

1 HB397
2 157797-1
3 By Representative Laird
4 RFD: State Government
5 First Read: 04-FEB-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, certain sales or leases
9 of real property owned by the state must be handled
10 by the State Lands Division of the Department of
11 Conservation and Natural Resources, which is
12 responsible for competitively bidding the sale or
13 lease.

14 Under existing law, transfers of property
15 between certain departments, boards, commissions,
16 agencies, and other entities of the state, and real
17 property transactions by certain commissions and
18 authorities are exempt from these requirements.

19 This bill would add the Alabama Mental
20 Health Finance Authority to the state entities that
21 may sell and lease their own real property.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Section 9-15-82, Code of Alabama 1975; to
2 add the Alabama Mental Health Finance Authority to the state
3 entities exempt from certain requirements regarding the sale
4 and lease of real property owned by the authority.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 9-15-82, Code of Alabama 1975, is
7 amended to read as follows:

8 "§9-15-82.

9 "(a) This article shall not apply to the transfers
10 of real property between departments, boards, bureaus,
11 commissions, institutions, corporations, or agencies of the
12 state. These transfers may be made by mutual agreements
13 between the chief executive officers of the respective
14 departments with the approval of the Governor. This article
15 shall not apply to the leasing or sale of timber from unused
16 lands under Section 9-15-1 et seq.; to the leasing or sale of
17 timber from school lands and swamp and overflowed lands under
18 Section 9-15-30 et seq.; to the leasing of oil, gas, and other
19 minerals under Section 9-17-60 et seq.; real property sold by
20 the Department of Revenue under tax sales and redemptions; to
21 the sale of property by the Alabama Historical Commission
22 under Section 41-9-249(7); to reversions made under Section
23 31-4-18; to the sale or conveyance of real property by the
24 Alabama Housing Finance Authority or the Alabama Mental Health
25 Finance Authority; to the sale or lease of any interest in
26 real property owned for investment purposes by any trust fund
27 administered by the Division of Risk Management; or to

1 property traded in right of way negotiations or sales of
2 excess right of way or uneconomic remnants by the State
3 Department of Transportation. Notwithstanding any other
4 provisions of this article, the Alabama Forestry Commission
5 shall have the authority to conduct real property sales in
6 accordance with this article without going through the Lands
7 Division. In so doing, the Alabama Forestry Commission shall
8 comply with all other provisions of this article. This article
9 shall not apply to the granting of easements, rights-of-way
10 for utilities, roads, streets, and sidewalks where there is no
11 competitive market. Notwithstanding any other provision of
12 this article, institutions and systems of higher education
13 with separately constituted boards of trustees or those
14 institutions of higher education subject to the supervision
15 and authority of the State Board of Education that have
16 written policies and procedures governing transfers of
17 interest in real property have the authority to conduct real
18 property sales and leases by public auction or publicly sought
19 sealed bid in accordance with procedures in the article for
20 advertising and receiving bids, without going through the
21 Lands Division of the state Department of Conservation and
22 Natural Resources. Furthermore, in those cases in which it can
23 be economically justified and it is deemed to be in the best
24 interest of the institution or system and the State of Alabama
25 to offer an interest in real property for sale or lease
26 through a listing with a duly licensed real estate broker who
27 shall publicize the offer in accordance with customary

1 practices or through negotiation after publicly announced
2 requests for proposals to sell or lease the property are made,
3 rather than through a procedure otherwise described in this
4 article, the institution or system may do so, provided that a
5 written declaration setting forth the specific reasons why it
6 is deemed to be in the best interest of the institution or
7 system and the State of Alabama to make specific sale or lease
8 in question in such manner is made by an agent of the
9 institution authorized by the board of trustees or the State
10 Board of Education, and subsequently ratified by the board of
11 trustees or the State Board of Education and the document
12 shall be retained and made a part of the permanent file and
13 shall be open to public inspection. Sales and leases
14 transacted as described in this section shall be deemed to be
15 in compliance with all provisions of this article. Ground
16 leases and leases of facilities by institutions of higher
17 education to social or professional organizations, faculty
18 members, employees, or for institution-related purposes which
19 are designed to enhance the operation of the institution and
20 are declared to be in the best interest of the institution by
21 the board of trustees or the State Board of Education, are
22 exempt from the provisions of this article. Such declaration
23 shall be maintained as aforesaid.

24 "(b) Except as set out hereinafter, nothing herein
25 contained shall be construed to apply in any manner to the
26 sale or lease of any real property or any interest therein
27 owned in whole or in part by any county or municipal board of

1 education, any county or municipal government or any of their
2 respective boards, agencies, departments, corporations, or
3 instrumentalities including corporations and/or boards in
4 regard to which any county or municipal governing body is a
5 determining or appointing authority. Provided that nothing
6 herein contained shall be construed to apply in any manner to
7 the sale or lease of any real property or interest therein
8 owned by the State of Alabama and the departments, boards,
9 bureaus, commissions, instrumentalities, corporations, and
10 agencies of the state to the United States government, any
11 county or municipal board of education, any county or
12 municipal governing body or any of their respective boards,
13 agencies, departments, corporations, or instrumentalities
14 including corporations and/or boards in regard to which any
15 county or municipal governing body is a determining or
16 appointing authority, subject to the condition that such
17 property or any interest therein is not resold, leased, or
18 otherwise transferred in whole or in part, within three years,
19 to any private person, firm, or corporation without compliance
20 with the provisions of this article. Provided, however, that
21 if the property is to be sold within three years from the date
22 it was acquired, the state shall have the right to repurchase
23 the property at the price it was sold by the state. Provided,
24 further, that all such transactions between the United States
25 government, any county or municipal board of education, any
26 county or municipal government, or any of their respective
27 boards, agencies, departments, corporations, or

1 instrumentalities including corporations or boards and the
2 state or any department, board, bureau, commissions,
3 instrumentalities, corporations, and agencies of the state
4 shall have the approval of the Governor and written notice of
5 such transaction shall be given to the Lands Division of the
6 Department of Conservation and Natural Resources at least 30
7 days before the closing of such transaction.

8 "(c) Notwithstanding any other provision of this
9 article, this article shall not apply to lease-leaseback
10 transactions entered into by institutions and systems of
11 higher education with separately constituted boards of
12 trustees provided that any such institution or system of
13 higher education shall at all times remain the owner of any
14 real property the subject of any such lease-leaseback
15 transaction.

16 "(d) Notwithstanding any other provision of this
17 article, this section shall not apply to the sale, lease, or
18 transfer of any property owned by a municipal commercial
19 development authority subject to Article 6, commencing with
20 Section 11-54-170, of Chapter 54 of Title 11."

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