HB406

94ZWMMB-1

By Representatives Clarke, Gray, Bracy, Jones, Brown, Chestnut, Almond, Lands

RFD: Ways and Means General Fund

First Read: 02-Apr-24

SYNOPSIS:

Under existing law, a county housing authority has numerous powers.

This bill would provide further powers to a county housing authority to deal with housing projects and community facilities, including powers to participate in lawful forms of business organizations, make loans, create subsidiaries or other lawful business organizations, and enter into contracts.

This bill would ratify the creation of any wholly-owned subsidiary of a county housing authority.

This bill would further provide for a county housing authority's power to evaluate and award contracts.

This bill would exempt county housing authorities from all taxes.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL

TO BE ENTITLED

AN ACT

Relating to county housing authorities; to amend Sections 24-1-61 and 24-1-66, Code of Alabama 1975; to further provide for the powers of a county housing authority; to ratify certain acts of county housing authorities before the effective date of this act; to exempt county housing authorities from all taxes; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 24-1-61 and 24-1-66, Code of Alabama 1975, are amended to read as follows:

"§24-1-61

~~The~~ For the purposes of this article, the following terms~~, wherever used or referred to in this article shall have the following respective meaning, unless a different meaning clearly appears from the context~~ have the following meanings:

(1) AUTHORITY or HOUSING AUTHORITY. A public body organized as a body corporate and politic in accordance with the provisions of this article for the purposes, with the powers, and subject to the restrictions set forth in this article.

~~(2)~~ (5) COUNTY. All of the county except ~~that~~ any portion which lies within the territorial boundaries of any ~~city or incorporated town~~municipality.

~~(3)~~ (6) COUNTY COMMISSION. The governing body of any county.

~~(4)~~ (9) HOUSING COMMISSIONER. One of the members of an authority appointed in accordance with the provisions of this

article.

~~(5)~~ (8) GOVERNMENT. ~~Such term shall include the~~ The state ~~and~~ or federal governments ~~and~~ or any subdivision, agency, or instrumentality, corporate or otherwise, of either ~~of them~~.

~~(6)~~ (16) STATE. The State of Alabama.

(7) FEDERAL GOVERNMENT. ~~Such term shall include the~~The United States of America, the ~~federal Secretary~~ United States Department of Housing and Urban Development, or any agency, instrumentality, corporate or otherwise, of the United States of America.

~~(8)~~ (10) HOUSING PROJECT. ~~Such term shall include all~~ All real and personal property, buildings and improvements, stores, offices, public school buildings, lands for farming and gardening, and community facilities acquired or constructed, or to be acquired or constructed, pursuant to a single plan of undertaking to demolish, clear, remove, alter, or repair unsanitary or unsafe housing or to provide urban or rural dwelling accommodations at rentals within the means of persons of low income. The term ~~"housing project"~~ may also be applied to the planning of the buildings and improvements~~,~~; the acquisition of property~~,~~; the demolition of existing structures~~,~~; the construction, reconstruction, alteration, and repair of the improvements; and all other work in connection therewith.

~~(9)~~ (3) COMMUNITY FACILITIES. ~~Such term shall include real~~ Real and personal property and buildings and equipment for recreational or social assemblies~~,~~; for educational,

health, or welfare purposes; and necessary utilities, when designed primarily for the benefit and use of the occupants of the dwelling accommodations.

~~(10)~~ (14) PERSONS OF LOW INCOME. ~~Persons~~ Individuals receiving less than the incomes determined by the authority as the amount ~~persons~~ individuals must receive to enable them to pay the rent necessary to secure safe, sanitary, and uncongested dwelling accommodations, other than dwelling accommodations provided by a public housing agency or authority of the county, within the boundaries of the authority. Such determinations by the authority ~~from time to time~~ shall be binding and conclusive for all purposes of this article.

~~(11)~~ (2) BONDS. Any bonds, interim certificates, notes, debentures, warrants, or other obligations of the authority issued pursuant to this article.

(12) MORTGAGE. ~~Such term shall include deeds~~ Deeds of trust, mortgages, building and loan contracts, or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

~~(13)~~ (17) TRUST INDENTURE. ~~Such term shall include instruments~~ Instruments pledging the revenues of real or personal properties, but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

~~(14)~~ (4) CONTRACT. Any agreement of an authority with or for the benefit of an obligee, whether contained in a resolution, trust indenture, mortgage, lease, bond, or other

instrument.

(15) REAL PROPERTY. ~~Such term shall include lands~~Lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise, but only so far as such may, from time to time, be treated as real property by the laws of Alabama applicable to other persons or corporations.

~~(16)~~ (13) OBLIGEE OF THE AUTHORITY or OBLIGEE. ~~Such term shall include any~~ Any bondholder, trustee, or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees of such lessor's interest, or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(11) MIXED-USE PROJECT. Any development project that provides more than one use or purpose within a shared building or development and which may include any combination of housing, lodging, office, retail, medical, recreational, commercial, governmental, industrial, or other components."

"§24-1-66

(a) An authority shall constitute a public body and a body corporate and politic exercising public powers~~, and~~ having all the powers necessary or convenient to carry out and effectuate the purposes ~~and provisions~~ of this article, including the following powers in addition to others granted in this article:

(1) To investigate ~~into~~ living, dwelling, ~~and~~ or housing conditions and ~~into~~ the means and methods of improving ~~such~~ conditions~~;~~.

(2) To determine where unsafe or unsanitary dwelling, public school, or housing conditions exist~~;~~.

(3) To study and make recommendations concerning the plan of the county ~~in relation~~ related to the problem of clearing, replanning, and reconstruction of areas in which unsafe or unsanitary dwelling, public school, or housing conditions exist~~, and~~; the provision of dwelling accommodations for persons of low income~~, and to cooperate~~; and cooperation with the county or any regional planning agency~~;~~.

(4) To prepare, carry out, ~~and~~ or operate housing projects~~;~~.

(5) To provide for the construction, reconstruction, improvement, alteration, or repair of any housing project or any part ~~thereof;~~of a housing project.

(6) To take over by purchase, lease, or otherwise any housing project undertaken by any government or by the county~~;~~.

(7) To manage as agent of the county any housing project constructed or owned by the county~~;~~.

(8) To act as agent for the federal government in connection with the acquisition, construction, operation, or management of a housing project or any part ~~thereof;~~of a housing project.

(9) To arrange with any city or town or the county or

with ~~a~~ any other government for the furnishing, planning, replanning, opening~~,~~ or closing of streets, roads, roadways, alleys, ~~or other~~ places, or facilities, or for the acquisition by the county or ~~a~~ another government~~,~~ of property, options or property rights, or for the furnishing of property or services in connection with a project~~;~~.

(10) To lease or rent any of the ~~dwelling or~~ dwellings, other accommodations ~~or any of the~~, lands, buildings, structures, or facilities embraced in any housing project or community facility and to establish ~~and~~ or revise ~~the~~ rents or charges ~~therefor;~~.

(11) To enter ~~upon~~ any building or property in order to conduct investigations or to make surveys or soundings~~;~~.

(12) To purchase, lease, obtain options upon, acquire by eminent domain, gift, grant, bequest, or devise~~, or otherwise,~~ any property, real or personal, or any interest ~~therein~~ in property from any ~~person, firm, corporation, city, county, or government;~~entity.

(13) To sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest ~~therein~~ in property to any ~~person, firm, corporation, city, county, or government;~~entity.

(14) To own, hold, clear, ~~and~~ or improve property~~;~~.

(15) To insure or provide for the insurance of the property or operations of the authority against ~~such~~ risks as the authority may deem advisable~~;~~.

(16) To procure insurance or guarantees from the federal government of the payment of any debts, or parts

~~thereof~~of debts, secured by mortgages made or held by the authority on any property included in any housing project~~;~~.

(17) To borrow money upon its bonds, notes, warrants, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenues, and, subject to the limitations ~~hereinafter~~ imposed by this article, by mortgages upon property held or to be held by it, or in any other manner~~;~~.

(18) In connection with any loan, to agree to limitations upon its right to dispose of any housing project, or part ~~thereof,~~ of a housing project or to undertake additional housing projects~~;~~.

(19) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this article~~;~~.

(20) To invest any funds held in reserves ~~or~~, sinking funds, or any funds not required for immediate disbursement~~,~~ in property or securities in which savings banks may legally invest funds subject to their control~~;~~.

(21) To sue and be sued~~;~~.

(22) To have a seal and to alter the ~~same at pleasure;~~seal.

(23) To have perpetual succession~~;~~.

(24) To make and execute contracts ~~and~~ or other instruments necessary or convenient to the exercise of the powers of the authority~~;~~.

(25) To make ~~and from time to time~~, amend ~~and~~, or repeal bylaws, rules, ~~and~~ or regulations~~,~~ not inconsistent

with this article~~,~~ to carry into effect the powers ~~and~~ or purposes of the authority~~;~~.

(26) To conduct examinations ~~and~~ or investigations~~ and~~, to hear testimony~~ and~~, or to take proof under oath, at public or private hearings, on any matter material for its information~~;~~.

(27) To issue subpoenas requiring the attendance of witnesses or the production of books ~~and~~ or papers, and to issue commissions for the examination of witnesses who are out of the state~~ or~~, unable to attend before the authority, or excused from attendance~~;~~.

(28) To make available to ~~such~~ any agencies, boards, or commissions ~~as are~~ charged with the duty of abating nuisances or demolishing unsafe or unsanitary structures within ~~its~~ the authority's territorial limits~~,~~ its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare~~; and~~.

(29) To operate, manage, lease, convey, or otherwise deal with any housing project, community facility, or mixed-use project upon terms the authority deems appropriate, useful, or expedient, regardless of who owns, will own, or will acquire the project or facility.

(30) To participate in any lawful form of business organization which may be involved in the development or operational activities of any buildings, structures, facilities, or other improvements constituting a housing project, community facility, or mixed-use project that the

board of directors of the authority determines are appropriate, useful, or expedient to the authority's purposes. An authority shall have the power to appoint an individual to a governing body or to enter into a contract or other agreement with another party for the development, operation, design, marketing, maintenance, financing, leasing, or use of any housing project, community facility, or mixed-use project upon terms the authority's board of directors determines are appropriate, useful, or expedient to the authority's purposes. Any determination by the board of directors shall be conclusive.

(31) To make or arrange for loans, contributions to capital, or other debt or equity financing for the activities of any lawful business organization of which the authority is a member; to guarantee loans, issue bonds, or incur other forms of indebtedness on behalf of any lawful business organization of which the authority is a member; or to loan funds to other entities upon terms the authority determines are appropriate, useful, or expedient for the authority's purposes. Any determination by the board of directors shall be conclusive. Any agreements or contracts entered into by an authority shall be subject to Section 24-1-40.

(32) To create, establish, acquire, operate, or support for profit or not-for-profit subsidiaries or affiliates to assist the authority in fulfilling its purposes.

(33) To create, establish, or support other non-affiliated lawful business organizations that further the authority's purposes.

(34) To accomplish or facilitate the creation, establishment, acquisition, development, operation, or support of any subsidiary, affiliate, or other non-affiliated lawful business organization by means of loans of funds, leases of real or personal property, gifts, or grants of funds or guarantees of indebtedness, or contractual performance of subsidiaries, affiliates, or non-affiliated public or private parties.

(35) To enter contracts, agreements, or understandings with any other party, including, but not limited to, any of the following:

a. Design-build, design-build-operate, design-build-own-operate, design-build-own-operate-maintain, design-build-finance-operate-maintain, or other similar arrangements or agreements pursuant to which the design, right-of-way acquisition, relocation of structures or utilities, construction, financing, ownership, management, maintenance, or operation of a housing project or community facility is accomplished by or on behalf of the authority.

b. Leases, licenses, franchises, concessions, or other agreements for the development, operation, management, financing, or undertaking of all or any part of a housing project or community facility on or on behalf of the authority.

~~(29)~~ (36) To do all things necessary or convenient to carry out the powers given in this article.

(b) Any of the investigations or examinations provided for in this article may be conducted by the authority~~, or~~; by

a committee appointed by ~~it,~~ the authority consisting of one or more housing commissioners~~, or~~; by counsel; or by an officer or employee ~~specially~~ specifically authorized by the authority ~~to conduct it~~. Any housing commissioner, counsel ~~for the authority~~, or ~~any~~ other person designated by ~~it~~ the authority to conduct an investigation or examination ~~shall have power to~~ may administer oaths, take affidavits, ~~and~~ or issue subpoenas or commissions.

(c)(1) An authority may exercise any or all of the powers conferred upon it in this article~~,~~ either generally or, with respect to any specific housing project or ~~projects~~community facility, through or by an agent or agents which it may designate, including any ~~corporation or corporations which are~~ lawful form of business organization that is or ~~shall~~ may be formed under the laws of this state, and for such purposes an authority may cause ~~one or more corporations~~ any lawful form of business organization to be formed under the laws of this state or may acquire ~~the capital stock of any corporation or corporations~~equity interest in any lawful form of business organization.

(2) Any corporate agent, ~~all of the stock of~~ which shall be solely owned by the authority or its nominee or nominees~~, may~~, to the extent permitted by law, may exercise any of the powers conferred upon the authority in this article.

(3) Any corporate agent established under this section that satisfies each of the following criteria shall constitute a governmental entity under Chapter 93 of Title 11 and any

suits in torts against the agent shall be subject to the limitations and provisions of Chapter 93 of Title 11, as applicable to each corporate agent whose assets, operations, and management are legally and effectively controlled by the housing authority and through which the housing authority's functions or policies are implemented:

a. The housing authority's board of commissioners constitutes all of the board of directors of the corporate agent.

b. The housing authority's executive director serves as the president of the corporate agent.

c. The organizational documents of the corporate agent contain provisions that in the event of a change in the controlling interests of the corporate agent, all public housing assets of the corporate agent are returned to the housing authority.

d. The sole purpose for which the corporate agent is formed and authorized is to develop, own, manage, operate, or maintain the housing authority's real property that serves as dwelling accommodations for persons of low income or as a community facility, including any real property the housing authority transfers to the corporate agent for the aforementioned purpose.

(d) In addition to all of the other powers conferred upon it in this section, an authority may do all things necessary and convenient to carry out the powers expressly given in this article. No provisions with respect to the acquisition, operation, or disposition of property by other

public bodies shall be applicable to an authority, unless ~~the Legislature shall~~ specifically ~~so state~~provided by the Legislature.

(e) Any previous creation, establishment, incorporation, or formation by any authority of any business entity wholly owned by the authority, together with all proceedings, acts, or other things undertaken, performed, or done by the entity prior to June 1, 2024, are validated, ratified, confirmed, approved, and declared legal in all respects.

(f) Notwithstanding any provision of law to the contrary, proposals under this section may be evaluated or awarded by the authority based on the qualifications of participants or the best value, or both, as evaluated by the procedures of the authority and taking into consideration the best interests of the authority. Evaluation criteria for a contract procured pursuant to this subsection shall be set forth in the contract's request for proposal. A contract may also be awarded through any existing procurement authority, proposal, or any other means of procurement available to the authority."

Section 2. (a) All of the following shall be exempt from all taxation in this state:

(1) A county housing authority and the authority's property and income.

(2) Bonds issued by the authority.

(3) Income from bonds issued by the authority.

(4) Conveyances to or from the authority.

(5) Leases, mortgages, or deeds of trust to or from the authority.

(b) An authority shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but not limited to, deed taxes, mortgage taxes, license taxes, or excise taxes.

(c) A county housing authority shall be exempt from all fees, taxes, or other costs imposed by a judge of probate.

(d) The exemptions created pursuant to this section shall apply to any wholly-owned subsidiary of a county housing authority.

Section 3. This act shall become effective immediately.