

1 SB263
2 127563-1
3 By Senator Blackwell
4 RFD: Judiciary
5 First Read: 24-MAR-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, certain parties may
9 redeem real property sold pursuant to an execution,
10 judgment, or foreclosure sale for up to one year
11 from the date of the sale.

12 This bill would reduce the time period to
13 exercise the right of redemption for all property
14 other than agricultural property to 90 days from
15 the date of the execution, judgment, or foreclosure
16 sale, but would retain the one-year period to
17 exercise the right of redemption for property used
18 for agricultural or forestry purposes. The bill
19 would apply to all foreclosure sales that occur on
20 or after September 1, 2011.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Section 6-5-248, Code of Alabama 1975,
27 relating to redemption of real property that is sold pursuant

1 to an execution, judgment, or foreclosure sale; to reduce the
2 period of time to exercise the right of redemption for all
3 property other than agricultural or forestry; and to provide
4 that this redemption period will apply on and after September
5 1, 2011.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 6-5-248, Code of Alabama 1975, is
8 amended to read as follows:

9 "§6-5-248.

10 "(a) Where real estate, or any interest therein, is
11 sold the same may be redeemed by:

12 "(1) Any debtor, including any surety or guarantor.

13 "(2) Any mortgagor, even if such mortgagor is not
14 personally liable for payment of a debt.

15 "(3) Any junior mortgagee, or its transferee.

16 "(4) Judgment creditor, or its transferee.

17 "(5) Any transferee of the interests of the debtor
18 or mortgagor, either before or after the sale. A transfer of
19 any kind made by the debtor or mortgagor will accomplish a
20 transfer of the interests of that party.

21 "(6) The respective spouses of all debtors,
22 mortgagors, or transferees of any interest of the debtor or
23 mortgagor, who are spouses on the day of the execution,
24 judgment, or foreclosure sale.

25 "(7) Children, heirs, or devisees of any debtor or
26 mortgagor.

1 "(b) (1) Except as set forth in subdivision (2), all
2 ~~All~~ persons named or enumerated in subdivisions (a) (1) through
3 (a) (7) may exercise the right of redemption granted by this
4 article within ~~one year~~ 90 days from the date of the sale.

5 "(2) All persons named or enumerated in subdivisions
6 (a) (1) through (a) (7) may exercise the right of redemption
7 granted by this article within one year from the date of the
8 sale for any property that is classified and assessed on the
9 date of sale as agricultural or forestry property pursuant to
10 subdivision (1) of subsection (b) of Section 40-8-1.

11 "(c) When any judgment creditor or junior mortgagee
12 or any transferee of a judgment creditor or a junior mortgagee
13 redeems under this article, all recorded judgments, recorded
14 mortgages and recorded liens having a higher recorded priority
15 in existence at the time of the sale are revived against the
16 real estate redeemed and against the redeeming party and such
17 shall become lawful charges pursuant to Section 6-5-253(a) (4)
18 to be paid off at redemption.

19 "Once any lienholder, recorded judgment creditor, or
20 junior mortgagee is paid the amount of such person's debt and
21 any accrued interest and other contractual charges, such
22 person has no further right to redeem.

23 "Any lienholder, recorded judgment creditor, or
24 junior mortgagee with a lower recorded priority may redeem
25 from those having a higher recorded priority who have
26 redeemed.

1 "(d) When any debtor, mortgagor, their transferees,
2 their respective spouses, children, heirs, or devisees redeem,
3 all recorded judgments, recorded mortgages, and recorded liens
4 in existence at the time of the sale, are revived against the
5 real estate redeemed and against the redeeming party and
6 further redemption by some party other than the mortgagor or
7 debtor under this article is precluded.

8 "(e) When any debtor or mortgagor conveys his
9 interest in property subject to a mortgage prior to sale
10 wherein they are released from liability for the debt, his
11 right of redemption under this article is terminated. In the
12 same manner, the right of redemption granted under this
13 article to the spouses, children, heirs, or devisees of
14 debtors or mortgagors terminates when the debtors or
15 mortgagors have conveyed their interests in the property and
16 are released from liability for the debt.

17 "However, where debtors or mortgagors have conveyed
18 their interests in the property but remain liable on the debt
19 and are debtors at the date of the foreclosure sale, the
20 debtors and mortgagors retain their right of redemption under
21 this article and in the same manner, their spouses, children,
22 heirs or devisees continue to be entitled to the right of
23 redemption under this article.

24 "(f) A redemption made by any person under this
25 article, other than the debtors or mortgagors, and their
26 respective spouses, children, heirs, or devisees, shall
27 preclude any further redemption by such person.

1 "(g) Subject to subsection (e), a mortgagor and
2 debtor have priority over any other redeeming party and a
3 mortgagor has priority over a debtor."

4 Section 2. This act shall apply to all execution,
5 judgment, and foreclosure sales conducted on and after
6 September 1, 2011.

7 Section 3. This act shall become effective upon
8 approval by the Governor, or its otherwise becoming law.