

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

1 SB32

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4 ENROLLED, An Act,

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

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 24-9-6, 24-9-7, 24-9-8, and
20 24-9-10, Code of Alabama 1975, are amended to read as follows:

21 "§24-9-6.

22 "(a) The authority, at such times as it deems to be
23 appropriate, may submit a written request to the Land
24 Commissioner of the Alabama Department of Revenue for the
25 transfer of the state's interest in certain properties to the

1 authority. Upon receipt of such request, the Land Commissioner
2 shall issue a tax deed conveying the state's interest in the
3 property to the authority. The authority shall not be required
4 to pay the amount deemed to have been bid to cover delinquent
5 taxes or any other amount in order to obtain the tax deed.

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

14 "(2) The Land Commissioner or his or her agents or
15 assistants may adopt rules necessary to transfer such
16 properties to the authority.

17 "(c) The authority shall administer properties
18 acquired by it as follows:

19 "(1) All property acquired by the authority shall be
20 inventoried and the inventory shall be maintained as a public
21 record.

22 "(2) The authority shall have the power to manage,
23 maintain, protect, rent, lease, repair, insure, alter, sell,
24 trade, exchange, or otherwise dispose of any property acquired

1 pursuant to subsection (b) (1), on terms and conditions
2 determined in the sole discretion of the authority.

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

6 "§24-9-7.

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

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

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

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

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

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

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

15 "(d) The disposition of property by the authority
16 shall not be governed by any laws or regulations otherwise
17 applicable to the disposition of property by a state or local
18 agency. Provided, however, that, prior to the disposition of
19 property, the authority shall give notice of its intent to
20 dispose of any property for which notice was not previously
21 advertised by the Commissioner of Revenue, or his or her
22 designee, or by a local official in a manner as prescribed by
23 the authority and shall include in the notice the date, time,
24 and place at which persons objecting to the intended action
25 must appear. If no objection is made within 30 days from the

1 date of the notice, the authority may proceed with the
2 disposition of the property as noticed without a public
3 auction.

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

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

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

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

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

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

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

17 "§24-9-8.

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

1 title insurer duly licensed under the Alabama Title Insurance
2 Act as set out in Section 27-25-1, et seq., for the benefit of
3 the authority in order to identify all owners of an interest
4 in the property.

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

1 "(d) The case shall be docketed in the circuit court
2 by the clerk, and shall be a preferred case therein. The
3 circuit court in which a petition is filed under subsection
4 (c) shall immediately set the date, time, and place for a
5 hearing on the petition for quiet title. In no event may the
6 clerk schedule the hearing later than 90 days after the filing
7 of a petition by the authority under subsection (c). The
8 court, on the request of a party or as needed to allow
9 completion of service of process on all interested persons,
10 and to allow those persons 30 days after service of process to
11 file an answer or other responsive pleadings to the petition,
12 may extend the 90-day period for good cause shown.

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

23 "(f) The notice required under subsection (e) shall
24 include:

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

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

7 "(3) A legal description, tax parcel identification
8 number of the property, and the street address of the
9 property.

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

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

17 "(6) The name, address, and telephone number of the
18 authority.

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

23 "(1) The search, at a minimum, shall include the
24 following:

1 "a. An examination of the addresses given on the
2 face of the instrument vesting interest or the addresses given
3 to the clerk of the probate court by the transfer declaration
4 form.

5 "b. A search of the current telephone directory for
6 the municipality and the county in which the property is
7 located.

8 "c. A letter of inquiry to the person who sold the
9 property to the owner whose interest was sold in the tax sale
10 at the address shown in the transfer tax declaration or in the
11 telephone directory.

12 "d. A letter of inquiry to the attorney handling the
13 closing prior to the tax sale if such information is provided
14 on the deed forms.

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

18 ""THIS PROPERTY HAS BEEN CONVEYED TO THE _____
19 LAND BANK AUTHORITY AND IS SUBJECT TO A QUIET TITLE ACTION.
20 PERSONS WITH INFORMATION REGARDING THE PRIOR OWNERSHIP OF OR
21 INTEREST IN THE PROPERTY ARE REQUESTED TO CONTACT THE LAND
22 BANK AUTHORITY AT _____."

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

1 "(h) If the interested party is an individual, the
2 authority shall examine voter registration lists, available
3 municipal archives for records of deaths, and the probate
4 court records of estates opened in the county in which the
5 property is located.

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

9 "(j) If an interested party appears at the hearing
10 and asserts a right to redeem the property, that party may
11 redeem in accordance with Chapter 10 and Chapter 29 of Title
12 40.

13 "(k) (1) If the authority has made the search as
14 required by this section and been unable to locate those
15 persons required to be served under subsection (e), and has
16 located additional addresses of those persons through the
17 search and attempted without success to serve those persons in
18 either manner provided by subsection (e), the authority shall
19 provide notice by publication. Prior to the hearing, a notice
20 shall be published once each week for three successive weeks
21 in a newspaper of general circulation in the county in which
22 the property is located. If no paper is published in that
23 county, publication shall be made in a newspaper of general
24 circulation in an adjoining county. This publication shall
25 substitute for notice under this subsection or subsection (g).

1 The published notice shall include the information required in
2 subsection (f). Should the identity of some or all of the
3 persons who may have an interest in the property be unknown,
4 or should such persons be infants or persons of unsound mind,
5 the court shall appoint a guardian ad litem to represent and
6 defend the interests of such unknown, infant, or incompetent
7 parties in the action.

8 "(2) A person claiming an interest in a parcel of
9 property set forth in the quiet title action who desires to
10 contest that petition shall file an answer containing written
11 objections with the clerk of the circuit court and serve those
12 objections on the authority before the date of the hearing.
13 The circuit court may appoint and utilize as the court
14 considers necessary a special master for assistance with the
15 resolution of any objections to the quiet title action or
16 questions regarding the title to property subject thereto.
17 Within 30 days following the hearing, the circuit court shall
18 enter judgment on a petition to quiet title. The circuit
19 court's judgment shall specify all of the following:

20 "a. The legal description, tax parcel identification
21 number, and, if known, the street address of the subject
22 property.

23 "b. That fee simple title to the property by the
24 judgment is vested absolutely in the authority, except as

1 otherwise provided in paragraph e., without any further rights
2 of redemption.

3 "c. That all liens against the property, including
4 any lien for unpaid taxes or special assessments, are
5 extinguished.

6 "d. That, except as otherwise provided in paragraph
7 e., the authority has good and marketable fee simple title to
8 the property.

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

20 "f. A finding that all persons entitled to notice
21 and an opportunity to be heard have been provided that notice
22 and opportunity and that the authority provided notice to all
23 interested parties or that the authority complied with the
24 notice procedures in subdivision (1), which compliance shall

1 create a rebuttable presumption that all interested parties
2 received notice and an opportunity to be heard.

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

15 "(m) The authority or a person claiming to have an
16 interest in property under this section may within 42 days
17 following the effective date of the judgment under subsection
18 (k) appeal the circuit court's judgment quieting title to the
19 property to the court of appeals. An appeal under this
20 subsection is limited to the record of the proceedings in the
21 circuit court under this section. In the event of a timely
22 appeal, the circuit court's judgment quieting title to the
23 property shall be stayed until the court of appeals has
24 reversed, modified, or affirmed that judgment. If an appeal
25 under this subsection stays the circuit court's judgment, the

1 circuit court's judgment is stayed only as to the property
 2 that is the subject of that appeal and the circuit court's
 3 judgment quieting title to other property that is not the
 4 subject of that appeal is not stayed.

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

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

16 "§24-9-10.

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

24 "(b) If the number of tax delinquent properties in a
 25 municipality exceeds ~~1,000~~ 100, then the governing body of a

1 county may adopt a resolution declaring that it is wise,
2 expedient, and necessary that a local authority be formed by
3 the county by the filing for record of a certificate of
4 incorporation in accordance with the provisions of subsection
5 (c).

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

15 "(1) The name of the local unit of government
16 forming the local authority.

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

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

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

23 "(5) A method for the adoption of bylaws by the
24 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:

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

1 to the municipality or county or another entity pursuant to
2 the agreement between the authority and the municipality or
3 county.

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

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

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

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

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

1 located outside of the geographical boundaries of any local
2 authority created by any municipality or county.

3 "(h) Any local authority formed by a municipality or
4 county pursuant to this section shall continue to exist in
5 accordance with its articles of incorporation and this section
6 in the event that the number of tax delinquent properties in
7 the local jurisdiction forming the authority subsequently
8 decreases to 100 or less.

9 "(i) Any local authority formed by a municipality or
10 county pursuant to this section shall permit the Alabama
11 Department of Examiners of Public Accounts to perform an audit
12 upon request by the department. The department shall assess
13 the cost of the audit against the local authority."

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB32
Senate 16-MAR-21
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 27-APR-21

By: Senator Coleman-Madison