

1 SB117
2 115958-1
3 By Senator Dixon
4 RFD: Judiciary
5 First Read: 12-JAN-10

2
3
4
5
6
7
8 SYNOPSIS: Currently, persons exercising the right of
9 redemption of real estate must exercise the right
10 within one year of the foreclosure sale.

11 This bill would reduce the time period to 90
12 days from the date of the sale.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Section 6-5-248, Code of Alabama 1975,
19 relating to exercising the right of redemption of real estate,
20 to reduce the time period to 90 days from the date of the
21 foreclosure sale.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§6-5-248.

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

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

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

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

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

6 "(5) Any transferee of the interests of the debtor
7 or mortgagor, either before or after the sale. A transfer of
8 any kind made by the debtor or mortgagor will accomplish a
9 transfer of the interests of that party.

10 "(6) The respective spouses of all debtors,
11 mortgagors, or transferees of any interest of the debtor or
12 mortgagor, who are spouses on the day of the execution,
13 judgment, or foreclosure sale.

14 "(7) Children, heirs, or devisees of any debtor or
15 mortgagor.

16 "(b) All persons named or enumerated in subdivisions
17 (a) (1) through (a) (7) ~~may~~ shall exercise the right of
18 redemption granted by this article within ~~one year~~ 90 days
19 from the date of the sale.

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

1 Once any lienholder, recorded judgment creditor, or
2 junior mortgagee is paid the amount of such person's debt and
3 any accrued interest and other contractual charges, such
4 person has no further right to redeem.

5 Any lienholder, recorded judgment creditor, or
6 junior mortgagee with a lower recorded priority may redeem
7 from those having a higher recorded priority who have
8 redeemed.

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

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

25 However, where debtors or mortgagors have conveyed
26 their interests in the property but remain liable on the debt
27 and are debtors at the date of the foreclosure sale, the

1 debtors and mortgagors retain their right of redemption under
2 this article and in the same manner, their spouses, children,
3 heirs or devisees continue to be entitled to the right of
4 redemption under this article.

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

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

12 Section 2. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.