

1 HB329
2 114310-2
3 By Representatives Baker (A), Shiver, Faust, McMillan,
4 Thigpen, Harper and Dukes
5 RFD: Government Operations
6 First Read: 19-JAN-10

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ENROLLED, An Act,

To amend Section 9-15-82, Code of Alabama 1975, exempting the transfer or sale of certain state-owned real property from the normal statutory procedure; to decrease from five to three years the time frame in which the state may repurchase property sold by the state; to include municipal commercial development authorities within the exemption; and to provide for a retroactive effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 9-15-82 of the Code of Alabama 1975, is amended to read as follows:

"§9-15-82.

"(a) This article shall not apply to the transfers of real property between departments, boards, bureaus, commissions, institutions, corporations, or agencies of the state. These transfers may be made by mutual agreements between the chief executive officers of the respective departments with the approval of the Governor. This article shall not apply to the leasing or sale of timber from unused lands under Section 9-15-1 et seq.; to the leasing or sale of timber from school lands and swamp and overflowed lands under Section 9-15-30 et seq.; to the leasing of oil, gas, and other minerals under Section 9-17-60 et seq.; real property sold by the Department of Revenue under tax sales and redemptions; to

1 the sale of property by the Alabama Historical Commission
2 under Section 41-9-249(7); to reversions made under Section
3 31-4-18; to the sale or conveyance of real property by the
4 Alabama Housing Finance Authority; to the sale or lease of any
5 interest in real property owned for investment purposes by any
6 trust fund administered by the Division of Risk Management; or
7 to property traded in right of way negotiations or sales of
8 excess right of way or uneconomic remnants by the State
9 Department of Transportation. Notwithstanding any other
10 provisions of this article, the Alabama Forestry Commission
11 shall have the authority to conduct real property sales in
12 accordance with this article without going through the Lands
13 Division. In so doing, the Alabama Forestry Commission shall
14 comply with all other provisions of this article. This article
15 shall not apply to the granting of easements, rights-of-way
16 for utilities, roads, streets, and sidewalks where there is no
17 competitive market. Notwithstanding any other provision of
18 this article, institutions and systems of higher education
19 with separately constituted boards of trustees or those
20 institutions of higher education subject to the supervision
21 and authority of the State Board of Education that have
22 written policies and procedures governing transfers of
23 interest in real property have the authority to conduct real
24 property sales and leases by public auction or publicly sought
25 sealed bid in accordance with procedures in the article for

1 advertising and receiving bids, without going through the
2 Lands Division of the state Department of Conservation and
3 Natural Resources. Furthermore, in those cases in which it can
4 be economically justified and it is deemed to be in the best
5 interest of the institution or system and the State of Alabama
6 to offer an interest in real property for sale or lease
7 through a listing with a duly licensed real estate broker who
8 shall publicize the offer in accordance with customary
9 practices or through negotiation after publicly announced
10 requests for proposals to sell or lease the property are made,
11 rather than through a procedure otherwise described in this
12 article, the institution or system may do so, provided that a
13 written declaration setting forth the specific reasons why it
14 is deemed to be in the best interest of the institution or
15 system and the State of Alabama to make specific sale or lease
16 in question in such manner is made by an agent of the
17 institution authorized by the board of trustees or the State
18 Board of Education, and subsequently ratified by the board of
19 trustees or the State Board of Education and the document
20 shall be retained and made a part of the permanent file and
21 shall be open to public inspection. Sales and leases
22 transacted as described in this section shall be deemed to be
23 in compliance with all provisions of this article. Ground
24 leases and leases of facilities by institutions of higher
25 education to social or professional organizations, faculty

1 members, employees, or for institution-related purposes which
2 are designed to enhance the operation of the institution and
3 are declared to be in the best interest of the institution by
4 the board of trustees or the State Board of Education, are
5 exempt from the provisions of this article. Such declaration
6 shall be maintained as aforesaid.

7 "(b) Except as set out hereinafter, nothing herein
8 contained shall be construed to apply in any manner to the
9 sale or lease of any real property or any interest therein
10 owned in whole or in part by any county or municipal board of
11 education, any county or municipal government or any of their
12 respective boards, agencies, departments, corporations, l or
13 instrumentalities including corporations and/or boards in
14 regard to which any county or municipal governing body is a
15 determining or appointing authority. Provided that nothing
16 herein contained shall be construed to apply in any manner to
17 the sale or lease of any real property or interest therein
18 owned by the State of Alabama and the departments, boards,
19 bureaus, commissions, instrumentalities, corporations, l and
20 agencies of the state to the United States government, any
21 county or municipal board of education, any county or
22 municipal governing body or any of their respective boards,
23 agencies, departments, corporations, l or instrumentalities
24 including corporations and/or boards in regard to which any
25 county or municipal governing body is a determining or

1 appointing authority, subject to the condition that such
2 property or any interest therein is not resold, leased, or
3 otherwise transferred in whole or in part, within three years,
4 to any private person, firm, or corporation without compliance
5 with the provisions of this article. Provided, however, that
6 if the property is to be sold within ~~five~~ three years from the
7 date it was acquired, the state shall have the right to
8 repurchase the property at the price it was sold by the state.
9 Provided, further, that all such transactions between the
10 United States government, any county or municipal board of
11 education, any county or municipal government, or any of their
12 respective boards, agencies, departments, corporations, or
13 instrumentalities including corporations or boards and the
14 state or any department, board, bureau, commissions,
15 instrumentalities, corporations, and agencies of the state
16 shall have the approval of the Governor and written notice of
17 such transaction shall be given to the Lands Division of the
18 Department of Conservation and Natural Resources at least 30
19 days before the closing of such transaction.

20 "(c) Notwithstanding ~~Provided, further, that~~
21 ~~notwithstanding~~ any other provision of this article, this
22 article shall not apply to lease-leaseback transactions
23 entered into by institutions and systems of higher education
24 with separately constituted boards of trustees provided that
25 any such institution or system of higher education shall at

1 all times remain the owner of any real property the subject of
2 any such lease-leaseback transaction.

3 "(d) Notwithstanding any other provision of this
4 article, this section shall not apply to the sale, lease, or
5 transfer of any property owned by a municipal commercial
6 development authority subject to Article 6, commencing with
7 Section 11-54-170, of Chapter 54 of Subtitle 2 of Title 11."

8 Section 2. The exemption provided in subsection (d)
9 of Section 9-15-82, Code of Alabama 1975, as amended by this
10 act, shall be effective retroactive to June 29, 1995.

11 Section 3. This act shall become effective
12 immediately, following its passage and approval by the
13 Governor, or its otherwise becoming law, and shall be
14 retroactive to June 29, 1995.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 18-FEB-10.

Greg Pappas
Clerk

Senate

06-APR-10

Passed