds.

16 "~~(5)~~(7) HOLDER. Any person that owns a qualified
17 mortgage loan.

18 "~~(6)~~(8) INVESTOR. The holder of a qualified mortgage
19 loan on the date on which a foreclosure loss occurs with
20 respect to such loan.

21 "~~(7)~~(9) MORTGAGE GUARANTEE FUND. The fund
22 established under Section 24-1A-43.

23 "~~(8)~~(10) MORTGAGE GUARANTEE FUND FEE. A fee equal to
24 one percent (1%) of the sales price of each home financed with
25 a qualified mortgage loan under the Alabama Home Buyers
26 Initiative.

1 "~~(9)~~(11) PERSON. Any individual, trust, estate,
2 corporation, association, partnership, limited liability
3 company, or other entity of any kind.

4 "~~(10)~~(12) PROGRAM ADMINISTRATOR. The Alabama Housing
5 Finance Authority.

6 "~~(11)~~(13) QUALIFIED MORTGAGE LOAN. A mortgage loan
7 secured by an eligible property originated under the Alabama
8 Home Buyers Initiative.

9 "~~(12)~~(14) RESALE PROCEEDS. The net sales proceeds
10 from the remarketing or resale of a residence following a
11 foreclosure sale conducted under a qualified mortgage loan,
12 which shall be equal to the sales price received in an arm's
13 length sale less closing costs, commissions, property
14 preservation, and reasonable and customary expenses associated
15 with the sale of a residential property."

16 Section 3. Section 24-1A-44 is added to the Code of
17 Alabama 1975, to read as follows:

18 §24-1A-44. Alternative housing programs; certified
19 amounts; modification and depletion.

20 (a) Mortgage guarantee fund. In addition to the uses
21 provided in Section 24-1A-43, commencing on the effective date
22 of this act, the mortgage guarantee fund established by the
23 Alabama Home Buyers Initiative Act, including all funds
24 appropriated for the mortgage guarantee fund and all interest
25 or investment earnings thereon, shall be made available to
26 fund alternative housing programs in accordance with this act.

1 (b) Investment income on mortgage guarantee fund.

2 All interest or investment income, if any, on funds deposited
3 in the mortgage guarantee fund shall be credited to, and shall
4 remain part of, the mortgage guarantee fund.

5 (c) Establishment of alternative housing programs.

6 In order to establish an alternative housing program, the
7 program administrator shall certify in writing to the State
8 Treasurer that: (1) There is a specific dollar amount of funds
9 on deposit in the mortgage guarantee fund, up to and including
10 the full amount then on deposit in the mortgage guarantee
11 fund, that is available to be used for an alternative housing
12 program (the "certified amount"); (2) There is an alternative
13 housing program for which the certified amount can be used;
14 and (3) The designation assigned by the program administrator
15 to the alternative housing program in order to differentiate
16 it from other alternative housing programs. The State
17 Treasurer's receipt of a written certification from the
18 program administrator containing the above statements, without
19 further detail, shall be sufficient for purposes of this act
20 to establish an alternative housing program and to make the
21 certified amount available to fund such program, and the State
22 Treasurer shall have no obligation to review or approve any
23 alternative housing program so certified. The State Treasurer,
24 in his or her discretion, may establish a separate account
25 within the mortgage guarantee fund for each alternative
26 housing program established under this subsection, which
27 account shall be funded solely from existing money on deposit

1 in the mortgage guarantee fund in an amount equal to the
2 certified amount for the alternative housing program for which
3 such account is established.

4 (d) Funding of alternative housing programs. If the
5 program administrator provides a written certification to the
6 State Treasurer that: (1) Requests a specific amount of
7 funding from the mortgage guarantee fund; (2) Identifies by
8 assigned designation the alternative housing program for which
9 the funding is requested; (3) Specifies the name and address
10 of the payee to whom such amount shall be paid; and (4)
11 Certifies that the amount of funding being requested for the
12 alternative housing program, together with the aggregate
13 amount of all prior funding requested for such program, does
14 not exceed the certified amount with respect to the
15 alternative housing program being funded, then the State
16 Treasurer shall instruct the Comptroller to issue a warrant in
17 the amount requested payable to the payee specified by the
18 program administrator; provided, however, that each warrant so
19 issued shall specify that it is a limited obligation payable
20 solely from the certified amount established for the
21 alternative housing program for which such warrant is issued
22 and does not constitute indebtedness of the State of Alabama,
23 the program administrator, or any other person.

24 (e) Modification of certified amounts. The program
25 administrator, at any time, may deliver a written
26 certification to the State Treasurer that increases,
27 decreases, or terminates the certified amount with respect to

1 any alternative housing program; provided, however, that the
2 certified amount for any alternative housing program may not
3 be reduced under any circumstances to an amount less than the
4 aggregate amount payable under the then outstanding warrants
5 issued by the Comptroller, including any warrants that have
6 been requested but not yet issued, with respect to such
7 alternative housing program.

8 (f) Modification of alternative housing programs.
9 The program administrator, in his or her sole discretion, may
10 modify, amend, expand, reduce, or otherwise alter any
11 alternative housing program being funded under this act
12 without notice to, consent from, or any other action by the
13 State Treasurer or Comptroller so long as the alternative
14 housing program, as modified, constitutes an alternative
15 housing program within the meaning of this act.

16 (g) Availability of mortgage guarantee fund. The
17 mortgage guarantee fund shall remain available until it is
18 depleted through the funding of alternative housing programs.

19 Section 4. The provisions of this act are severable.
20 If any part of this act is declared invalid or
21 unconstitutional, that declaration shall not affect the part
22 which remains.

23 Section 5. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.