

1 HB314
2 116085-1
3 By Representatives Vance, Thigpen and Gipson
4 RFD: Banking and Insurance
5 First Read: 19-JAN-10

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8 SYNOPSIS: This bill would authorize the Alabama
9 Housing Finance Authority to service mortgage loans
10 that are not secured by eligible housing units.
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12 A BILL
13 TO BE ENTITLED
14 AN ACT
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16 To amend Sections 24-1A-2 and 24-1A-5, Code of
17 Alabama 1975, relating to the Alabama Housing Finance
18 Authority, to authorize the authority to service mortgage
19 loans that are not secured by eligible housing units.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 24-1A-2 and 24-1A-5, Code of
22 Alabama 1975, are amended to read as follows:

23 "§24-1A-2.

24 "The following words and phrases used in this
25 chapter, and others evidently intended as the equivalent
26 thereof, shall, in the absence of clear implication otherwise,
27 have the following respective meanings:

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

4 "(2) AUTHORIZED INVESTMENTS. Bonds or other
5 obligations of, or guaranteed by, the United States of America
6 or the state; interest bearing bank and savings and loan
7 association deposits; obligations of any agency of the United
8 States of America; any obligations in which a state chartered
9 savings and loan association may invest its funds; any
10 agreement to repurchase any of the foregoing; or any
11 combination thereof.

12 "(3) BOARD OF DIRECTORS. The board of directors of
13 the authority.

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

16 "(5) ELIGIBLE HOUSING UNIT. Real and personal
17 properties located in the state constituting a single family
18 dwelling unit for occupancy by low and moderate income
19 families or a multi-family dwelling unit for occupancy by any
20 persons and families without restriction as to the income of
21 such persons or families other than any applicable federal
22 restrictions imposed upon multi-family dwelling units financed
23 from the proceeds of bonds the interest on which is exempt
24 from federal income taxes.

25 "(6) LOW AND MODERATE INCOME FAMILIES. Persons and
26 families of one or more persons, irrespective of race, creed,
27 national origin or sex, determined by the authority to require

1 such assistance as is made available by this chapter on
2 account of insufficient personal or family income taking into
3 consideration, without limitation, such factors as follows:

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

6 "b. The size of the family;

7 "c. The cost and condition of housing facilities
8 available;

9 "d. The ability of such persons and families to
10 compete successfully in the normal private housing market and
11 to pay the amounts at which private enterprise is providing
12 sanitary, decent and safe housing; and

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

16 "(7) MORTGAGE LENDERS. National banking
17 associations, banks chartered under the laws of the state,
18 savings or building and loan associations chartered under the
19 laws of the state or of the United States of America, Federal
20 National Mortgage Association approved mortgage bankers and
21 federal or state credit unions. The terms shall also include
22 other financial institutions or governmental agencies which
23 customarily originate or service mortgage loans and mortgages.

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

26 "(9) MORTGAGE PROPERTY. All properties, real,
27 personal and mixed, and all interests therein including grants

1 or subsidies with respect thereto, mortgaged, pledged or
2 otherwise provided in any manner as security for (i) mortgage
3 loans or (ii) loans to mortgage lenders.

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

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

10 "(12) SERVICING QUALIFIED MORTGAGE LOANS. Notes and
11 other evidences of indebtedness secured by servicing qualified
12 mortgages.

13 "(13) SERVICING QUALIFIED MORTGAGED PROPERTY. All
14 properties, real, personal, or mixed, and all interests
15 therein, mortgaged, pledged, or otherwise provided in any
16 manner as security for servicing qualified mortgage loans.

17 "(14) SERVICING QUALIFIED MORTGAGES. Mortgages,
18 deeds of trust, and other instruments granting security
19 interests in real and personal property of any kind.

20 "~~(12)~~(15) SINGLE FAMILY MORTGAGE LOANS. Mortgages on
21 eligible housing units constituting residential dwelling units
22 occupied as the principal residence of the owner-mortgagor by
23 a single-family unit, including, without limitation, detached
24 single family houses, attached single family houses or
25 townhouses and condominium units within larger structures.

26 "~~(13)~~(16) STATE. The State of Alabama.

27 "§24-1A-5.

1 "The authority shall have the following powers:

2 "(1) To have succession by its corporate name until
3 the principal of and interest on the bonds shall have been
4 fully paid and until it shall have been dissolved as provided
5 in this chapter;

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

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

11 "(4) To establish a fiscal year;

12 "(5) To maintain an office in the City of
13 Montgomery;

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

18 "(7) To purchase mortgage loans from mortgage
19 lenders;

20 "(8) To contract with mortgage lenders for the
21 origination of, or the servicing, of mortgage loans to be made
22 by such mortgage lenders and the servicing of the mortgages
23 securing such mortgage loans;

24 "(9) To make loans to mortgage lenders, provided
25 that (i) the proceeds of such loans shall be required to be
26 used by such mortgage lenders for the making of mortgage
27 loans, and (ii) the mortgages in connection with the mortgage

1 loans so made, together with any additional security required
2 by the authority, shall be mortgaged, pledged, assigned or
3 otherwise provided as security for such loans to mortgage
4 lenders;

5 "(10) To exercise any and all rights accorded to the
6 owner and holder of a mortgage under and in accordance with
7 the terms of said instruments and the applicable laws of the
8 state with respect to the mortgaged property, directly or
9 through mortgage lenders or others acting on behalf of the
10 authority or on behalf of the holders of its bonds, including,
11 but without limitation, the power to foreclose, to sell the
12 equity of redemption, to purchase the equity of redemption and
13 otherwise to sell and dispose of the mortgaged property, all
14 as shall seem in the best interests of the authority and the
15 holders of its bonds;

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

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

1 interest on, said bonds and any agreements made in connection
2 therewith;

3 "(13) To establish such reserves from the proceeds
4 of any issue of bonds or from revenues of the authority as the
5 board of directors shall determine to be necessary and
6 desirable in connection with the payment and retirement of the
7 bonds of the authority or in connection with any other
8 purpose, power or function of the authority;

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

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

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

20 "(17) To invest in authorized investments any funds
21 of the authority that the board of directors may determine are
22 not presently needed for other uses, purposes or functions of
23 the authority;

24 "(18) To enter into a management agreement or
25 agreements with any person, firm or corporation for the
26 performance by said person, firm or corporation for the

1 authority of any of its functions or powers upon such terms
2 and conditions as may be mutually agreeable;

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

7 "(20) To make, enter into and execute such
8 contracts, agreements, leases and other instruments and to
9 take such other actions as may be necessary or desirable to
10 accomplish any purpose for which the authority is organized or
11 to exercise any power granted by this chapter;

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

25 "(22) To administer other federal programs, present
26 or future, which assist in the provision and financing of
27 housing, including, but not limited to, allocation and

1 issuance of low income housing tax credits under federal law
2 and regulations including Section 42 of the Internal Revenue
3 Code of 1986, as amended, and to take all other actions
4 necessary or convenient to the implementation and
5 administration of such programs; and

6 "(23) To acquire, hold and dispose of real and
7 personal property.

8 "(24) To contract with such entities as the
9 authority shall deem reasonable and appropriate for the
10 acquisition, servicing, and disposition of servicing qualified
11 mortgage loans made or to be made by other entities.

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

24 Section 2. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.