

1 SB124  
2 164938-3  
3 By Senators Reed, Scofield, Waggoner, Smith, Albritton,  
4 Melson, Holley, Hightower, Ward, Dial, Marsh, Chambliss,  
5 Stutts, Bussman, Williams and Livingston  
6 RFD: Banking and Insurance  
7 First Read: 03-MAR-15

1 SB124

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4 ENROLLED, An Act,

5 Relating to redemption of certain real property  
6 foreclosed on under a mortgage or sold by virtue of a  
7 judgment; to reduce the redemption period; to amend Sections  
8 6-5-248, 6-5-252, and 8-1-172 of the Code of Alabama 1975; and  
9 to provide for partial prospective operation.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§6-5-248.

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

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

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

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

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

21 "(5) Any transferee of the interests of the debtor  
22 or mortgagor, either before or after the sale. A transfer of  
23 any kind made by the debtor or mortgagor will accomplish a  
24 transfer of the interests of that party.

1           "(6) The respective spouses of all debtors,  
2 mortgagors, or transferees of any interest of the debtor or  
3 mortgagor, who are spouses on the day of the execution,  
4 judgment, or foreclosure sale.

5           "(7) Children, heirs, or devisees of any debtor or  
6 mortgagor.

7           "(b) All persons named or enumerated in subdivisions  
8 (a)(1) through (a)(7) may exercise the right of redemption  
9 granted by this article within 180 days from the date of the  
10 sale for residential property on which a homestead exemption  
11 was claimed in the tax year during which the sale occurred, or  
12 within one year from the date of the sale for all other  
13 property.

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

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

1           "Any lienholder, recorded judgment creditor, or  
2 junior mortgagee with a lower recorded priority may redeem  
3 from those having a higher recorded priority who have  
4 redeemed.

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

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

21           "However, where debtors or mortgagors have conveyed  
22 their interests in the property but remain liable on the debt  
23 and are debtors at the date of the foreclosure sale, the  
24 debtors and mortgagors retain their right of redemption under  
25 this article and in the same manner, their spouses, children,

1 heirs or devisees continue to be entitled to the right of  
2 redemption under this article.

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

7 "(g) Subject to subsection (e), a mortgagor and  
8 debtor have priority over any other redeeming party and a  
9 mortgagor has priority over a debtor.

10 "(h) The mortgagor who forecloses residential  
11 property on which a homestead exemption was claimed in the tax  
12 year during which the sale occurred shall give notice to the  
13 mortgagor who signed the mortgage in substance as follows:  
14 "Alabama law gives some persons who have an interest in  
15 property the right to redeem the property under certain  
16 circumstances. Programs may also exist that help persons avoid  
17 or delay the foreclosure process. An attorney should be  
18 consulted to help you understand these rights and programs as  
19 a part of the foreclosure process. This notice shall be mailed  
20 to the mortgagor at the address of the property subject to  
21 foreclosure at least 30 days prior to the foreclosure date by  
22 certified mail with proof of mailing. This notice also shall  
23 be included in the notice required pursuant to Section  
24 35-10-13. For foreclosed residential property on which a  
25 homestead exemption was claimed in the tax year during which

1 the sale occurred, the period of time during which a right of  
2 redemption may be exercised shall not begin until notice is  
3 given in accordance with this subsection. A defective notice,  
4 or the failure to give notice, will not affect the validity of  
5 the foreclosure, including the transfer of title to the  
6 property. All actions related to the notice requirement must  
7 be brought within two years after the date of foreclosure, or  
8 the action shall be barred.

9 "§6-5-252.

10 "Anyone desiring and entitled to redeem may make  
11 written demand of the purchaser or his or her transferees for  
12 a statement in writing of the debt and all lawful charges  
13 claimed by him or her, and ~~such~~ the purchaser or their  
14 transferees shall, within 10 days after ~~such~~ the written  
15 demand, furnish ~~such~~ the person making the demand with a  
16 written, itemized statement of all lawful charges claimed by  
17 him or her. The redeeming party must then tender all lawful  
18 charges to the purchaser or his or her transferee. If the  
19 purchaser or his or her transferee fails to furnish a written,  
20 itemized statement of all lawful charges within 10 days after  
21 demand, he or she shall forfeit all claims or right to  
22 compensation for improvements, and the party so entitled to  
23 redeem may, on the expiration of the 10 days, file his or her  
24 complaint without a tender to enforce his or her rights under  
25 this article and file a lis pendens with the probate court.

1            "Tender or suit ~~must~~ shall be made or filed within  
2 ~~one year from foreclosure~~ 180 days from foreclosure for  
3 residential property on which a homestead exemption was  
4 claimed in the tax year during which the foreclosure occurred,  
5 or within one year from foreclosure for all other property.

6            "§8-1-172.

7            "(a) When any person shall in good faith take a  
8 mortgage on real estate from an insane person without notice  
9 of ~~such~~ the insanity, ~~such~~ the mortgage deed shall not be  
10 void; but ~~such~~ the insane person may redeem the property so  
11 mortgaged at any time prior to a foreclosure by paying to the  
12 mortgagee the amount actually received by the insane person at  
13 the time of executing the mortgage, or any balance due  
14 thereon, with interest thereon to the date of redemption.

15            "(b) If the mortgage shall have been foreclosed,  
16 ~~such~~ the insane person may redeem from the vendee at ~~such~~ the  
17 foreclosure sale, or those claiming under ~~him~~ the vendee, at  
18 any time within ~~one year thereafter~~ 180 days from foreclosure  
19 for residential property on which a homestead exemption was  
20 claimed in the tax year during which the foreclosure occurred,  
21 or at any time within one year from foreclosure for all other  
22 property, by paying to ~~such~~ the vendee, or those claiming  
23 under ~~him~~ the vendee, the amount which the vendee at the  
24 mortgage foreclosure sale actually paid at ~~such~~ the sale for  
25 the property, with interest thereon at the rate of eight

1 percent per annum to the date of redemption, together with all  
2 lawful charges as provided for ~~the redemption of property~~  
3 ~~under Section 6-5-235~~ by law."

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

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

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

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

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

19 Section 3. This act shall become effective on  
20 January 1, 2016, following its passage and approval by the  
21 Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB124

Senate 02-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Amended and passed 14-APR-15

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Senate concurred in House amendment 14-APR-15

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By: Senator Reed