

1 HB448
2 188337-3
3 By Representative Collins
4 RFD: County and Municipal Government
5 First Read: 22-FEB-18

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8 SYNOPSIS: This bill would authorize any Class 5
9 municipality to file an expedited quiet title
10 action to establish clear title to tax sale
11 properties.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to Class 5 municipalities; to authorize
18 Class 5 municipalities to file an expedited quiet title and
19 foreclosure action in circuit court to establish clear title
20 to abandoned tax sale properties within the corporate limits;
21 and to provide for the procedure and due process for the
22 action in circuit court.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) This act shall apply only in a Class
25 5 municipality and provides the exclusive procedure for an
26 expedited quiet title and foreclosure action for a Class 5
27 municipality, notwithstanding Section 24-9-8, Code of Alabama

1 1975. Section 40-10-82, Code of Alabama 1975, as amended,
2 shall not apply to, restrict, or otherwise affect any cause of
3 action or action brought by a Class 5 municipality pursuant to
4 this act and shall not remove any limitation of action or
5 extend the period of redemption of any abandoned tax sale
6 properties within the corporate limits of the Class 5
7 municipality.

8 (b) For the purposes of this act, "interested
9 parties" means the owner, his or her heirs or personal
10 representatives, any mortgagee or purchaser of the subject
11 property or any part thereof, and any party with an interest
12 in the property, or in any part thereof, legal or equitable,
13 in severalty or as tenant in common, including a judgment
14 creditor or other creditor having a lien thereon, or any part
15 thereof.

16 Section 2. (a) Any Class 5 municipality may initiate
17 an expedited quiet title and foreclosure action under this
18 section against a parcel of tax sale property located within
19 its municipal limits and purchased by the municipality. The
20 municipality shall record, in the office of the judge of
21 probate in the county in which the property is located, a
22 notice of its intention to file an expedited quiet title and
23 foreclosure action. The notice shall include a legal
24 description of the property, street address of the property if
25 available, a statement that the property is subject to
26 expedited quiet title and foreclosure proceedings under this

1 act, and a statement that those proceedings may extinguish any
2 legal interests in the property.

3 (b) The municipality shall make a good faith effort
4 to identify the interested parties and the addresses at which
5 they can be reached. The municipality shall be presumed to
6 have made a good faith effort to identify interested parties
7 if it does all of the following:

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

11 THIS PROPERTY WAS SOLD TO THE CITY OF
12 _____ FOR UNPAID TAXES. ANYONE WITH
13 INFORMATION ABOUT THE OWNER OF THIS PROPERTY,
14 PLEASE CALL _____.

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

17 (3) Examines the records of the tax assessor or
18 revenue commissioner to find the names and addresses of all
19 parties who paid taxes in the five-year period prior to the
20 date of the tax sale; provided, however, that the municipality
21 is not required to search for parties who paid taxes more than
22 20 years prior to the year of the inquiry.

23 (4) If the interested party is an individual, the
24 municipality shall examine voter registration lists and the
25 probate court records of estates opened in the county in which
26 the property is located.

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

4 Section 3. The municipality may file a single
5 petition with the clerk of the circuit court for the judicial
6 circuit in which the subject property is located for an order
7 to quiet title and expedite foreclosure to one or more parcels
8 of property under this section. The petition shall identify
9 each parcel by its tax parcel number and street address and
10 shall be served on all interested parties identified in
11 accordance with subsection (b) of Section 2. No action filed
12 pursuant to this act shall be subject to payment of filing
13 fees.

14 Section 4. The circuit court, after the petition is
15 filed under Section 3, shall set the date, time, and place for
16 a hearing on the petition within 90 days. The court, on the
17 request of a party, may extend the 90-day period for good
18 cause shown.

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

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

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

8 (b) Notices provided to the interested parties under
9 this section shall include all of the following:

10 (1) The date on which the municipality recorded in
11 probate court its notice of the pending expedited quiet title
12 and foreclosure action under subsection (a) of Section 2.

13 (2) The tax parcel number and the street address of
14 the property, if available.

15 (3) The interested party or parties to whom the
16 notice is addressed.

17 (4) The date, time, and place for the hearing on the
18 petition for expedited quiet title and foreclosure and a
19 statement that the judgment of the court may result in title
20 to the property vesting in the municipality.

21 (5) Notice that the judgment of the court in the
22 quiet title and foreclosure hearing may extinguish any
23 ownership interest in, liens against, right to redeem, or any
24 claim whatsoever secured by the property.

25 (6) The name, address, and telephone number of the
26 municipality.

1 (7) A statement that persons with information
2 regarding the owner or prior owner of any of the properties
3 are requested to contact the municipality.

4 (8) That any party seeking to redeem the property
5 will be required to pay all taxes, interest, penalties, and
6 fees and any other charges due and owing under Chapter 10 of
7 Title 40, Code of Alabama 1975.

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

1 period of time sufficient to give such notice to the newly
2 discovered party.

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

18 Section 8. (a) If an interested party appears at the
19 hearing and asserts a right to redeem the property, the party
20 may redeem the property by paying all the taxes, interest,
21 municipal liens, penalties, fees, and other charges due and
22 owing pursuant to Chapter 10 of Title 40, Code of Alabama
23 1975, including the amount due to the land commissioner, had
24 the property not been sold to the municipality.

25 (b) If an interested party appears and fails to
26 redeem, or if no one appears, the circuit court shall enter

1 judgment on the petition not more than 10 days after the date
2 the matter was heard.

3 (c) The judgment of the circuit court shall specify
4 all of the following:

5 (1) The legal description, tax parcel identification
6 number, and, if known, the street address of the property
7 foreclosed.

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

12 (3) That all liens against the property, including
13 any lien for unpaid taxes or special assessments, are
14 extinguished.

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

17 (5) That all existing recorded and unrecorded
18 interests in the property are extinguished, except for
19 easements or right-of-way, private deed restrictions, plat
20 restrictions, or restrictions or covenants imposed under the
21 Alabama Land Recycling and Economic Development Act, Chapter
22 30E of Title 22, Code of Alabama 1975, or any other
23 environmental law in effect in the state.

24 (6) That the municipality provided notice to all
25 interested parties or that the municipality complied with the
26 notice procedures in this act, which compliance shall create a

1 rebuttable presumption that all interested parties received
2 notice and an opportunity to be heard.

3 Section 9. A municipality or interested party,
4 within 42 days following the effective date of the judgment,
5 may appeal the judgment of the circuit court to the Court of
6 Civil Appeals. Any party appealing from an order vesting title
7 in the municipality, as a condition of the appeal, shall
8 identify the parcel which is the subject of the appeal and,
9 with respect to that parcel, post a bond with at least one
10 solvent surety in the amount due to redeem the property under
11 Chapter 10, Title 40, Code of Alabama 1975. The appeal shall
12 stay the order of the circuit court only with respect to each
13 parcel identified as the subject of the appeal. The order of
14 the circuit court shall be affirmed absent a defect in the
15 identification of the property or in the notice such that the
16 notice deprived a party of the right to due process of law.
17 The order shall not be reversed on the basis of merely
18 technical noncompliance with this section.

19 Section 10. The municipality shall record the
20 court's order in the probate court following the 42-day period
21 after the entry of the order if no appeal is filed or after a
22 final judgment on appeal from the decision of the circuit
23 court on the municipality's petition for an expedited quiet
24 title and foreclosure action.

25 Section 11. All laws or parts of laws which conflict
26 with this act are repealed.

1 Section 12. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.