

1 HB352
2 136285-2
3 By Representative Hubbard (J)
4 RFD: County and Municipal Government
5 First Read: 16-FEB-12

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to Class 3 municipalities; to authorize
9 Class 3 municipalities to file an expedited quiet title and
10 foreclosure action in circuit court to establish clear title
11 to abandoned tax sale properties within the corporate limits
12 that are acquired from the State Land Commissioner pursuant to
13 Chapter 10, Title 40, Code of Alabama 1975; and to provide for
14 the procedure and due process for the action in circuit court.
15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall apply only in a Class 3
17 municipality and provides the exclusive procedure for an
18 expedited quiet title and foreclosure action for a Class 3
19 municipality, notwithstanding Section 24-9-8, Code of Alabama
20 1975. Section 40-10-82, Code of Alabama 1975, as amended,
21 shall not apply to, restrict, or otherwise affect any cause of
22 ~~action brought by a Class 3 municipality pursuant to this act.~~
23 action or action brought by a Class 3 municipality pursuant to
24 this act and shall not remove any limitation of action or
25 extend the period of redemption of any abandoned tax sale
26 properties within the corporate limits of the Class 3
27 municipality acquired by it from the State Land Commissioner.

1 Section 2. (a) Any Class 3 municipality may initiate
2 an expedited quiet title and foreclosure action under this
3 section against a parcel of tax sale property located within
4 its municipal limits and purchased by the municipality from
5 the State Land Commissioner. The municipality shall record, in
6 the office of the judge of probate in the county in which the
7 property is located, a notice of its intention to file an
8 expedited quiet title and foreclosure action. The notice shall
9 include a legal description of the property, street address of
10 the property if available, a statement that the property is
11 subject to expedited quiet title and foreclosure proceedings
12 under this act, and a statement that those proceedings may
13 extinguish any legal interests in the property. As used
14 herein, "interested parties" shall mean the owner, his or her
15 heirs or personal representatives, any mortgagee or purchaser
16 of the subject property or any part thereof, and any party
17 with an interest in the property, or in any part thereof,
18 legal or equitable, in severalty or as tenant in common,
19 including a judgment creditor or other creditor having a lien
20 thereon, or any part thereof.

21 (b) The municipality shall make a good faith effort
22 to identify the interested parties and the addresses at which
23 they can be reached. The municipality shall be presumed to
24 have made a good faith effort to identify interested parties
25 if it does all of the following:

1 (1) Erects a sign not less than four feet by six
2 feet on the property and maintains it for a minimum of 30
3 days, which must read as follows:

4 THIS PROPERTY WAS SOLD TO THE CITY OF
5 _____ FOR UNPAID TAXES. ANYONE WITH
6 INFORMATION ABOUT THE OWNER OF THIS PROPERTY,
7 PLEASE CALL _____.

8 (2) Examines the addresses that appear on the face
9 of the recorded deeds, mortgages, and relevant instruments.

10 (3) Examines the records of the tax assessor or
11 revenue commissioner to find the names and addresses of all
12 parties who paid taxes in the five-year period prior to the
13 date of the tax sale; provided, however, that the municipality
14 is not required to search for parties who paid taxes more than
15 20 years prior to the year of the inquiry.

16 (4) If the interested party is an individual, the
17 municipality shall examine voter registration lists, available
18 municipal archives for records of deaths, and the probate
19 court records of estates opened in the county in which the
20 property is located.

21 (5) If the interested party is a business entity,
22 the municipality shall search the records of the Secretary of
23 State for the name and address of a registered agent.

24 Section 3. The municipality may file a single
25 petition with the clerk of the circuit court for the judicial
26 circuit in which the subject property is located for an order
27 to quiet title and expedite foreclosure to one or more parcels

1 of property under this section. The petition shall identify
2 each parcel by its legal description, tax parcel number, and
3 street address, if available, and shall be served on all
4 interested parties identified in accordance with subsection
5 (b) of Section 2.

6 Section 4. The circuit court petition under Section
7 3 shall set the date, time, and place for a hearing on the
8 petition within 90 days. The court, on the request of a party,
9 may extend the 90-day period for good cause shown.

10 Section 5. (a) Not less than 30 days before the date
11 on which the hearing on the quiet title and foreclosure
12 petition is scheduled, the municipality shall do both of the
13 following:

14 (1) Send a notice of the hearing to the interested
15 parties identified under subsection (b) of Section 2 for each
16 parcel named in the petition by both certified mail, return
17 receipt requested, and regular mail.

18 (2) Post conspicuously on each property named in the
19 petition notice of the hearing which includes the following
20 statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO [NAME OF
21 MUNICIPALITY] AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND
22 FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE
23 PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [THE
24 MUNICIPALITY]."

25 (b) Notices provided to the interested parties under
26 this section shall include all of the following:

1 (1) The date on which the municipality recorded in
2 probate court its notice of the pending expedited quiet title
3 and foreclosure action under subsection (a) of Section 2.

4 (2) A legal description, tax parcel identification
5 number, and the street address of the property, if available.

6 (3) The interested party or parties to whom the
7 notice is addressed.

8 (4) The date, time, and place for the hearing on the
9 petition for expedited quiet title and foreclosure and a
10 statement that the judgment of the court may result in title
11 to the property vesting in the municipality.

12 (5) Notice that the judgment of the court in the
13 quiet title and foreclosure hearing may extinguish any
14 ownership interest in, liens against, right to redeem, or any
15 claim whatsoever secured by the property.

16 (6) The name, address, and telephone number of the
17 municipality.

18 (7) A statement that persons with information
19 regarding the owner or prior owner of any of the properties
20 are requested to contact the municipality.

21 (8) That any party seeking to redeem the property
22 will be required to pay all taxes, interest, penalties, and
23 fees and any other charges due and owing under Chapter 10 of
24 Title 40, Code of Alabama 1975.

25 Section 6. If the municipality is unable to identify
26 the names and addresses of interested parties, or is unable to
27 provide notice under Section 5, the municipality shall apply

1 to the circuit court for an order to allow notice by
2 publication. If so ordered, the municipality shall publish a
3 notice once each week for three consecutive weeks in a
4 newspaper of general circulation in the county in which the
5 property is located. If no newspaper is published in that
6 county, publication shall be made in a newspaper of general
7 circulation in an adjoining county. This publication shall
8 substitute for notice under subdivision (1) of subsection (a)
9 of Section 5. The published notice shall include the
10 information listed in subsection (b) of Section 5. If the
11 municipality discovers the name and address of an interested
12 party following publication, it shall notify that party of the
13 expedited quiet title and foreclosure action in accordance
14 with subdivision (1) of subsection (a) of Section 5 as soon as
15 practicable, in which case notice shall be brought to the
16 attention of the court which shall postpone the hearing for a
17 period of time sufficient to give such notice to the newly
18 discovered party.

19 Section 7. Prior to the circuit court hearing on the
20 expedited quiet title and foreclosure action, the municipality
21 shall file with the clerk of the circuit court proof of notice
22 to the interested parties by certified and regular mail and of
23 the posting on the property under subdivision (2) of
24 subsection (a) of Section 5, along with proof of notice by
25 publication under Section 6, if applicable. An interested
26 party who desires to contest the petition shall file written
27 objections with the clerk of the circuit court and serve those

1 objections on the municipality at least two weeks prior to the
2 date of the hearing. If the court denies the petition, the
3 denial shall not preclude the municipality from filing another
4 petition for expedited quiet title and foreclosure on that
5 parcel. No injunction shall issue to stay an expedited quiet
6 title and foreclosure action under this section.

7 Section 8. (a) If an interested party appears at the
8 hearing and asserts a right to redeem the property, that party
9 may redeem in accordance with Chapter 10 of Title 40, Code of
10 Alabama 1975.

11 (b) If an interested party appears and fails to
12 redeem, or if no one appears, the circuit court shall enter
13 judgment on the petition not more than 10 days after the date
14 the matter was heard.

15 (c) The judgment of the circuit court shall specify
16 all of the following:

17 (1) The legal description, tax parcel identification
18 number, and, if known, the street address of the property
19 foreclosed.

20 (2) That fee simple title to property foreclosed by
21 the judgment is vested absolutely in the municipality, except
22 as otherwise provided in subdivision (5), without any further
23 rights of redemption.

24 (3) That all liens against the property, including
25 any lien for unpaid taxes or special assessments, are
26 extinguished.

1 (4) That the municipality has good and marketable
2 fee simple title to the property.

3 (5) That all existing recorded and unrecorded
4 interests in the property are extinguished, except for
5 easements or right-of-way, private deed restrictions, plat
6 restrictions, or restrictions or covenants imposed under the
7 Alabama Land Recycling and Economic Development Act or any
8 other environmental law in effect in the state.

9 (6) That the municipality provided notice to all
10 interested parties or that the municipality complied with the
11 notice procedures in Section 5, which compliance shall create
12 a rebuttable presumption that all interested parties received
13 notice and an opportunity to be heard.

14 Section 9. A municipality or interested party may,
15 within 42 days following the effective date of the judgment,
16 appeal the judgment of the circuit court to the Court of Civil
17 Appeals. Any party appealing from an order vesting title in
18 the municipality shall, as a condition of the appeal, identify
19 the parcel which is the subject of the appeal and, with
20 respect to that parcel, post a bond with at least one solvent
21 surety in the amount due to redeem the property under Chapter
22 10, Title 40, Code of Alabama 1975. The appeal shall stay the
23 order of the circuit court only with respect to each parcel
24 identified as the subject of the appeal. The order of the
25 circuit court shall be affirmed absent a defect in the
26 identification of the property or in the notice such that the
27 notice deprived a party of the right to due process of law.

1 The order shall not be reversed on the basis of merely
2 technical noncompliance with this section.

3 Section 10. The municipality shall record the
4 court's order in the probate court following the 42-day period
5 after the entry of the order if no appeal is filed or after a
6 final judgment on appeal from the decision of the circuit
7 court on the municipality's petition for an expedited quiet
8 title and foreclosure action.

9 Section 11. All laws or parts of laws which conflict
10 with this act are repealed.

11 Section 12. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on County and Municipal Government..... 16-FEB-12

Read for the second time and placed on the calendar 1 amendment 01-MAR-12

Read for the third time and passed as amended..... 15-MAR-12

Yeas 85, Nays 8, Abstains 1

Greg Pappas
Clerk