

1 HB56
2 181398-1
3 By Representative South
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 01/25/2017

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8 SYNOPSIS: Under existing law, Alabama Public Housing
9 Authorities have limited tort immunity as a
10 governmental agency.

11 This bill would specify that non-profit
12 affiliates of Alabama Public Housing Authorities
13 that meet prescribed criteria are a governmental
14 entity for purposes of that limited tort immunity.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To amend Section 24-1-27 of the Code of Alabama
21 1975, to provide that non-profit affiliates of Alabama Public
22 Housing Authorities are governmental entities for purposes of
23 limited tort immunity.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 24-1-27 of the Code of Alabama
26 1975 is amended to read as follows:

27 "§24-1-27.

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

7 "(1) To investigate into living, dwelling and
8 housing conditions and into the means and methods of improving
9 such conditions;

10 "(2) To determine where unsafe or unsanitary
11 dwelling, public school or housing conditions exist;

12 "(3) To study and make recommendations concerning
13 the plan of any city located within its boundaries in relation
14 to the problem of clearing, replanning and reconstruction of
15 areas in which unsafe or unsanitary dwelling, public school or
16 housing conditions exist, and the provision of dwelling
17 accommodations for persons of low income, and to cooperate
18 with any city or regional planning agency;

19 "(4) To prepare, carry out and operate housing
20 projects;

21 "(5) To provide for the construction,
22 reconstruction, improvement, alteration or repair of any
23 housing project or any part thereof;

24 "(6) To take over by purchase, lease or otherwise
25 any housing project undertaken by any government or by any
26 city located within its boundaries;

1 "(7) To manage, as agent of any city located within
2 its boundaries, any housing project constructed or owned by
3 such city;

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

7 "(9) To arrange with any city located within its
8 boundaries or with a government for the furnishing, planning,
9 replanning, opening or closing of streets, roads, roadways,
10 alleys or other places or facilities, or for the acquisition
11 by such city, or a government, of property, options or
12 property rights or for the furnishing of property or services
13 in connection with a project;

14 "(10) To lease or rent any of the dwelling or other
15 accommodations or any of the lands, buildings, structures or
16 facilities embraced in any housing project and to establish
17 and revise the rents or charges therefor;

18 "(11) To enter upon any building or property in
19 order to conduct investigations or to make surveys or
20 soundings;

21 "(12) To purchase, lease, obtain options upon,
22 acquire by eminent domain, gift, grant, bequest, devise or
23 otherwise, any property, real or personal, or any interest
24 therein from any person, firm, corporation, city or
25 government;

1 "(13) To sell, exchange, transfer, assign or pledge
2 any property, real or personal, or any interest therein to any
3 person, firm, corporation, city or government;

4 "(14) To own, hold, clear and improve property;

5 "(15) To pay over to the city in which the authority
6 is organized all or any part of the proceeds received from the
7 sale of any real or personal property; provided, however, that
8 an authority may pay over such proceeds to the city in which
9 it is organized only in such manner and to such extent that
10 such payment will not violate the terms of any then existing
11 contract to which the authority is a party; and, provided
12 further, that an authority shall have no power to so pay over
13 any part of the proceeds derived from the sale of any real or
14 personal property acquired in connection with a redevelopment
15 project, as that term is defined in Section 24-1-4;

16 "(16) To insure or provide for the insurance of the
17 property or operations of the authority against such risks as
18 the authority may deem advisable;

19 "(17) To procure insurance or guarantees from the
20 federal government of the payment of any debts, or parts
21 thereof, secured by mortgages made or held by the authority on
22 any property included in any housing project;

23 "(18) To borrow money upon its bonds, notes,
24 warrants, debentures or other evidences of indebtedness, and
25 to secure the same by pledges of its revenues, and, subject to
26 the limitations hereinafter imposed, by mortgages upon
27 property held or to be held by it, or in any other manner;

1 "(19) In connection with any loan, to agree to
2 limitations upon its right to dispose of any housing project,
3 or part thereof, or to undertake additional housing projects;

4 "(20) In connection with any loan by a government,
5 to agree to limitations upon the exercise of any powers
6 conferred upon the authority by this article;

7 "(21) To invest any funds held in reserves or
8 sinking funds, or any funds not required for immediate
9 disbursement, in property or securities in which savings banks
10 may legally invest funds subject to their control;

11 "(22) To sue and be sued;

12 "(23) To have a seal and to alter the same at
13 pleasure;

14 "(24) To have perpetual succession;

15 "(25) To make and execute contracts and other
16 instruments necessary or convenient to the exercise of the
17 powers of the authority;

18 "(26) To make and from time to time amend and repeal
19 bylaws, rules and regulations, not inconsistent with this
20 article, to carry into effect the powers and purposes of the
21 authority;

22 "(27) To conduct examinations and investigations and
23 to hear testimony and take proof under oath, at public or
24 private hearings, on any matter material for its information;

25 "(28) To issue subpoenas requiring the attendance of
26 witnesses or the production of books and papers and to issue
27 commissions for the examination of witnesses who are out of

1 the state or unable to attend before the authority or excused
2 from attendance;

3 "(29) To make available to such agencies, boards or
4 commissions as are charged with the duty of abating nuisances
5 or demolishing unsafe or unsanitary structures within its
6 territorial limits, its findings and recommendations with
7 regard to any building or property where conditions exist
8 which are dangerous to the public health, morals, safety or
9 welfare; and

10 "(30) To do all things necessary or convenient to
11 carry out the powers given in this article.

12 "(b) Any of the investigations or examinations
13 provided for in this article may be conducted by the
14 authority, or by a committee appointed by it, consisting of
15 one or more commissioners, or by counsel or by an officer or
16 employee especially authorized by the authority to conduct it.
17 Any commissioner, counsel for the authority or any person
18 designated by it to conduct an investigation or examination
19 shall have power to administer oaths, take affidavits and
20 issue subpoenas or commissions.

21 "(c) (1) An authority may exercise any or all of the
22 powers conferred upon it in this article either generally, or
23 with respect to any specific housing project or projects,
24 through or by an agent or agents which it may designate,
25 including any corporation or corporations which are or shall
26 be formed under the laws of this state, and for such purposes
27 an authority may cause one or more corporations to be formed

1 under the laws of this state or may acquire the capital stock
2 of any corporation or corporations.

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

7 "(3) Any corporate agent established under this
8 section that satisfies each of the following criteria shall
9 constitute a governmental entity under Chapter 93 of Title 11
10 and any suits in tort against the agent shall be subject to
11 the limitations and provisions of Chapter 93 of Title 11, as
12 applicable to each such corporate agent whose assets,
13 operations, and management are legally and effectively
14 controlled by the housing authority and through which the
15 housing authority's functions or policies are implemented:

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

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

21 "c. The organizational documents of the corporate
22 agent contain provisions that in the event of a change in the
23 controlling interest of the corporate agent, all public
24 housing assets of the corporate agent are returned to the
25 housing authority.

26 "d. The sole purpose for which the corporate agent
27 is formed and authorized is to develop, own, manage, operate,

1 or maintain the housing authority's real property that serves
2 as dwelling accommodations for persons of low income,
3 including any real property the housing authority transfers to
4 the corporate agent for the aforementioned purpose.

5 "~~(d)~~ (e) In addition to all of the other powers
6 conferred upon it in this section, an authority may do all
7 things necessary and convenient to carry out the power
8 expressly given in this article. No provisions with respect to
9 the acquisition, operation or disposition of property by other
10 public bodies shall be applicable to an authority, unless the
11 Legislature shall specifically so state."

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