

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

1
2 ENROLLED, An Act,

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

11 Section 1. This act shall apply only in a Class 3
12 municipality and provides the exclusive procedure for an
13 expedited quiet title and foreclosure action for a Class 3
14 municipality, notwithstanding Section 24-9-8, Code of Alabama
15 1975. Section 40-10-82, Code of Alabama 1975, as amended,
16 shall not apply to, restrict, or otherwise affect any cause of
17 ~~action brought by a Class 3 municipality pursuant to this act.~~
18 action or action brought by a Class 3 municipality pursuant to
19 this act and shall not remove any limitation of action or
20 extend the period of redemption of any abandoned tax sale
21 properties within the corporate limits of the Class 3
22 municipality acquired by it from the State Land Commissioner.

23 Section 2. (a) Any Class 3 municipality may initiate
24 an expedited quiet title and foreclosure action under this
25 section against a parcel of tax sale property located within

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

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

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

1 THIS PROPERTY WAS SOLD TO THE CITY OF
2 _____ FOR UNPAID TAXES. ANYONE WITH
3 INFORMATION ABOUT THE OWNER OF THIS PROPERTY,
4 PLEASE CALL _____.

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

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

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

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

21 Section 3. The municipality may file a single
22 petition with the clerk of the circuit court for the judicial
23 circuit in which the subject property is located for an order
24 to quiet title and expedite foreclosure to one or more parcels
25 of property under this section. The petition shall identify

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

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

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

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

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

24 (b) Notices provided to the interested parties under
25 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.

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

22 Section 7. Prior to the circuit court hearing on the
23 expedited quiet title and foreclosure action, the municipality
24 shall file with the clerk of the circuit court proof of notice
25 to the interested parties by certified and regular mail and of

1 the posting on the property under subdivision (2) of
2 subsection (a) of Section 5, along with proof of notice by
3 publication under Section 6, if applicable. An interested
4 party who desires to contest the petition shall file written
5 objections with the clerk of the circuit court and serve those
6 objections on the municipality at least two weeks prior to the
7 date of the hearing. If the court denies the petition, the
8 denial shall not preclude the municipality from filing another
9 petition for expedited quiet title and foreclosure on that
10 parcel. No injunction shall issue to stay an expedited quiet
11 title and foreclosure action under this section.

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

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

20 (c) The judgment of the circuit court shall specify
21 all of the following:

22 (1) The legal description, tax parcel identification
23 number, and, if known, the street address of the property
24 foreclosed.

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

5 (3) That all liens against the property, including
6 any lien for unpaid taxes or special assessments, are
7 extinguished.

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

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

16 (6) That the municipality provided notice to all
17 interested parties or that the municipality complied with the
18 notice procedures in Section 5, which compliance shall create
19 a rebuttable presumption that all interested parties received
20 notice and an opportunity to be heard.

21 Section 9. A municipality or interested party may,
22 within 42 days following the effective date of the judgment,
23 appeal the judgment of the circuit court to the Court of Civil
24 Appeals. Any party appealing from an order vesting title in
25 the municipality shall, as a condition of the appeal, identify

1 the parcel which is the subject of the appeal and, with
2 respect to that parcel, post a bond with at least one solvent
3 surety in the amount due to redeem the property under Chapter
4 10, Title 40, Code of Alabama 1975. The appeal shall stay the
5 order of the circuit court only with respect to each parcel
6 identified as the subject of the appeal. The order of the
7 circuit court shall be affirmed absent a defect in the
8 identification of the property or in the notice such that the
9 notice deprived a party of the right to due process of law.
10 The order shall not be reversed on the basis of merely
11 technical noncompliance with this section.

12 Section 10. The municipality shall record the
13 court's order in the probate court following the 42-day period
14 after the entry of the order if no appeal is filed or after a
15 final judgment on appeal from the decision of the circuit
16 court on the municipality's petition for an expedited quiet
17 title and foreclosure action.

18 Section 11. All laws or parts of laws which conflict
19 with this act are repealed.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 15-MAR-12, as amended.

Greg Pappas
Clerk

Senate	<hr/> 10-MAY-12 <hr/>	Amended and Passed
House	16-MAY-12 <hr/>	Passed, as amended by Conference Com- mittee Report
Senate	<hr/> 16-MAY-12 <hr/>	Passed, as amended by Conference Com- mittee Report