

1 HB256
2 164938-1
3 By Representatives Johnson (K), Greer, Lee, Henry, Collins,
4 Fridy, Davis, Moore (B), Beckman, Butler, Fincher, Garrett,
5 Ledbetter, Tuggle, Wingo, Martin, Black, Hill (M), South,
6 Shedd, Ingram, Ford, Hurst, Chesteen, Pringle, Brown,
7 Nordgren, Jones, Sessions, Boothe, Beech, Ball, Baker,
8 Sanderford, Mooney, Rich, Pettus, Whorton (R), Patterson,
9 Daniels and Williams (JD)
10 RFD: Judiciary
11 First Read: 11-MAR-15

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8 SYNOPSIS: Under existing law, a person has one year to
9 redeem real property that is sold for nonpayment of
10 taxes or that is foreclosed on.

11 This bill would reduce the redemption period
12 to 90 days for residential property on which a
13 homestead exemption was claimed in the tax year
14 during which the sale or foreclosure occurred.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 Relating to redemption of certain real property for
21 nonpayment of taxes and of certain real property foreclosed on
22 under a mortgage or sold by virtue of a judgment; to reduce
23 the redemption period; to amend Sections 6-5-248, 6-5-252, and
24 8-1-172 of the Code of Alabama 1975; and to provide for
25 partial prospective operation.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 6-5-248, 6-5-252, and 8-1-172 of
2 the Code of Alabama 1975, are amended to read as follows:

3 "§6-5-248.

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

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

7 "(2) Any mortgagor, even if ~~such~~ the mortgagor is
8 not personally liable for payment of a debt.

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

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

11 "(5) Any transferee of the interests of the debtor
12 or mortgagor, either before or after the sale. A transfer of
13 any kind made by the debtor or mortgagor will accomplish a
14 transfer of the interests of that party.

15 "(6) The respective spouses of all debtors,
16 mortgagors, or transferees of any interest of the debtor or
17 mortgagor, who are spouses on the day of the execution,
18 judgment, or foreclosure sale.

19 "(7) Children, heirs, or devisees of any debtor or
20 mortgagor.

21 "(b) All persons named or enumerated in subdivisions
22 (a)(1) through (a)(7) may exercise the right of redemption
23 granted by this article within 90 days from the date of the
24 sale for residential property on which a homestead exemption
25 was claimed in the tax year during which the sale occurred, or
26 within one year from the date of the sale for all other
27 property.

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

9 "Once any lienholder, recorded judgment creditor, or
10 junior mortgagee is paid the amount of ~~such~~ the person's debt
11 and any accrued interest and other contractual charges, ~~such~~
12 the person has no further right to redeem.

13 "Any lienholder, recorded judgment creditor, or
14 junior mortgagee with a lower recorded priority may redeem
15 from those having a higher recorded priority who have
16 redeemed.

17 "(d) When any debtor, mortgagor, their transferees,
18 their respective spouses, children, heirs, or devisees redeem,
19 all recorded judgments, recorded mortgages, and recorded liens
20 in existence at the time of the sale, are revived against the
21 real estate redeemed and against the redeeming party and
22 further redemption by some party other than the mortgagor or
23 debtor under this article is precluded.

24 "(e) When any debtor or mortgagor conveys his
25 interest in property subject to a mortgage prior to sale
26 wherein they are released from liability for the debt, his
27 right of redemption under this article is terminated. In the

1 same manner, the right of redemption granted under this
2 article to the spouses, children, heirs, or devisees of
3 debtors or mortgagors terminates when the debtors or
4 mortgagors have conveyed their interests in the property and
5 are released from liability for the debt.

6 "However, where debtors or mortgagors have conveyed
7 their interests in the property but remain liable on the debt
8 and are debtors at the date of the foreclosure sale, the
9 debtors and mortgagors retain their right of redemption under
10 this article and in the same manner, their spouses, children,
11 heirs or devisees continue to be entitled to the right of
12 redemption under this article.

13 "(f) A redemption made by any person under this
14 article, other than the debtors or mortgagors, and their
15 respective spouses, children, heirs, or devisees, shall
16 preclude any further redemption by ~~such~~ the person.

17 "(g) Subject to subsection (e), a mortgagor and
18 debtor have priority over any other redeeming party and a
19 mortgagor has priority over a debtor.

20 "§6-5-252.

21 "Anyone desiring and entitled to redeem may make
22 written demand of the purchaser or his or her transferees for
23 a statement in writing of the debt and all lawful charges
24 claimed by him or her, and ~~such~~ the purchaser or their
25 transferees shall, within 10 days after ~~such~~ the written
26 demand, furnish ~~such~~ the person making the demand with a
27 written, itemized statement of all lawful charges claimed by

1 him or her. The redeeming party must then tender all lawful
2 charges to the purchaser or his or her transferee. If the
3 purchaser or his or her transferee fails to furnish a written,
4 itemized statement of all lawful charges within 10 days after
5 demand, he or she shall forfeit all claims or right to
6 compensation for improvements, and the party so entitled to
7 redeem may, on the expiration of the 10 days, file his or her
8 complaint without a tender to enforce his or her rights under
9 this article and file a lis pendens with the probate court.

10 "Tender or suit ~~must~~ shall be made or filed within
11 ~~one year from foreclosure~~ 90 days from foreclosure for
12 residential property on which a homestead exemption was
13 claimed in the tax year during which the foreclosure occurred,
14 or within one year from foreclosure for all other property.

15 "§8-1-172.

16 "(a) When any person shall in good faith take a
17 mortgage on real estate from an insane person without notice
18 of ~~such~~ the insanity, ~~such~~ the mortgage deed shall not be
19 void; but ~~such~~ the insane person may redeem the property so
20 mortgaged at any time prior to a foreclosure by paying to the
21 mortgagee the amount actually received by the insane person at
22 the time of executing the mortgage, or any balance due
23 thereon, with interest thereon to the date of redemption.

24 "(b) If the mortgage shall have been foreclosed,
25 ~~such~~ the insane person may redeem from the vendee at ~~such~~ the
26 foreclosure sale, or those claiming under ~~him~~ the vendee, at
27 any time within ~~one year thereafter~~ 90 days from foreclosure

1 for residential property on which a homestead exemption was
2 claimed in the tax year during which the foreclosure occurred,
3 or at any time within one year from foreclosure for all other
4 property, by paying to ~~such~~ the vendee, or those claiming
5 under ~~him~~ the vendee, the amount which the vendee at the
6 mortgage foreclosure sale actually paid at ~~such~~ the sale for
7 the property, with interest thereon at the rate of eight
8 percent per annum to the date of redemption, together with all
9 lawful charges as provided for ~~the redemption of property~~
10 ~~under Section 6-5-235~~ by law."

11 Section 2. (a) This act is prospective and shall not
12 apply to the following:

13 (1) Sales made under a power of sale contained in
14 any mortgage or junior mortgage dated prior to the effective
15 date of this act.

16 (2) Sales made pursuant to a statutory power of sale
17 with respect to any mortgage or junior mortgage dated prior to
18 the effective date of this act.

19 (3) Sales by virtue of a judgment rendered by a
20 court prior to the effective date of this act.

21 (b) Except as provided in subsection (a), the
22 amendments in this act reducing the period during which a
23 person is required to exercise the right of redemption or file
24 his or her complaint shall apply to all sales of property
25 foreclosed under a mortgage or sold by virtue of a judgment.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.