

1 SB293
2 206196-1
3 By Senators Coleman-Madison, Marsh, Singleton, Burkette and
4 Waggoner
5 RFD: Finance and Taxation General Fund
6 First Read: 10-MAR-20

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a tax delinquent
9 property may be transferred by the Land
10 Commissioner of the Alabama Department of Revenue
11 to the Alabama Land Bank Authority if the property
12 has been bid in for the state for at least five
13 years and the state's interest in property acquired
14 for delinquent taxes has been held for at least
15 five years.

16 This bill would provide that a tax
17 delinquent property may be transferred by the Land
18 Commissioner of the Alabama Department of Revenue
19 to the Alabama Land Bank Authority if the property
20 has been bid in for the state for at least three
21 years and the state's interest in property acquired
22 for delinquent taxes has been held for at least
23 three years.

24 This bill would remove the distribution
25 requirements for proceeds derived from the sale of
26 property under the land bank program.

1 Under existing law, a municipality having
2 over 1,000 tax delinquent properties in a
3 municipality, or a county in which a municipality
4 has over 1,000 tax delinquent properties, may form
5 a local land bank authority.

6 This bill would allow municipalities or
7 counties having over 100 delinquent properties
8 within a municipality to form a local land bank
9 authority.

10 This bill would also grant additional powers
11 to local land bank authorities.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

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

1 municipality to form a local land bank authority; and to grant
2 additional powers to local land bank authorities.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 24-9-6, 24-9-7, 24-9-8, and
5 24-9-10, Code of Alabama 1975, are amended to read as follows:

6 "§24-9-6.

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

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

24 "(2) The Land Commissioner or his or her agents or
25 assistants may adopt rules necessary to transfer such
26 properties to the authority.

1 "(c) The authority shall administer properties
2 acquired by it as follows:

3 "(1) All property acquired by the authority shall be
4 inventoried and the inventory shall be maintained as a public
5 record.

6 "(2) The authority shall have the power to manage,
7 maintain, protect, rent, lease, repair, insure, alter, sell,
8 trade, exchange, or otherwise dispose of any property acquired
9 pursuant to subsection (b) (1), on terms and conditions
10 determined in the sole discretion of the authority.

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

14 "§24-9-7.

15 "(a) The authority shall adopt rules and regulations
16 for the disposition of property in which the authority holds a
17 legal interest, which rules and regulations shall address the
18 conditions set forth in this section.

19 "(b) The authority may manage, maintain, protect,
20 rent, repair, insure, alter, convey, sell, transfer, exchange,
21 lease as lessor, or otherwise dispose of property or rights or
22 interests in property in which the authority holds a legal
23 interest to any public or private person for value determined
24 by the authority on terms and conditions, and in a manner and
25 for an amount of consideration the authority considers proper,
26 fair, and valuable, including for no monetary consideration.
27 The transfer and use of property under this section and the

1 exercise by the authority of powers and duties under Act
2 2013-249 shall be considered a necessary public purpose and
3 for the benefit of the public.

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

6 "(1) Establish a purchase price and conditions for
7 sale purposes.

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

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

12 "The conditions made pursuant to this subsection may
13 include a requirement that the transferee must provide a
14 development plan or execute a development agreement with the
15 authority specifying the transferee's commitments regarding
16 the development of the property and the time frame within
17 which the development must occur, the range of permitted uses
18 for the property, and any restrictions on its subsequent
19 resale or transfer.

20 "(d) The disposition of property by the authority
21 shall not be governed by any laws or regulations otherwise
22 applicable to the disposition of property by a state or local
23 agency. Provided, however, that, prior to the disposition of
24 property, the authority shall give notice of its intent to
25 dispose of any property for which notice was not previously
26 advertised by the Commissioner of Revenue, or his or her
27 designee, or by a local official in a manner as prescribed by

1 the authority and shall include in the notice the date, time,
2 and place at which persons objecting to the intended action
3 must appear. If no objection is made within 30 days from the
4 date of the notice, the authority may proceed with the
5 disposition of the property as noticed without a public
6 auction.

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

12 "(f) The authority shall not sell, trade, exchange,
13 or otherwise dispose of any property held by the authority to
14 any party who had an interest in the property at the time it
15 was tax delinquent or to any party who transferred the party's
16 interest in the property to the authority by sale, trade,
17 exchange, or otherwise, unless the person pays all the taxes,
18 interest, municipal liens, penalties, fees, and any other
19 charges due and owing under Chapter 10 and Chapter 29 of Title
20 40, including the amount to the Land Commissioner had the
21 property not been transferred to the authority.

22 ~~"(g) At the time that the authority sells or~~
23 ~~otherwise disposes of property as part of its land bank~~
24 ~~program, the proceeds of the sale shall be distributed equally~~
25 ~~as follows:~~

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

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

3 ~~"(3) If the property was initially bid in for the~~
4 ~~state for delinquent ad valorem taxes, one-third to the~~
5 ~~recipients of ad valorem taxes within the jurisdiction of the~~
6 ~~tax delinquent property, including the appropriate school~~
7 ~~districts, in proportion to and to the extent of their~~
8 ~~respective tax bills and costs. Otherwise, the remaining~~
9 ~~one-third of the proceeds shall be remitted to the state~~
10 ~~Comptroller to be distributed to the statutorily designated~~
11 ~~recipient or recipients of the delinquent tax for which the~~
12 ~~property was seized.~~

13 ~~"(h)(g)~~ Except as otherwise provided in this
14 section, the authority shall have full discretion in
15 determining the sale price of the property. No purchaser from
16 the authority shall be responsible for the proper disposition
17 of the proceeds paid to the authority for the purchase of
18 property.

19 "§24-9-8.

20 "(a) The authority may initiate a quiet title action
21 under this section to quiet title to real property held by the
22 authority or interests in tax delinquent property held by the
23 authority by recording undertaking the examination of title as
24 required in subsection (b) and thereafter filing the petition
25 as provided in subsection (c). Following the filing of the
26 petition, the authority shall record with the office of the
27 judge of probate in the county in which the property subject

1 to quiet title action is located a notice of pending quiet
2 title action. The notice shall include the name of the
3 taxpayer whose interest was affected by the tax sale; the name
4 of any other party as revealed by a search and examination of
5 the title to the property who may claim an interest in the
6 property; a legal description of the property; the street
7 address of the property if available; the name, address, and
8 telephone number of the authority; a statement that the
9 property is subject to the quiet title proceedings under Act
10 2013-249; ~~and~~ a statement that any legal interests in the
11 property may be extinguished by a circuit court order vesting
12 title to the property in the authority; and the date, time,
13 and place of the hearing on the petition to quiet title.

14 Notwithstanding anything in this chapter to the contrary, no
15 quiet title action and nothing in this chapter shall affect
16 any right, title, or interest, whether recorded or unrecorded,
17 in the subject property which was held at the time of the tax
18 sale by any person or entity engaged in the generation,
19 transmission, or distribution of electric power, natural gas,
20 or telecommunications.

21 " (b) After the notice required under subsection (a)
22 has been recorded, the record title to the property shall be
23 examined and an opinion of title rendered by an attorney at
24 law, who is licensed to practice law in this state, or a
25 certificate of title shall be prepared by a title agent or
26 title insurer duly licensed under the Alabama Title Insurance
27 Act as set out in Section 27-25-1, et seq., for the benefit of

1 the authority in order to identify all owners of an interest
2 in the property.

3 "(c) Once the authority has identified the owners of
4 interest in the property, the authority shall file a single
5 petition with the clerk of the circuit court for the judicial
6 district in which the property subject to foreclosure under
7 this section is located listing all property subject to
8 foreclosure by the authority and for which the authority seeks
9 to quiet title. No such action shall be subject to the payment
10 of filing fees. The list of properties shall include a legal
11 description of, a tax parcel identification number for, and
12 the street address of each parcel or property. The petition
13 shall seek a judgment in favor of the authority against each
14 property listed and shall include a date, within 90 days, on
15 which the authority requests a hearing on the petition. The
16 petition shall request that a judgment be entered vesting
17 absolute title in the authority, without right of redemption
18 for each parcel of property listed, as provided in this
19 section. At any time during the pendency of this action, the
20 authority may file a motion to release or dismiss a certain
21 parcel or parcels of land from the petition, which release
22 will not affect the remaining parcels of land subject to the
23 petition.

24 "(d) The case shall be docketed in the circuit court
25 by the clerk, and shall be a preferred case therein. The
26 circuit court in which a petition is filed under subsection
27 (c) shall immediately set the date, time, and place for a

1 hearing on the petition for quiet title. In no event may the
2 clerk schedule the hearing later than 90 days after the filing
3 of a petition by the authority under subsection (c). The
4 court, on the request of a party or as needed to allow
5 completion of service of process on all interested persons,
6 and to allow those persons 30 days after service of process to
7 file an answer or other responsive pleadings to the petition,
8 may extend the 90-day period for good cause shown.

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

19 "(f) The notice required under subsection (e) shall
20 include:

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

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

1 "(3) A legal description, tax parcel identification
2 number of the property, and the street address of the
3 property.

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

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

11 "(6) The name, address, and telephone number of the
12 authority.

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

17 "(1) The search, at a minimum, shall include the
18 following:

19 "a. An examination of the addresses given on the
20 face of the instrument vesting interest or the addresses given
21 to the clerk of the probate court by the transfer declaration
22 form.

23 "b. A search of the current telephone directory for
24 the municipality and the county in which the property is
25 located.

26 "c. A letter of inquiry to the person who sold the
27 property to the owner whose interest was sold in the tax sale

1 at the address shown in the transfer tax declaration or in the
2 telephone directory.

3 "d. A letter of inquiry to the attorney handling the
4 closing prior to the tax sale if such information is provided
5 on the deed forms.

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

9 ""THIS PROPERTY HAS BEEN CONVEYED TO THE _____
10 LAND BANK AUTHORITY AND IS SUBJECT TO A QUIET TITLE ACTION.
11 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNERSHIP OF OR
12 INTEREST IN THE PROPERTY ARE REQUESTED TO CONTACT THE LAND
13 BANK AUTHORITY AT _____."

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

17 "(h) If the interested party is an individual, the
18 authority shall examine voter registration lists, available
19 municipal archives for records of deaths, and the probate
20 court records of estates opened in the county in which the
21 property is located.

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

25 "(j) If an interested party appears at the hearing
26 and asserts a right to redeem the property, that party may

1 redeem in accordance with Chapter 10 and Chapter 29 of Title
2 40.

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

23 "(2) A person claiming an interest in a parcel of
24 property set forth in the quiet title action who desires to
25 contest that petition shall file an answer containing written
26 objections with the clerk of the circuit court and serve those
27 objections on the authority before the date of the hearing.

1 The circuit court may appoint and utilize as the court
2 considers necessary a special master for assistance with the
3 resolution of any objections to the quiet title action or
4 questions regarding the title to property subject thereto.
5 Within 30 days following the hearing, the circuit court shall
6 enter judgment on a petition to quiet title. The circuit
7 court's judgment shall specify all of the following:

8 "a. The legal description, tax parcel identification
9 number, and, if known, the street address of the subject
10 property.

11 "b. That fee simple title to the property by the
12 judgment is vested absolutely in the authority, except as
13 otherwise provided in paragraph e., without any further rights
14 of redemption.

15 "c. That all liens against the property, including
16 any lien for unpaid taxes or special assessments, are
17 extinguished.

18 "d. That, except as otherwise provided in paragraph
19 e., the authority has good and marketable fee simple title to
20 the property.

21 "e. That all existing recorded and unrecorded
22 interests in the property are extinguished, except a recorded
23 easement or right-of-way, restrictive covenant, prior
24 reservation or severance of all mineral, mining, oil and gas
25 rights within and underlying the property, such state of facts
26 as shown on recorded plats, or restrictions or covenants
27 imposed under the Alabama Land Recycling and Economic

1 Development Act or any other environmental law in effect in
2 the state, severed oil, gas, and mineral rights and mineral
3 leases and agreements are excepted from Act 2013-249 and any
4 quiet title action authorized herein.

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

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

24 "(m) The authority or a person claiming to have an
25 interest in property under this section may within 42 days
26 following the effective date of the judgment under subsection
27 (k) appeal the circuit court's judgment quieting title to the

1 property to the court of appeals. An appeal under this
2 subsection is limited to the record of the proceedings in the
3 circuit court under this section. In the event of a timely
4 appeal, the circuit court's judgment quieting title to the
5 property shall be stayed until the court of appeals has
6 reversed, modified, or affirmed that judgment. If an appeal
7 under this subsection stays the circuit court's judgment, the
8 circuit court's judgment is stayed only as to the property
9 that is the subject of that appeal and the circuit court's
10 judgment quieting title to other property that is not the
11 subject of that appeal is not stayed.

12 "(n) The authority shall record an order of judgment
13 for each parcel of property in the office of the judge of
14 probate for the county in which the subject property is
15 located.

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

23 "§24-9-10.

24 "(a) If the number of tax delinquent properties in a
25 municipality exceeds ~~1,000~~ 100, then the governing body of a
26 municipality may adopt a resolution declaring that it is wise,
27 expedient, and necessary that a local authority be formed by

1 the municipality by the filing for record of a certificate of
2 incorporation in accordance with the provisions of subsection
3 (c).

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

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

20 "(1) The name of the local unit of government
21 forming the local authority.

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

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

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

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

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

5 "(7) A method for the dissolution of the local
6 authority.

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

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

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

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

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

4 "b. Fix, charge, and collect rents, fees, and
5 charges for use of property under the control of the authority
6 or for services provided by the authority.

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

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

15 "e. Remediate environmental contamination on any
16 property held by the authority.

17 "(2) Enter into an intergovernmental agreement with
18 a municipality or county providing for one or more of the
19 following:

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

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

1 the agreement between the authority and the municipality or
2 county.

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

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

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

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

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

26 "(h) Any local authority formed by a municipality or
27 county pursuant to this section shall continue to exist in

1 accordance with its articles of incorporation and this section
2 in the event that the number of tax delinquent properties in
3 the local jurisdiction forming the authority subsequently
4 decreases to 100 or less."

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