

1 SB32
2 206196-2
3 By Senator Coleman-Madison
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/04/2021

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to tax delinquent properties; to amend
12 Sections 24-9-6, 24-9-7, 24-9-8, and 24-9-10, Code of Alabama
13 1975; to provide that a tax delinquent property may be
14 transferred by the Land Commissioner of the Alabama Department
15 of Revenue to the Alabama Land Bank Authority if the property
16 has been bid in for the state for at least three years and the
17 state's interest in property acquired for delinquent taxes has
18 been held for at least three years; to remove the distribution
19 requirements for proceeds derived from the sale of property
20 under the land bank program; to allow municipalities or
21 counties having over 100 delinquent properties within a
22 municipality to form a local land bank authority; and to grant
23 additional powers to local land bank authorities.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 24-9-6, 24-9-7, 24-9-8, and
26 24-9-10, Code of Alabama 1975, are amended to read as follows:

27 "§24-9-6.

1 "(a) The authority, at such times as it deems to be
2 appropriate, may submit a written request to the Land
3 Commissioner of the Alabama Department of Revenue for the
4 transfer of the state's interest in certain properties to the
5 authority. Upon receipt of such request, the Land Commissioner
6 shall issue a tax deed conveying the state's interest in the
7 property to the authority. The authority shall not be required
8 to pay the amount deemed to have been bid to cover delinquent
9 taxes or any other amount in order to obtain the tax deed.

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

18 "(2) The Land Commissioner or his or her agents or
19 assistants may adopt rules necessary to transfer such
20 properties to the authority.

21 "(c) The authority shall administer properties
22 acquired by it as follows:

23 "(1) All property acquired by the authority shall be
24 inventoried and the inventory shall be maintained as a public
25 record.

26 "(2) The authority shall have the power to manage,
27 maintain, protect, rent, lease, repair, insure, alter, sell,

1 trade, exchange, or otherwise dispose of any property acquired
2 pursuant to subsection (b) (1), on terms and conditions
3 determined in the sole discretion of the authority.

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

7 "§24-9-7.

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

12 "(b) The authority may manage, maintain, protect,
13 rent, repair, insure, alter, convey, sell, transfer, exchange,
14 lease as lessor, or otherwise dispose of property or rights or
15 interests in property in which the authority holds a legal
16 interest to any public or private person for value determined
17 by the authority on terms and conditions, and in a manner and
18 for an amount of consideration the authority considers proper,
19 fair, and valuable, including for no monetary consideration.
20 The transfer and use of property under this section and the
21 exercise by the authority of powers and duties under Act
22 2013-249 shall be considered a necessary public purpose and
23 for the benefit of the public.

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

26 "(1) Establish a purchase price and conditions for
27 sale purposes.

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

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

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

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

1 "(e) No property shall be sold, traded, exchanged,
2 or otherwise disposed of by the authority to any entity for
3 investment purposes only and with no intent to use the
4 property other than to transfer the property at a future date
5 for monetary gain.

6 "(f) The authority shall not sell, trade, exchange,
7 or otherwise dispose of any property held by the authority to
8 any party who had an interest in the property at the time it
9 was tax delinquent or to any party who transferred the party's
10 interest in the property to the authority by sale, trade,
11 exchange, or otherwise, unless the person pays all the taxes,
12 interest, municipal liens, penalties, fees, and any other
13 charges due and owing under Chapter 10 and Chapter 29 of Title
14 40, including the amount to the Land Commissioner had the
15 property not been transferred to the authority.

16 ~~"(g) At the time that the authority sells or
17 otherwise disposes of property as part of its land bank
18 program, the proceeds of the sale shall be distributed equally
19 as follows:~~

20 ~~"(1) One-third to the operations of the authority.~~

21 ~~"(2) One-third to the recovery of authority
22 expenses.~~

23 ~~"(3) If the property was initially bid in for the
24 state for delinquent ad valorem taxes, one-third to the
25 recipients of ad valorem taxes within the jurisdiction of the
26 tax delinquent property, including the appropriate school
27 districts, in proportion to and to the extent of their~~

1 ~~respective tax bills and costs. Otherwise, the remaining~~
2 ~~one-third of the proceeds shall be remitted to the state~~
3 ~~Comptroller to be distributed to the statutorily designated~~
4 ~~recipient or recipients of the delinquent tax for which the~~
5 ~~property was seized.~~

6 "(h)(g) Except as otherwise provided in this
7 section, the authority shall have full discretion in
8 determining the sale price of the property. No purchaser from
9 the authority shall be responsible for the proper disposition
10 of the proceeds paid to the authority for the purchase of
11 property.

12 "§24-9-8.

13 "(a) The authority may initiate a quiet title action
14 under this section to quiet title to real property held by the
15 authority or interests in tax delinquent property held by the
16 authority by ~~recording~~ undertaking the examination of title as
17 required in subsection (b) and thereafter filing the petition
18 as provided in subsection (c). Following the filing of the
19 petition, the authority shall record with the office of the
20 judge of probate in the county in which the property subject
21 to quiet title action is located a notice of pending quiet
22 title action. The notice shall include the name of the
23 taxpayer whose interest was affected by the tax sale; the name
24 of any other party as revealed by a search and examination of
25 the title to the property who may claim an interest in the
26 property; a legal description of the property; the street
27 address of the property if available; the name, address, and

1 telephone number of the authority; a statement that the
2 property is subject to the quiet title proceedings under Act
3 2013-249; ~~and~~ a statement that any legal interests in the
4 property may be extinguished by a circuit court order vesting
5 title to the property in the authority; and the date, time,
6 and place of the hearing on the petition to quiet title.

7 Notwithstanding anything in this chapter to the contrary, no
8 quiet title action and nothing in this chapter shall affect
9 any right, title, or interest, whether recorded or unrecorded,
10 in the subject property which was held at the time of the tax
11 sale by any person or entity engaged in the generation,
12 transmission, or distribution of electric power, natural gas,
13 or telecommunications.

14 "(b) After the notice required under subsection (a)
15 has been recorded, the record title to the property shall be
16 examined and an opinion of title rendered by an attorney at
17 law, who is licensed to practice law in this state, or a
18 certificate of title shall be prepared by a title agent or
19 title insurer duly licensed under the Alabama Title Insurance
20 Act as set out in Section 27-25-1, et seq., for the benefit of
21 the authority in order to identify all owners of an interest
22 in the property.

23 "(c) Once the authority has identified the owners of
24 interest in the property, the authority shall file a single
25 petition with the clerk of the circuit court for the judicial
26 district in which the property subject to foreclosure under
27 this section is located listing all property subject to

1 foreclosure by the authority and for which the authority seeks
2 to quiet title. No such action shall be subject to the payment
3 of filing fees. The list of properties shall include a legal
4 description of, a tax parcel identification number for, and
5 the street address of each parcel or property. The petition
6 shall seek a judgment in favor of the authority against each
7 property listed and shall include a date, within 90 days, on
8 which the authority requests a hearing on the petition. The
9 petition shall request that a judgment be entered vesting
10 absolute title in the authority, without right of redemption
11 for each parcel of property listed, as provided in this
12 section. At any time during the pendency of this action, the
13 authority may file a motion to release or dismiss a certain
14 parcel or parcels of land from the petition, which release
15 will not affect the remaining parcels of land subject to the
16 petition.

17 "(d) The case shall be docketed in the circuit court
18 by the clerk, and shall be a preferred case therein. The
19 circuit court in which a petition is filed under subsection
20 (c) shall immediately set the date, time, and place for a
21 hearing on the petition for quiet title. In no event may the
22 clerk schedule the hearing later than 90 days after the filing
23 of a petition by the authority under subsection (c). The
24 court, on the request of a party or as needed to allow
25 completion of service of process on all interested persons,
26 and to allow those persons 30 days after service of process to

1 file an answer or other responsive pleadings to the petition,
2 may extend the 90-day period for good cause shown.

3 "(e) The authority shall serve all persons having
4 record title or interest in or lien upon the property with a
5 notice of the hearing on the petition to quiet title. Such
6 service shall be attempted by personal service and by
7 certified mail; provided if service is perfected by either
8 method, the service will be sufficient to provide service of
9 process upon all persons having record title or interest in or
10 lien upon the property. If the persons entitled to service are
11 located outside the county, they may be served by certified
12 mail.

13 "(f) The notice required under subsection (e) shall
14 include:

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

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

21 "(3) A legal description, tax parcel identification
22 number of the property, and the street address of the
23 property.

24 "(4) The date and time of the hearing on the
25 petition for quiet title and a statement that the judgment of
26 the court may result in title to the property vesting in the
27 authority.

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

4 "(6) The name, address, and telephone number of the
5 authority.

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

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

12 "a. An examination of the addresses given on the
13 face of the instrument vesting interest or the addresses given
14 to the clerk of the probate court by the transfer declaration
15 form.

16 "b. A search of the current telephone directory for
17 the municipality and the county in which the property is
18 located.

19 "c. A letter of inquiry to the person who sold the
20 property to the owner whose interest was sold in the tax sale
21 at the address shown in the transfer tax declaration or in the
22 telephone directory.

23 "d. A letter of inquiry to the attorney handling the
24 closing prior to the tax sale if such information is provided
25 on the deed forms.

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

4 ""THIS PROPERTY HAS BEEN CONVEYED TO THE _____
5 LAND BANK AUTHORITY AND IS SUBJECT TO A QUIET TITLE ACTION.
6 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNERSHIP OF OR
7 INTEREST IN THE PROPERTY ARE REQUESTED TO CONTACT THE LAND
8 BANK AUTHORITY AT _____."

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

12 "(h) If the interested party is an individual, the
13 authority shall examine voter registration lists, available
14 municipal archives for records of deaths, and the probate
15 court records of estates opened in the county in which the
16 property is located.

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

20 "(j) If an interested party appears at the hearing
21 and asserts a right to redeem the property, that party may
22 redeem in accordance with Chapter 10 and Chapter 29 of Title
23 40.

24 "(k) (1) If the authority has made the search as
25 required by this section and been unable to locate those
26 persons required to be served under subsection (e), and has
27 located additional addresses of those persons through the

1 search and attempted without success to serve those persons in
2 either manner provided by subsection (e), the authority shall
3 provide notice by publication. Prior to the hearing, a notice
4 shall be published once each week for three successive weeks
5 in a newspaper of general circulation in the county in which
6 the property is located. If no paper is published in that
7 county, publication shall be made in a newspaper of general
8 circulation in an adjoining county. This publication shall
9 substitute for notice under this subsection or subsection (g).
10 The published notice shall include the information required in
11 subsection (f). Should the identity of some or all of the
12 persons who may have an interest in the property be unknown,
13 or should such persons be infants or persons of unsound mind,
14 the court shall appoint a guardian ad litem to represent and
15 defend the interests of such unknown, infant, or incompetent
16 parties in the action.

17 "(2) A person claiming an interest in a parcel of
18 property set forth in the quiet title action who desires to
19 contest that petition shall file an answer containing written
20 objections with the clerk of the circuit court and serve those
21 objections on the authority before the date of the hearing.
22 The circuit court may appoint and utilize as the court
23 considers necessary a special master for assistance with the
24 resolution of any objections to the quiet title action or
25 questions regarding the title to property subject thereto.
26 Within 30 days following the hearing, the circuit court shall

1 enter judgment on a petition to quiet title. The circuit
2 court's judgment shall specify all of the following:

3 "a. The legal description, tax parcel identification
4 number, and, if known, the street address of the subject
5 property.

6 "b. That fee simple title to the property by the
7 judgment is vested absolutely in the authority, except as
8 otherwise provided in paragraph e., without any further rights
9 of redemption.

10 "c. That all liens against the property, including
11 any lien for unpaid taxes or special assessments, are
12 extinguished.

13 "d. That, except as otherwise provided in paragraph
14 e., the authority has good and marketable fee simple title to
15 the property.

16 "e. That all existing recorded and unrecorded
17 interests in the property are extinguished, except a recorded
18 easement or right-of-way, restrictive covenant, prior
19 reservation or severance of all mineral, mining, oil and gas
20 rights within and underlying the property, such state of facts
21 as shown on recorded plats, or restrictions or covenants
22 imposed under the Alabama Land Recycling and Economic
23 Development Act or any other environmental law in effect in
24 the state, severed oil, gas, and mineral rights and mineral
25 leases and agreements are excepted from Act 2013-249 and any
26 quiet title action authorized herein.

1 "f. A finding that all persons entitled to notice
2 and an opportunity to be heard have been provided that notice
3 and opportunity and that the authority provided notice to all
4 interested parties or that the authority complied with the
5 notice procedures in subdivision (1), which compliance shall
6 create a rebuttable presumption that all interested parties
7 received notice and an opportunity to be heard.

8 "(l) Except as otherwise provided in paragraph e. of
9 subdivision (2) of subsection (k), fee simple title to
10 property set forth in a petition for quiet title filed under
11 subsection (c) shall vest absolutely in the authority upon the
12 effective date of the judgment by the circuit court and the
13 authority shall have absolute title to the property. The
14 authority's title is not subject to any recorded or unrecorded
15 lien, except as provided in paragraph e. of subdivision (2) of
16 subsection (k) and shall not be stayed except as provided in
17 subsection (m). A judgment entered under this section is a
18 final order with respect to the property affected by the
19 judgment.

20 "(m) The authority or a person claiming to have an
21 interest in property under this section may within 42 days
22 following the effective date of the judgment under subsection
23 (k) appeal the circuit court's judgment quieting title to the
24 property to the court of appeals. An appeal under this
25 subsection is limited to the record of the proceedings in the
26 circuit court under this section. In the event of a timely
27 appeal, the circuit court's judgment quieting title to the

1 property shall be stayed until the court of appeals has
2 reversed, modified, or affirmed that judgment. If an appeal
3 under this subsection stays the circuit court's judgment, the
4 circuit court's judgment is stayed only as to the property
5 that is the subject of that appeal and the circuit court's
6 judgment quieting title to other property that is not the
7 subject of that appeal is not stayed.

8 "(n) The authority shall record an order of judgment
9 for each parcel of property in the office of the judge of
10 probate for the county in which the subject property is
11 located.

12 "(o) Notwithstanding the requirements for adverse
13 possession under Section 40-10-82, or any other law, the
14 authority may initiate a quiet title action under this section
15 at any time after acquiring an interest in the property which
16 is subject to the action. A final decree of an action properly
17 filed in compliance with this section shall extinguish all
18 outstanding rights of redemption.

19 "§24-9-10.

20 "(a) If the number of tax delinquent properties in a
21 municipality exceeds ~~1,000~~ 100, then the governing body of a
22 municipality may adopt a resolution declaring that it is wise,
23 expedient, and necessary that a local authority be formed by
24 the municipality by the filing for record of a certificate of
25 incorporation in accordance with the provisions of subsection
26 (c).

1 "(b) If the number of tax delinquent properties in a
2 municipality exceeds ~~1,000~~ 100, then the governing body of a
3 county may adopt a resolution declaring that it is wise,
4 expedient, and necessary that a local authority be formed by
5 the county by the filing for record of a certificate of
6 incorporation in accordance with the provisions of subsection
7 (c).

8 "(c) Upon the adoption of the authorizing
9 resolution, the municipality or county, as the case may be,
10 shall proceed to incorporate the local authority by filing for
11 record in the office of the judge of probate of the county a
12 certificate of incorporation which shall comply in form and
13 substance with the requirements of this section and which
14 shall be in the form and executed in the manner herein
15 provided. The certificate of incorporation of the local
16 authority shall state all of the following:

17 "(1) The name of the local unit of government
18 forming the local authority.

19 "(2) The name of the local authority.

20 "(3) The size of the initial governing body of the
21 local authority, which shall be composed of an odd number of
22 members, but not less than five.

23 "(4) The qualifications, method of selection, and
24 terms of office of the initial board members.

25 "(5) A method for the adoption of bylaws by the
26 governing body of the local authority.

1 "(6) A method for the distribution of proceeds from
2 the activities of the local authority.

3 "(7) A method for the dissolution of the local
4 authority.

5 "(8) Any other matters considered advisable by the
6 local unit of government, consistent with Act 2013-249.

7 "(d) Following incorporation, a local authority may
8 enter into an intergovernmental agreement with the authority
9 providing for the transfer to the local authority of any
10 property held by the authority which is located within the
11 corporate limits of the municipality or the boundary of the
12 county which created the land bank.

13 "(e) A local authority shall have all of the powers
14 of the authority as set forth in this chapter. In addition, a
15 local authority shall have the following powers:

16 "(1) Without the approval of a local unit of
17 government in which property held by the authority is located,
18 control, hold, manage, maintain, operate, repair, lease as
19 lessor, secure, prevent the waste or deterioration of,
20 demolish, and take all other actions necessary to preserve the
21 value of the property it holds or owns. An authority may take
22 or perform the following actions with respect to property held
23 or owned by the authority:

24 "a. Grant or acquire a license, easement, or option
25 with respect to property as the authority determines is
26 reasonably necessary to achieve the purposes of this chapter.

1 "b. Fix, charge, and collect rents, fees, and
2 charges for use of property under the control of the authority
3 or for services provided by the authority.

4 "c. Pay any tax or special assessment due on
5 property acquired or owned by the authority.

6 "d. Take any action, provide any notice, or
7 institute any proceeding required to clear or quiet title to
8 property held by the authority in order to establish ownership
9 by and vest title to property in the authority, including, but
10 not limited to, a quiet title and foreclosure action pursuant
11 to Section 24-9-8.

12 "e. Remediate environmental contamination on any
13 property held by the authority.

14 "(2) Enter into an intergovernmental agreement with
15 a municipality or county providing for one or more of the
16 following:

17 "a. The conveyance to the authority of tax
18 delinquent property held by the municipality or county for
19 title clearance, including, but not limited to, a quiet title
20 and foreclosure action under Section 24-9-8.

21 "b. The acquisition and title clearance of property
22 by the authority of property to be conveyed by the authority
23 to the municipality or county or another entity pursuant to
24 the agreement between the authority and the municipality or
25 county.

1 "(f) A local unit of government and any agency or
2 department of such local unit of government may do one or more
3 of the following:

4 "(1) Anything necessary or convenient to aid a local
5 authority in fulfilling its purposes under Act 2013-249.

6 "(2) Lend, grant, transfer, appropriate, or
7 contribute funds to a local authority in furtherance of its
8 purposes.

9 "(3) Lend, grant, transfer, or convey funds to a
10 local authority that are received from the federal government
11 or this state or from any nongovernmental entity in aid of the
12 purposes of Act 2013-249.

13 "(g) In the event a county creates a local
14 authority, the local authority shall have the power to acquire
15 real property that has been tax delinquent for three or more
16 years only in those portions of the county located outside of
17 the geographical boundaries of any other local authority
18 created by any municipality located partially or entirely
19 within the county. The Land Bank Authority shall have the
20 power to acquire real property that has been tax delinquent
21 for three or more years only in those portions of the state
22 located outside of the geographical boundaries of any local
23 authority created by any municipality or county.

24 "(h) Any local authority formed by a municipality or
25 county pursuant to this section shall continue to exist in
26 accordance with its articles of incorporation and this section
27 in the event that the number of tax delinquent properties in

1 the local jurisdiction forming the authority subsequently
2 decreases to 100 or less.

3 "(i) Any local authority formed by a municipality or
4 county pursuant to this section shall permit the Alabama
5 Department of Examiners of Public Accounts to perform an audit
6 upon request by the department. The department shall assess
7 the cost of the audit against the local authority."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 02-FEB-21

Read for the second time and placed on the calen-
dar..... 23-FEB-21

Read for the third time and passed as amended 16-MAR-21

Yeas 28
Nays 0

Patrick Harris,
Secretary.