

1           HB349  
2        127365-3  
3        By Representative Todd  
4        RFD: State Government  
5        First Read: 29-MAR-11

ENGROSSED

A BILL

TO BE ENTITLED

## AN ACT

To establish the Alabama Affordable Housing Act, the Alabama Housing Trust Fund, and the Alabama Housing Trust Fund Advisory Committee to increase availability of housing opportunities for individuals and families with incomes at or below 60 percent of the median family income; and to provide for advisory committee members and their duties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as and may be cited as the Alabama Affordable Housing Act.

Section 2. When used in this act, the following words shall have the following meanings:

(1) ADVISORY COMMITTEE. The Alabama Housing Trust Fund Advisory Committee.

(2) ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS (ADECA). As established by Section 41-23-1 of the Code of Alabama 1975.

(3) ALABAMA HOUSING TRUST FUND. The trust fund created pursuant to Section 5.

(4) SIXTY PERCENT OF MEDIAN FAMILY INCOME. A person or persons living together whose annual income or incomes do

1 not exceed 60 percent of the median family income of a  
2 geographic area, as determined by the U.S. Department of  
3 Housing and Urban Development, with adjustments for smaller  
4 and larger families.

5 Section 3. (a) It is hereby found and declared that  
6 Alabama is in need of more safe, decent, and affordable  
7 housing for residents with incomes at or below 60 percent of  
8 the median family income.

9 (b) It is further declared that the lack of  
10 affordable housing in Alabama adversely affects a community's  
11 ability to develop and maintain a viable and stable economy.  
12 The establishment of the Alabama Housing Trust Fund is  
13 intended to:

14 (1) Provide a flexible source of funding for all  
15 Alabama communities to address their affordable housing needs.

16 (2) Help families attain economic stability.

17 (3) Revitalize blighted and distressed neighborhoods  
18 by creating safe, decent, and affordable housing.

19 (4) Contribute to economic growth through increased  
20 housing production, employment, and tax revenue, thereby  
21 benefiting all Alabama residents.

22 (5) Alleviate deficiencies in the supply of safe,  
23 decent, and affordable housing for residents with incomes at  
24 or below 60 percent of the median family income, many of whom  
25 are physically disabled, elderly, victims of domestic  
26 violence, veterans, homeless or on the verge of homelessness,

1 living with HIV/AIDS, or living with developmental  
2 disabilities.

3 (6) Alleviate deficiencies in the supply of safe,  
4 decent, and affordable housing in rural areas of the state.

5 Section 4. The Alabama Affordable Housing Trust Fund  
6 is created in the State Treasury for the collection and  
7 distribution of designated funds for the purpose of increasing  
8 the production of housing units, rehabilitating existing  
9 housing units, and maintaining such housing so that it can be  
10 made affordable to individuals and families whose incomes are  
11 at or below 60 percent of the median family income. The  
12 Alabama Housing Trust Fund shall be administered by ADECA  
13 which shall appoint an advisory committee as prescribed in  
14 Section 9 to advise the Director of ADECA as to program  
15 components and operations. ADECA may, but is not limited to,  
16 use the funds in the form of grants or loans for the  
17 following:

18 (1) Promoting, creating, maintaining, and retaining  
19 home ownership and rental housing options.

20 (2) Acquisition, construction, and rehabilitation.

21 (3) Predevelopment costs.

22 (4) Revolving loan funds.

23 (5) Needs assessments.

24 (6) Resident services provided that they do not  
25 exceed 20 percent of the funds in any one calendar year.

26 (7) Down payment assistance.

27 (8) Permanent supportive housing models.

Section 5. (a) The Alabama Housing Trust Fund shall be maintained and administered by ADECA. ADECA is authorized and directed to do all the following:

(1) Invest and reinvest all money held in the trust fund in investments under ADECA's investment policies, pending its use for the purposes described in Section 7.

(2) Keep books and records relating to the investment, interest earnings, and uses of monies deposited into the trust fund.

(3) Establish procedures for the withdrawal, allocation, and use of the monies held in the trust fund for the purposes described in Section 9.

(4) Publish, on an annual basis, criteria for determining the distribution of funds.

(5) Conduct an annual independent audit of the trust fund.

(6) Prepare, in collaboration with the advisory committee, an annual performance report, which shall be provided to the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate, outlining the use of the trust fund monies, including, but not limited to, the trust fund's success in meeting its intended purposes.

(7) Conduct, or hire an outside entity to conduct a statewide housing needs assessment, once every five years to inform ADECA, its director, and the advisory committee of the affordable housing needs in Alabama. The assessment should

1 include the housing needs for individuals with disabilities,  
2 those living with HIV/AIDS, intellectual disability,  
3 individuals experiencing homelessness, victims of domestic  
4 violence, veterans, and the elderly.

5 (8) Enter into contracts and agreements in  
6 connection with the operation of the trust fund, including  
7 contracts and agreements with federal agencies, local  
8 governmental entities, community developers, and other  
9 persons.

10 (9) Engage in ongoing efforts to increase funding  
11 sources for the trust fund, including any additional ongoing  
12 state-dedicated funding source.

13 (b) ADECA shall seek the input of the Alabama  
14 Housing Trust Fund Advisory Committee, outlined in Section 9  
15 8, but the Director of ADECA will have final decision-making  
16 authority on all matters relating to the trust fund and the  
17 programs administered under Section 4.

18 (c) ADECA shall be periodically paid a reasonable  
19 fee from amounts deposited to the trust fund to reimburse  
20 ADECA for its services in administering the trust fund. On an  
21 annual basis, ADECA shall not be paid in excess of 10 percent  
22 of the total annual deposits to the trust fund.

23 Section 6. (a) The Alabama Affordable Housing Act is  
24 established for the following purposes:

25 (1) To increase the production of housing units and  
26 home ownership and to preserve the supply of rental housing

that is affordable to individuals and families with incomes at or below 60 percent of the median family income.

(2) To maintain and rehabilitate existing affordable housing units to insure their continued availability to individuals and families with incomes at or below 60 percent of the median family income.

(3) To serve individuals and families living at or below 60 percent of the median family income. No less than 50 percent of the resources placed into the fund each year shall be used to serve individuals and families with household incomes at or below 30 percent of the median family income as determined by the U.S. Department of Housing and Urban Development.

(4) To annually distribute, when possible, a majority of the proceeds from the trust fund to eligible nonprofit developers.

(5) To annually distribute no less than 40 percent of funds for activities that provide housing and housing assistance to individuals and families in rural areas and small cities that are classified as the Balance of State under the U.S. Department of Housing and Urban Development's Home Investment Partnership Program.

Section 7. (a) In order for a proposal to be an activity eligible for support, the following minimum requirements must be met:

(1) Beneficiaries of the activity must be individuals or families whose annual income or incomes do not

1 exceed 60 percent of the median family income of a geographic  
2 area, as determined by the U.S. Department of Housing and  
3 Urban Development, with adjustments for smaller and larger  
4 families.

5 (2) Housing to be funded must meet minimum housing  
6 quality standards (HQS) set forth by the U.S. Department of  
7 Housing and Urban Development.

8 (3) Housing to be funded must comply with the design  
9 standards of the Americans with Disabilities Act (ADA).

10 (4) Housing to be funded must meet the same  
11 requirements for duration of affordability as set forth in the  
12 rules of ADECA for its HOME Investment Partnership Program,  
13 with priority given to housing that is to be affordable in  
14 perpetuity.

15 (b) Activities to be funded by the Alabama Housing  
16 Trust Fund shall be selected through a competitive process  
17 under rules to be determined by ADECA with input from the  
18 advisory committee.

19 (c) (1) ADECA shall ensure that activities funded  
20 through the trust fund shall address the housing needs of each  
21 of the following populations, consistent with the input of the  
22 advisory committee and the statewide housing needs assessment:

- 23 a. Disabled.
- 24 b. Elderly.
- 25 c. Victims of domestic violence.
- 26 d. Veterans.
- 27 e. Homeless or on the verge of becoming homeless.

f. Living with an intellectual disability.

g. Living with HIV/AIDS.

(d) (1) The rules of ADECA shall also set forth evaluation criteria, which shall include without limitation the following for all applications:

a. The experience of the entity making the proposal, determined through consideration of the proposer's past history in completing activities of a similar scale and nature.

b. The timeliness with which units will be developed or the activity implemented.

(2) For housing-specific applications, the rules of ADECA shall set forth evaluation criteria, which shall include, without limitation, the following:

a. An evaluation of the property management history of the developer and management agent provided that rental housing is proposed.

b. The number of years a development shall maintain units at affordable rental or sales prices and the strength of enforcement mechanisms to ensure long-term affordability.

c. The number of affordable units being made available to individuals and families whose annual incomes do not exceed 30 percent of the median family income of a geographic area, as determined by the U.S. Department of Housing and Urban Development, with adjustments for smaller and larger families.

d. The degree to which trust fund monies are used to leverage additional funding.

e. The extent to which the activity will leverage or augment local community affordable housing goals or locally adopted affordable housing plans such as revitalization areas or other geographic areas targeted for investment.

f. The extent to which housing produced will be part of a mixed income development or neighborhood.

g. The extent to which the activity serves individuals and families with special needs, including persons who are disabled, elderly, victims of domestic violence, veterans, homeless or on the verge of becoming homeless, living with HIV/AIDS, and those living with intellectual disabilities.

h. The extent to which the activity adheres to energy efficiency, green and health design, and other environmental and sustainability standards.

i. The extent to which housing will be located near transit lines, shopping, community services, and other amenities.

(e) No related entities, principals, or individuals shall be allocated trust fund funds in excess of 15 percent of the state's annual allocation.

Section 8. (a) There is created the Alabama Housing Trust Fund Advisory Committee for the purpose of advising the Director of ADECA and staff of the department with respect to the Alabama Housing Trust Fund.

(1) The membership of the advisory committee shall be inclusive and reflect the racial, gender, geographic, urban/rural and economic diversity of the state. The advisory committee shall annually report to the Legislature by the second legislative day of each regular session the extent to which the advisory committee has complied with the diversity provisions provided for in this act.

(2) Each member of the advisory committee should have a demonstrated interest in the housing needs of individuals and families with extremely low incomes to incomes at 60 percent of median family income and the revitalization of distressed neighborhoods.

(3) The advisory committee shall consist of 15 members and shall include one representative member from each of the following organizations:

a. The Alabama House of Representatives appointed by the Speaker of the House.

b. The Alabama Senate appointed by the Senate President Pro Tempore.

c. The Lieutenant Governor or his or her designee.

d. The Alabama Association of Habitat Affiliates.

e. The Low Income Housing Coalition of Alabama.

f. The Community Action Association of Alabama.

g. The Alabama Alliance to End Homelessness.

h. The Alabama Department of Mental Health.

i. The Alabama Association of Realtors.

j. The Governor's Statewide Interagency Council on Homelessness.

k. The Home Builders Association of Alabama.

1. A member appointed by the Independent Living Resources of Greater Birmingham, Montgomery Center for Independent Living, and Independent Living Center of Mobile.

m. The Alabama Council for Affordable and Rural Housing.

n. The Alabama Bankers Association.

- o. An individual whose income does not exceed 60 percent of the state median family income appointed by the Governor.

(4) To avoid a conflict of interest, or the appearance of a conflict of interest, no sitting committee organization may apply for trust fund dollars during its time on the committee. If an affiliate organization applies for funding, the related committee organization will recuse itself from any discussion or voting on the application.

(5) The term of office of each member of the advisory committee shall be three years. In order to stagger the terms of the members, the initial members of the committee shall draw lots as follows:

a. Six shall be appointed each for a term of one year.

b. Five each for a term of two years.

c. Four each for a term of three years.

No member shall serve more than two consecutive three-year terms, without interruption in service of at least three years.

(6) Each term on the advisory committee shall expire on September 30 of the year in which the term expires. When this occurs, the director or the elected official responsible for appointing the position shall appoint a new member or reappoint the current member. If a vacancy occurs within 90 days of the vacancy, the director shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(7) The director may remove a member of the advisory committee only for neglect of duty, an unexcused failure to attend more than one of the regularly scheduled meetings held in a calendar year during the term in office of the member, malfeasance, violation of this act, or conviction of a felony.

(8) Members of the advisory committee shall receive reimbursement for expenses incurred in the performance of duties as approved by the ADECA Director.

(9) If necessary, ADECA may employ staff to assist the advisory committee in the performance of its functions.

Section 9. (a) The committee's responsibilities shall include the following:

(1) Review and advise ADECA staff on all policies and procedures for operation of the Alabama Housing Trust Fund including, but not limited to:

a. Development of a process for making awards from the trust fund.

b. Development of policies and rules for operating the trust fund including priorities for making awards and criteria for evaluating applications, and delineation of all compliance and reporting responsibility of fund recipients.

(2) Review and advise ADECA staff on the collection and presentation of data on the use and impact of the trust fund and the preparation of an annual performance report to be submitted to the Legislature, Governor, and the public.

(3) Pursue additional sources of revenue in addition to that prescribed by this act.

(4) Ensure that the dedicated resources alleviate the housing crisis for Alabamians by assisting individuals and families with incomes at or below 60 percent of the median family income and targeting hard-to-serve, special needs populations that include individuals who are:

a. Disabled.

b. Elderly.

c. Victims of domestic violence.

d. Veterans.

e. Homeless or on the verge of becoming homeless.

f. Living with an intellectual disability.

#### g. Living with HIV/AIDS.

#### h. Mental illness.

(5) Prepare, in collaboration with ADECA staff, an annual review of the rules, compliance responsibilities, set-asides, funding priorities, policies, funding recommendations and decisions, including any recommended

1 changes to the operation of the trust fund. This review shall  
2 be presented to the Director of ADECA for final approval.

3 (6) The advisory committee shall elect from its  
4 membership a chair, vice chair, and secretary. The advisory  
5 committee shall adopt rules to govern its proceedings. A  
6 majority of the appointed membership of the committee shall  
7 constitute a quorum for all meetings.

8 (7) The advisory committee shall meet within 30 days  
9 after a majority of its first members is appointed, and  
10 thereafter shall hold regular meetings. Minutes of each  
11 meeting of the advisory committee, recording the members  
12 present and the business taken, shall be signed and kept by  
13 the secretary or an assistant secretary appointed by the  
14 advisory committee.

15 Section 10. The following organizations shall be  
16 eligible to apply to ADECA for funding:

- 17 (1) Not-for-profit organizations.
- 18 (2) Municipalities.
- 19 (3) Counties.
- 20 (4) Public housing authorities.

21 (5) For-profit organizations. Profit organizations  
22 that use Alabama Housing Trust Fund monies to provide housing  
23 for extremely low income individuals and families must partner  
24 with not-for-profit organizations that can, if necessary,  
25 provide resident services to ensure housing stability.

1                   Section 11. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.

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House of Representatives

4 Read for the first time and re-  
5 ferred to the House of Representa-  
6 tives committee on State Government  
7 ..... . . . . . 29-MAR-11  
8  
9 Reported from State Government as  
10 Favorable with 2 amendments ..... . . . . . 06-APR-11  
11  
12 Read for the third time and passed  
13 as amended. .... . . . . . 19-APR-11  
14 Yeas 101, Nays 0, Abstains 0

15  
16 Greg Pappas  
17 Clerk  
18