

1 HB430
2 184473-4
3 By Representatives Drummond, Sessions, Williams (JW) and
4 Clarke (N & P)
5 RFD: Mobile County Legislation
6 First Read: 16-MAR-17

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ENROLLED, An Act,

Relating to Class 2 municipalities; to repeal Sections 11-40-50 through 11-40-54, Code of Alabama 1975, relating to the use and occupancy of buildings; to grant the Class 2 municipality the authority to enact by ordinance provisions for enforcement of local and state building regulations for the maintenance of structures; to provide for a judicial in rem foreclosure on non-owner occupied properties; to provide for recovery of taxpayer costs and transfer of title to property under certain circumstances; to provide that non-owner property may be transferred to a responsible owner if the property owner fails to reimburse for costs of the enforcement; and to repeal Sections 11-40-50 through 11-40-54, Code of Alabama 1975, relating to the use and occupancy of buildings.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act applies only to Class 2 municipalities.

Section 2. (a) The provisions of this act shall apply in any Class 2 municipality that adopts the provisions of this act to be applicable to the collection of municipal code liens as to real property, other than owner occupied property, in the municipality.

1 (b) The provisions of this act shall not apply to
2 owner occupied property.

3 Section 3. Definitions.

4 As used in this act, the following words and phrases
5 shall have the following meanings:

6 (1) INTERESTED PARTY. Includes the following
7 parties:

8 a. The person who last appears as owner of the real
9 property in the county office of the judge of probate's
10 property records.

11 b. The current mortgagee of record of the property
12 or assignee of record of the mortgagee.

13 c. The current holder of a beneficial interest in a
14 deed of trust recorded against the real property.

15 d. A tax certificate holder.

16 e. A tax sale purchaser that holds a deed of
17 purchase in accordance with Section 40-10-29 of the Code of
18 Alabama 1975.

19 f. Any party having an interest in the real
20 property, or in any part thereof, legal or equitable, in
21 severalty or as tenant in common, whose identity and addresses
22 are reasonably ascertainable from the records of the Class 2
23 municipality or records maintained in the county office of the
24 judge of probate or as revealed by a full title search,
25 consisting of 50 years or more.

1 g. An Interested Party shall not include the holder
2 of the benefit of an easement which burdens the real property,
3 the holder of the benefit or burden of a real covenant which
4 burdens the real property, or the holder of the benefit of a
5 utility easement which burdens the real property.

6 (2) MINIMUM BID PRICE. The price that equals the
7 Redemption Amount.

8 (3) MUNICIPAL CODE LIEN. Any lien that has been
9 levied against real property by a Class 2 municipality that is
10 the result of the non-payment of any fine, penalty, abatement
11 cost, or enforcement cost incurred by a Class 2 municipality
12 related to the enforcement of state or local housing and
13 building codes. Such lien shall include only those liens which
14 arise out of a failure to comply with any of the following
15 provisions of the Code of Alabama, or from the failure to
16 comply with a Class 2 municipality's ordinance or resolution
17 enacted pursuant to the authority granted in any of the
18 following provisions of the Code of Alabama: Sections 11-40-30
19 through 11-40-36; 11-47-117; 11-47-118; 11-47-130 through
20 11-47-131; 11-47-140; 11-53-1 through 11-53-4; 11-53B-1
21 through 11-53B-16; and 11-67-1 through 11-67-10.

22 A municipal code lien shall not include any lien
23 that has previously been certified to the tax collector of the
24 county for inclusion on the property tax bill associated with

1 the real property, such as those liens certified under Section
 2 11-67-8 of the Code of Alabama 1975.

3 (4) MUNICIPAL CODE LIEN PAYOFF. The principal amount
 4 of a municipal code lien, interest accrued at the rate of
 5 seven and one-half percent per annum from the date the
 6 municipal code lien was filed in the office of the judge of
 7 the probate, any fees or costs incurred in the collection of
 8 such a lien under this act including, without limitations, the
 9 cost of title examinations and publication of notices, and any
 10 other penalties allowable under either state law or under an
 11 ordinance or resolution enacted by the Class 2 municipality.

12 (5) OWNER OCCUPIED. Real property that is lawfully
 13 occupied as a principal residence that is any of the
 14 following:

15 a. A homestead as described in Section 40-9-19 of
 16 the Code of Alabama 1975.

17 b. Exempt from ad valorem taxation under Sections
 18 40-9-19.1, 40-9-20, and 40-9-21 of the Code of Alabama 1975.

19 c. Eligible for the designations listed in
 20 paragraphs a. or b., but which has not yet been granted such
 21 designation and which is lawfully occupied by the family of a
 22 deceased individual.

23 (6) REDEMPTION AMOUNT. The sum of (1) the full
 24 amount of the municipal code lien payoff for each municipal
 25 code lien on which the Class 2 municipality is seeking to

1 foreclose under this act, and (2) any tax payoff that may be
2 applicable to the property on which the Class 2 municipality
3 is seeking to foreclose under this act.

4 (7) TAXES. Those taxes assessed against real
5 property by either the State of Alabama, the county in which
6 the real property is situated, or the Class 2 municipality
7 that are delinquent, as defined in Section 40-11-4 or Section
8 11-51-2 of the Code of Alabama 1975, as of the date a
9 proceeding under this act is commenced or at any time before
10 final resolution of the same, and shall also include any taxes
11 assessed against real property that are unpaid from any
12 previous year and any amounts required for redemption under
13 Section 40-10-82, 40-10-120, or Section 11-51-23 of the Code
14 of Alabama 1975. As provided in Section 11-51-6 of the Code of
15 Alabama 1975, a lien for taxes shall be superior to all other
16 liens, including municipal code liens.

17 (8) TAX CERTIFICATE HOLDER. Any of the following:

18 a. A tax sale purchaser that holds a certificate of
19 purchase in accordance with Section 40-10-19 of the Code of
20 Alabama 1975.

21 b. The state, where it has accepted and recorded a
22 certificate of purchase obtained at a tax sale in accordance
23 with Section 40-10-20 of the Code of Alabama 1975.

1 c. Any party to which a certificate of purchase
2 obtained at a tax sale has been assigned in accordance with
3 Section 40-10-21 of the Code of Alabama 1975.

4 d. The purchaser or assignee of a tax lien
5 certificate as described in Section 40-10-187 of the Code of
6 Alabama 1975.

7 (9) TAX PAYOFF. Any and all amounts necessary to
8 satisfy any claims for delinquent taxes assessed against the
9 real property on which the Class 2 municipality is seeking to
10 foreclosure under this act. Those amounts shall include:

11 a. If the taxes associated with the property are
12 delinquent as defined in Section 40-11-4 or Section 11-51-2,
13 Code of Alabama 1975, but the property has not yet been sold
14 for taxes, then the full amount of delinquent taxes, costs,
15 fees and charges due to the county tax collector in accordance
16 with Section 40-5-8 of the Code of Alabama 1975; and

17 b. If the property has been sold for taxes to the
18 state, then those amounts required for redemption and
19 described in Sections 40-10-83, 40-10-120, 40-10-121, and
20 40-10-122 of the Code of Alabama 1975, except that when a
21 Class 2 municipality is the prevailing bidder, the tax payoff
22 amount shall be the lesser of these amounts or the amount as
23 determined by Section 40-10-132(a)(2) of the Code of Alabama
24 1975.

1 c. If the property has been sold for taxes to a
 2 party other than the state, then those amounts required for
 3 redemption and described in Sections 40-10-83, 40-10-120,
 4 40-10-121, and 40-10-122 of the Code of Alabama 1975.

5 d. If a tax lien has been sold by a county in
 6 accordance with the provisions of Section 40-10-182, Code of
 7 Alabama 1975, then the amount required for redemption in
 8 accordance with Section 40-10-193, Code of Alabama 1975.

9 Section 4. Violations of Class 2 municipality
 10 Housing and Building Code; Priority of Liens.

11 (a) Notwithstanding any law to the contrary, any
 12 fees, penalties and abatement costs imposed against property
 13 other than owner occupied real property for violations of a
 14 Class 2 municipality's housing and building codes adopted
 15 pursuant to the Code of Alabama 1975, may be enforced in rem
 16 as a lien in accordance with this act.

17 (b) Every municipal code lien, as defined in this
 18 act, shall be superior to all other liens, except those liens
 19 for taxes described or referenced in Section 11-51-6, Code of
 20 Alabama 1975.

21 Section 5. Nature of Rights and Remedies.

22 (a) Any Class 2 municipality to which this act
 23 applies may proceed with judicial in rem foreclosures of
 24 municipal code liens in accordance with the provisions of this
 25 act by enactment of an ordinance or resolution of the

1 governing authority of the Class 2 municipality in which the
2 real property is located which ordinance or resolution shall
3 be sufficient authority for use of this act by the Class 2
4 municipality to enforce its municipal code liens.

5 (b) The ordinance of a Class 2 municipality
6 authorizing and approving the use of this act shall include
7 all the following matters:

8 (1) The initial effective date for application of
9 these procedures.

10 (2) If the Class 2 municipality elects not to apply
11 these procedures to all real properties as of the same future
12 date, then the phase-in of these procedures over a period of
13 time and the manner of determination of which real properties
14 are subject in which sequence to these procedures.

15 (3) The explicit exclusion of owner-occupied
16 properties from the application of the judicial in rem
17 foreclosure procedures authorized in this act.

18 (4) The nature and extent of notices, support
19 services, and referrals to be provided to the owners and
20 occupants of owner-occupied properties.

21 (5) Any other matters the Class 2 municipality
22 specifies to be addressed through administrative regulations
23 and policies.

24 (c) The provisions of the Class 2 municipality
25 ordinance and administrative regulations and policies issued

1 pursuant thereto shall not be in conflict with Sections 7
 2 through 10 of this act.

3 (d) Proceedings in accordance with this act are
 4 designed solely to enforce the municipal code lien for real
 5 property subject to the municipal code lien and shall not
 6 constitute an action for personal liability for the municipal
 7 code liens against the owner or owners of the real property.

8 (e) The rights and remedies set forth in this act
 9 are available solely to the governmental entities authorized
 10 by law to enforce municipal ordinances and shall not extend to
 11 any nongovernmental transferee of municipal code liens.

12 (f) A Class 2 municipality that has adopted the
 13 provisions of this act and that seeks to enforce a municipal
 14 code lien through the sale of real property shall utilize the
 15 judicial in rem proceedings of this act as the sole remedy for
 16 the enforcement through the sale of real property.

17 (g) The enforcement proceedings authorized by this
 18 act may be initiated only by the Class 2 municipality.

19 Section 6. Filing Petition for Foreclosure; Form of
 20 Petition; Notice.

21 (a) After a municipal code lien has been recorded
 22 with the office of the probate judge of the county in which
 23 the real property lies, the Class 2 municipality may identify
 24 those properties on which to commence a judicial in rem
 25 foreclosure in accordance with this act, except that those

1 properties the Class 2 municipality identifies as owner
2 occupied shall not be subject to judicial in rem foreclosure
3 under this act. The Class 2 municipality shall not file a
4 petition for judicial in rem foreclosure in accordance with
5 this act for a period of six months following the date upon
6 which the municipal code lien is recorded in the office of the
7 probate judge. A petition for judicial in rem foreclosure may
8 include any other municipal code lien that has been filed
9 prior to the date the petition is filed. After enforcement
10 proceedings have commenced in accordance with this act, the
11 enforcement proceedings may be amended to include any
12 subsequently arising municipal code liens and, if applicable,
13 any and all taxes as defined in this act.

14 (b) If the property on which the Class 2
15 municipality is seeking to foreclose under this act is subject
16 to taxes as defined in this act, then at least 60 days prior
17 to the filing of the petition, the Class 2 municipality shall
18 notify all other taxing agencies within the jurisdiction of
19 the Class 2 municipality, and the State of Alabama of the
20 Class 2 municipality's intention to file a petition for
21 judicial in rem foreclosure of the real property on which a
22 municipal code liens exists. Upon notification, the Revenue
23 Commissioner shall provide the tax payoff amount to the Class
24 2 municipality.

1 (c) The Class 2 municipality shall record in the
2 appropriate lis pendens record in the office of the judge of
3 probate of the county in which the real property is located, a
4 notice of his or her intent to file a judicial in rem
5 foreclosure action. The notice shall include a legal
6 description of the property, street address of the property if
7 available, a statement that the property is subject to
8 judicial in rem foreclosure proceedings under this act, and a
9 statement that those proceedings may extinguish any legal
10 interests in the property.

11 (d) Simultaneous with the filing of his or her
12 notice of intent to file a judicial in rem foreclosure action,
13 the Class 2 municipality shall file a petition with the clerk
14 of the circuit court for the judicial circuit in which the
15 real property is located, the petition shall have form and
16 content substantially identical to that form as provided in
17 subsection (i).

18 (e) The petition shall be filed against the real
19 property against which the municipal code lien has been
20 recorded and shall provide all of the following:

- 21 (1) The identity of the Class 2 municipality.
- 22 (2) The real property address.
- 23 (3) A description of the real property.
- 24 (4) The tax identification number of the real
25 property.

1 (5) The municipal code lien which is being
2 foreclosed.

3 (6) The principal amount of the municipal code lien
4 together with applicable interest and penalties.

5 (7) The principal amount of any additional municipal
6 code liens together with applicable interest and penalties in
7 accordance with subsection (a) if any.

8 (8) The year or years for which the taxes are
9 delinquent, if any.

10 (9) The principal amount of the taxes together with
11 interest and penalties, if any.

12 (10) The tax payoff amount.

13 (11) A statement that upon final sale in accordance
14 with this act and payment of the tax payoff amount, if
15 applicable, an interested party's rights of redemption under
16 Title 40, Chapter 10 or Title 11, Chapter 51, Code of Alabama
17 1975, shall be extinguished.

18 (12) The names and addresses of all interested
19 parties to whom copies of the petition are to be sent in
20 accordance with subsection (f).

21 (f) The Class 2 municipality shall mail copies of
22 the petition by both certified mail, return receipt requested,
23 and by regular mail to all interested parties whose identity
24 and address are reasonably ascertainable. Copies of the
25 petition shall also be mailed by first-class mail to the real

1 property address to the attention of the occupants of the
2 property, if any. In addition, notice shall be physically
3 posted on the real property and shall include the following
4 statement: "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM
5 FORECLOSURE ACTION AND MAY BE TRANSFERRED TO [NAME OF CLASS 2
6 MUNICIPALITY] OR ANOTHER PARTY. PERSONS WITH INFORMATION
7 REGARDING THE CURRENT OWNER OF THE PROPERTY ARE REQUESTED TO
8 CONTACT [NAME OF CLASS 2 MUNICIPALITY]."

9 (g) If the Class 2 municipality finds reason to
10 believe that the real property is owner occupied after the
11 filing of the petition, the Class 2 municipality shall
12 immediately seek dismissal of its petition.

13 (h) Within 30 days of the filing of the petition,
14 the Class 2 municipality shall cause a notice of the filing of
15 the petition to be published once each week for three
16 consecutive weeks in a newspaper of general circulation in the
17 county in which the property is located. Such notice shall
18 specify:

19 (1) The name and address of the Class 2
20 municipality.

21 (2) The real property address.

22 (3) A description of the real property.

23 (4) The tax identification number of the real
24 property.

1 (5) Any applicable municipal code lien which is
2 being foreclosed upon.

3 (6) The principal amount of any municipal code lien
4 together with interest and penalties.

5 (7) The applicable period of tax delinquency, if
6 any.

7 (8) The principal amount of taxes, if any.

8 (9) Upon deposit with the appropriate parties by the
9 court of the tax payoff amounts, if any, described in
10 subsection (c) (3) of Section 11-40-57, Code of Alabama 1975,
11 any and all rights of redemption accorded to interested
12 parties under Title 40, Chapter 10 or under Title 11, Chapter
13 51, Code of Alabama 1975, are extinguished.

14 (10) The date and place of the filing of the
15 petition.

16 (i) The petition for judicial in rem foreclosure
17 shall be in substantially the following form:

18 IN THE CIRCUIT COURT FOR _____ COUNTY

19 STATE OF ALABAMA-

20 Petitioner:)

21 [Class 2 municipality])

22 Name, Address,)

23 Telephone Number)

24 v. Civil Action No: _____

25 Respondents:

1 _____, ACRES OF LAND LYING)
 2 AND BEING IN _____,)
 3 _____ COUNTY, ALABAMA)
 4 _____)
 5 _____)

(Address of Property)

And

8 _____)
 9 Name and mailing address of Owner

PETITION FOR JUDICIAL IN REM FORECLOSURE COMES NOW

11 (Petitioner) and petitions this Court for judicial in rem
 12 foreclosure in accordance with Section _____ of the Code
 13 of Alabama 1975, by showing this Court as follows:

14 1. _____ is the owner of certain real property
 15 located at _____ (the "Property") having a tax
 16 identification number of _____. (A legal description of the
 17 Property is attached hereto as Exhibit "A" and by this
 18 reference incorporated herein).

19 2. The municipal code lien(s) recorded against the
 20 Property by City of _____ for nonpayment of costs incurred,
 21 penalties, or fees arising from violations of the City of
 22 _____'s Code of Ordinances related to the Property, the
 23 total amount of which is \$ _____ (amount includes principal
 24 amount of the municipal code lien and any accrued interest and
 25 penalties as of this date) have not been paid. (An itemized

1 list of any municipal code lien recorded against the Property
2 and the subject of this Petition is attached hereto as Exhibit
3 "B" and by this reference incorporated herein.)

4 3. The taxes assessed against the Property by
5 City/County of _____ or by the State of Alabama for the
6 year(s) _____ in the amount of \$ _____ (amount includes
7 principal amount of taxes owed and any accrued interest and
8 penalties as of this date) [have] [have not] been paid.

9 4. Attached hereto as Exhibit "C" is a list of the
10 names and addresses of interested parties also receiving a
11 copy of this Petition by first class mail.

12 5. Occupants of the Property shall be served by
13 mailing the petition by first-class mail to the attention of
14 the occupants at the above-listed Property address.

15 6. Based upon the information and belief of the
16 Petitioner the Property is not owner-occupied property.

17 7. The Petition has also been posted on the Property
18 in accordance with Section 11-4-54(f), Code of Alabama 1975.

19 8. Simultaneously with the filing of this Petition,
20 Petitioner has filed a lis pendens in the appropriate office
21 of the judge of probate.

22 WHEREFORE, Petitioner demands (1) a hearing before
23 the Circuit Court in _____ County (the "Court") and (2) a
24 judgment by the Court stating that (a) the municipal code lien
25 recorded against the Property is delinquent and (b) that

1 notice has been given to all interested parties, and an order
2 that the Court may cause the Property to be sold at public
3 outcry in a similar manner as that required in Section
4 40-10-15 of the Code of Alabama.

5 CITY OF _____

6 By: _____

7 Its: _____

8 NOTICE TO RESPONDENTS AND ALL INTERESTED PARTIES

9 This petition serves as notice to the respondents
10 and all interested parties that (1) each party is presumed to
11 own or have a legal interest in the property, (2) that
12 foreclosure proceedings have been commenced because of the
13 failure to pay the municipal code lien cited above, and (3)
14 foreclosure will result in the loss of ownership of the
15 Property and all rights or interests of all interested
16 parties, including any and all rights or redemption accorded
17 to by interested parties under Title 40, Chapter 10 and Title
18 11, Chapter 5, Code of Alabama 1975.

19 To avoid loss of ownership or any interest in the
20 property, payment of the full amount of the municipal code
21 lien, penalties, interest, and costs, plus payment of the full
22 amount of any property taxes that are due or delinquent, if
23 any, including any related penalties, interest, and costs must
24 be paid to the _____ office located at _____ by _____ date.

25 Respondents and all interested parties are also reminded that

1 each of you may wish to contact an attorney to protect your
2 rights.

3 A hearing on the above matter shall take place
4 before the Circuit Court of _____ County no earlier than 30
5 days after the filing of this petition. To determine the exact
6 time and date of such hearing, please call the office of the
7 Circuit Court of _____ County.

8 This _____ day of _____, _____.

9 _____
10 Circuit Clerk of _____ County

11 EXHIBIT A

12 Description of the Property

13 Together with all rights, title, and interest
14 running with the above-described property but not taxed under
15 a separate tax reference number as delineated on the tax maps
16 of the petitioner for the year(s) for the municipal code liens
17 being foreclosed.

18 EXHIBIT B

19 Names and Addresses of Interested Parties

20 Section 7. Judicial Hearing

21 (a) The Class 2 municipality shall request that a
22 judicial hearing on the petition occur not earlier than 30
23 days nor more than 90 days following the filing of the
24 petition. At the judicial hearing, any interested party shall
25 have the right to be heard and to contest the delinquency of

1 the municipal code lien, the adequacy of the proceedings, the
2 classification of the property as owner occupied, and the
3 amount of the tax payoff. If the court determines that the
4 information set forth in the petition is accurate, the court
5 shall render its judgment and order that:

6 (1) The municipal code lien is delinquent.

7 (2) The amounts of any additional municipal code
8 liens and taxes described in the petition are delinquent.

9 (3) Proper notice has been given to all interested
10 parties.

11 (4) The property is not owner occupied.

12 (5) The property as described in the petition be
13 sold in accordance with the provisions of this act.

14 (6) The sale shall become final and binding
15 immediately after the sale is conducted in accordance with
16 section 9 of this act.

17 (b) The order of the court shall provide that the
18 property be sold free and clear of all liens, claims, and
19 encumbrances other than:

20 (1) Rights of redemption provided under federal law.

21 (2) Taxes assessed against real property that are
22 due but not yet delinquent as of the date of the court's
23 order.

24 (3) An easement which burdens the real property, a
25 real covenant which burdens the real property, and any utility

1 easement which benefits the real property as of the date of
2 the filing of the municipal code lien on which the Class 2
3 municipality is seeking to foreclose under this act.

4 (c) If at any point in the proceedings the court
5 determines that the property is owner occupied, then the Class
6 2 municipality shall seek immediate dismissal of the
7 proceedings.

8 Section 8. Redemption of property prior to sale by
9 payment of redemption amount.

10 (a) At any point prior to the moment of the sale,
11 any interested party may redeem the real property from the
12 sale by payment of the redemption amount. Payment shall be
13 made to the Class 2 municipality. Following receipt of the
14 payment, the Class 2 municipality shall file for dismissal of
15 the proceedings.

16 (b) In the event of the payment by the owner of the
17 real property, the proceedings shall be dismissed and the
18 rights and interests of all interested parties shall remain
19 unaffected.

20 (c) In the event of payment by any interested party
21 other than the owner, the party making the payment shall
22 possess a lien on the real property for the full amount of the
23 payment, which lien shall have the same priority as the
24 municipal code lien discussed in subsection (b) of Section 4.
25 The lienholder shall have the right to enforce the lien as

1 permitted to the holder of any lien under existing law. The
2 lienholder shall not otherwise succeed to the rights of the
3 Class 2 municipality or tax certificate holder.

4 Section 9. Foreclosure Sale; Form of Deed.

5 (a) Following the hearing and order of the court in
6 accordance with Section 7, the court shall cause a sale of the
7 real property to be advertised and conducted by the court in a
8 manner similar to that procedure contemplated by Section
9 40-10-15, Code of Alabama 1975. The sale shall not occur
10 earlier than 45 days following the date of the order of the
11 court.

12 (b) Except as otherwise authorized by law, the
13 minimum bid price for the sale of the real property shall be
14 the redemption amount.

15 (1) In the absence of any bid higher than the
16 minimum bid price, the court or its designee shall bid in for
17 the real property on behalf of the Class 2 municipality or its
18 designee in an amount equal to the minimum bid price, thereby
19 causing the Class 2 municipality to become the purchaser at
20 the sale pursuant to Section 7.

21 (2) A bid in on behalf of the Class 2 municipality
22 or its designee shall be tendered as a credit bid for that
23 part of the minimum bid price equal to the municipal code lien
24 payoff as defined in this act. If the minimum bid price bid in
25 by the Class 2 municipality includes a tax payoff amount as

1 defined in this act, the Class 2 municipality shall tender the
2 amount of the tax payoff to the court, which, together with
3 the municipal code lien payoff, shall satisfy the full amount
4 of the minimum bid price.

5 (c) Payment of the winning bid shall be due
6 immediately after the sale is conducted. The proceeds of the
7 foreclosure sale shall be distributed in the following manner:

8 (1) If the purchaser is a party other than the Class
9 2 municipality, the court or its designee shall deposit with
10 the Class 2 municipality the amount of the proceeds equal to
11 the municipal code lien payoff, less any costs incurred or
12 fees charged by the office of the judge of probate.

13 (2) If the purchaser is the Class 2 municipality,
14 then the Class 2 municipality shall tender to the court an
15 amount equal to any costs incurred by the court that are
16 included in the amount of the municipal code lien payoff.

17 (3) If the minimum bid price includes a tax payoff
18 amount, the court shall deposit the amounts paid with the
19 appropriate parties in accordance with the following Sections
20 40-5-10, 40-10-128, 40-10-129, and 40-10-193, Code of Alabama
21 1975, and any applicable local acts.

22 (4) In the event that the foreclosure sale price
23 exceeds the minimum bid price at the foreclosure sale, the
24 surplus shall be distributed by the court to the interested

1 parties, including the owner, as their interests appear and in
2 the order of priority in which their interests exist.

3 (d) Upon deposit with the appropriate parties by the
4 court of the tax payoff amounts, if any, described in
5 subsection (c) (3), any and all rights of redemption accorded
6 to interested parties under Title 40, Chapter 10 or under
7 Title 11, Chapter 51, Code of Alabama 1975, are extinguished.

8 (e) From and after the moment of the sale, the sale
9 shall be final and binding.

10 (f) Within 90 days following the date of the sale,
11 the court shall cause to be executed a deed to the real
12 property identified in the petition. Upon execution, the court
13 shall cause the deed to be recorded with the office of the
14 judge of probate.

15 (g) Within 90 days following the date of the sale,
16 the Class 2 municipality shall file a report of the sale with
17 the clerk of the circuit court, which report shall identify
18 whether a sale took place, the foreclosure sale price, and the
19 identity of the purchaser.

20 (h) The form of the deed provided for in subsection
21 (e) shall be substantially as follows:

22 When recorded please return to: Cross-reference:

23 _____ Deed Book _____, Page

24 _____ County, Alabama

25 Records

1 STATE OF ALABAMA

2 COUNTY OF _____

3 JUDICIAL IN REM FORECLOSURE DEED

4 This indenture (the "deed") made this _____ day of
5 _____, _____, by and between _____, a _____ ("grantor") and
6 _____, a _____ ("grantee").

7 WITNESSETH

8 WHEREAS, on the _____ day of _____, _____, during
9 the legal hours of sale, grantor did expose for sale at public
10 outcry to the highest bidder for cash before the courthouse
11 door in _____ County, Alabama, the property (as hereinafter
12 defined) at which sale grantee was the highest and best bidder
13 for the sum of \$_____ and the property was then and there sold
14 to grantee for the sum. The sale was made by grantor pursuant
15 to and by virtue of the power and authority granted to it in
16 that certain order of the court granted _____, _____, Case No.
17 _____, Circuit Court of _____ County, Alabama, (the "order").
18 Said sale was made after advertising the time, place, and
19 terms thereof in the _____, published in _____, Alabama, in
20 the aforesaid county, and being the publication in which the
21 [Class 2 municipality's] advertisements for the county are now
22 published, once a week for three consecutive weeks prior to
23 the sale on the _____, _____, _____, and _____ of _____,
24 _____, and the advertisement in all respects complied with the
25 requirements of Section _____ of the Code of Alabama 1975.

1 Notice of the time, place, and terms of the sale of the
2 property was given pursuant to Section _____, Code of Alabama
3 1975. Sale was made for the purpose of paying the municipal
4 code lien(s) owed to _____, the interest and penalties on the
5 indebtedness, the expenses of the sale including attorneys'
6 fees, all of which were mature and payable because of failure
7 of the owner to pay the amount owed and reflected in the
8 municipal code lien.

9 NOW, THEREFORE, grantor, acting under and by virtue
10 of the order and pursuant to Section _____, Code of Alabama
11 1975, for and in consideration of the facts hereinbefore
12 recited, has bargained, sold, and conveyed and does hereby
13 bargain, sell, and convey unto grantee, its successors and
14 assigns, the following described property (herein referred to
15 as the "property"); to wit:

16 All that tract or parcel of land lying and being in
17 Land Lot _____ of the _____ District, _____ County, Alabama,
18 and being more particularly described on Exhibit "A" attached
19 hereto and by this reference made a party hereof.

20 This deed is given subject to all restrictions,
21 easements, rights-of-way, declarations, and covenants, if any,
22 to which the deed is junior and inferior in terms of priority.

23 TO HAVE AND TO HOLD, the property unto grantee, its
24 successors and assigns in fee simple.

1 IN TESTIMONY WHEREOF, I have hereunto set my hand
2 and seal, this _____ day of _____, 20_____.

3 _____
4 Judge of the Circuit Court of _____ County

5 THE STATE OF ALABAMA,

6 _____ COUNTY.

7 I, _____, a

8 _____ in and for the County, in the State of
9 Alabama, hereby certify that _____ whose
10 name as Judge of the Circuit Court of _____ County is
11 signed to the foregoing conveyance and who is known to me,
12 acknowledged before me, on this day, that, being informed of
13 the contents of this conveyance, he or she, in his or her
14 capacity as Judge of the Circuit Court of _____ County,
15 executed the same voluntarily, on this day.

16 Given under my hand, this _____ day of
17 _____, 20_____.

18 _____
19 EXHIBIT

20 Description of the Property

21 Together with all right, title, and interest running
22 with the above-described property but not taxed under a
23 separate tax reference number as delineated on the tax maps of
24 the petitioner for the year(s) for the municipal code lien
25 being foreclosed.

1 Section 10. Any municipal ordinance enacted pursuant
2 to this legislation shall include an avenue for input by
3 adjoining property owners to participate in the rehabilitation
4 and use of the property subject to this act.

5 Section 11. Sections 11-40-50 to 11-40-54,
6 inclusive, Code of Alabama 1975, relating to any continued use
7 and occupancy of buildings in Class 2 municipalities, are
8 repealed.

9 Section 12. The provisions of this act are
10 severable. If any part of this act is declared invalid or
11 unconstitutional, that declaration shall not affect the part
12 which remains.

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

