

1 SB398  
2 115998-1  
3 By Senator Figures (N & P)  
4 RFD: Local Legislation No. 3  
5 First Read: 09-FEB-10

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8 SYNOPSIS: This bill would authorize any Class 2  
9 municipality to establish an expedited quiet title  
10 procedure to establish clear title to tax sale  
11 properties acquired from the State Land  
12 Commissioner pursuant to Chapter 10 of Title 40,  
13 Code of Alabama 1975.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to Class 2 municipalities; to authorize  
20 Class 2 municipalities to file an expedited quiet title and  
21 foreclosure action in circuit court to establish clear title  
22 to abandoned tax sale properties within the corporate limits  
23 that are acquired from the State Land Commissioner pursuant to  
24 Chapter 10, Title 40, Code of Alabama 1975; and to provide for  
25 the procedure and due process for the action in circuit court.  
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall apply only in a Class 2  
2 municipality and provides the exclusive procedure for an  
3 expedited quiet title and foreclosure action for a Class 2  
4 municipality, notwithstanding Section 8 of Act 2009-738, now  
5 appearing as Chapter 9 of Title 24, Code of Alabama 1975.

6           Section 2. (a) Class 2 municipalities may initiate  
7 an expedited quiet title and foreclosure action under this  
8 section against a parcel of tax sale property located within  
9 its municipal limits and purchased by the municipality from  
10 the State Land Commissioner. The municipality shall record, in  
11 the office of the judge of probate in the county in which the  
12 property is located, a notice of its intention to file an  
13 expedited quiet title and foreclosure action. The notice shall  
14 include a legal description of the property, street address of  
15 the property if available, a statement that the property is  
16 subject to expedited quiet title and foreclosure proceedings  
17 under this act, and a statement that those proceedings may  
18 extinguish any legal interests in the property. As used  
19 herein, "interested parties" shall mean the owner, his or her  
20 heirs or personal representatives, any mortgagee or purchaser  
21 of the subject property or any part thereof, and any party  
22 with an interest in the property, or in any part thereof,  
23 legal or equitable, in severalty or as tenant in common,  
24 including a judgment creditor or other creditor having a lien  
25 thereon, or any part thereof.

26           (b) The municipality shall make a good faith effort  
27 to identify the interested parties and the addresses at which

1 they can be reached. The municipality shall be presumed to  
2 have made a good faith effort to identify interested parties  
3 if it does all of the following:

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

7 THIS PROPERTY WAS SOLD TO THE CITY OF  
8 \_\_\_\_\_ FOR UNPAID TAXES. ANYONE WITH  
9 INFORMATION ABOUT THE OWNER OF THIS PROPERTY,  
10 PLEASE CALL \_\_\_\_\_.

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

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

19 (4) If the interested party is an individual, the  
20 municipality shall examine voter registration lists, available  
21 municipal archives for records of deaths, and the probate  
22 court records of estates opened in the county in which the  
23 property is located.

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

1           Section 3. The municipality may file a single  
2 petition with the clerk of the circuit court for the judicial  
3 circuit in which the subject property is located for an order  
4 to quiet title and expedite foreclosure to one or more parcels  
5 of property under this section. The petition shall identify  
6 each parcel by its tax parcel number and street address and  
7 shall be served on all interested parties identified in  
8 accordance with subsection (b) of Section 2.

9           Section 4. The circuit court petition under Section  
10 3 shall set the date, time, and place for a hearing on the  
11 petition within 90 days. The court, on the request of a party,  
12 may extend the 90-day period for good cause shown.

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

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

21           (2) Post conspicuously on each property named in the  
22 petition notice of the hearing which includes the following  
23 statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO [NAME OF  
24 MUNICIPALITY] AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND  
25 FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE  
26 PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [the  
27 municipality]."

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

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

6 (2) A legal description, tax parcel identification  
7 number, and the street address of the property, if available.

8 (3) The interested party or parties to whom the  
9 notice is addressed.

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

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

18 (6) The name, address, and telephone number of the  
19 municipality.

20 (7) A statement that persons with information  
21 regarding the owner or prior owner of any of the properties  
22 are requested to contact the municipality.

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

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

22           Section 7. Prior to the circuit court hearing on the  
23 expedited quiet title and foreclosure action, the municipality  
24 shall file with the clerk of the circuit court proof of notice  
25 to the interested parties by certified and regular mail and of  
26 the posting on the property under subdivision (2) of  
27 Subsection (a) of Section 5, along with proof of notice by

1 publication under Section 6, if applicable. An interested  
2 party who desires to contest the petition shall file written  
3 objections with the clerk of the circuit court and serve those  
4 objections on the municipality at least two weeks prior to the  
5 date of the hearing. If the court denies the petition, the  
6 denial shall not preclude the municipality from filing another  
7 petition for expedited quiet title and foreclosure on that  
8 parcel. No injunction shall issue to stay an expedited quiet  
9 title and foreclosure action under this section.

10 Section 8. (a) If an interested party appears at the  
11 hearing and asserts a right to redeem the property, that party  
12 may redeem in accordance with Chapter 10 of Title 40, Code of  
13 Alabama 1975.

14 (b) If an interested party appears and fails to  
15 redeem, or if no one appears, the circuit court shall enter  
16 judgment on the petition not more than 10 days after the date  
17 the matter was heard.

18 (c) The judgment of the circuit court shall specify  
19 all of the following:

20 (1) The legal description, tax parcel identification  
21 number, and, if known, the street address of the property  
22 foreclosed.

23 (2) That fee simple title to property foreclosed by  
24 the judgment is vested absolutely in the municipality, except  
25 as otherwise provided in subdivision (5), below, without any  
26 further rights of redemption.

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

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

6           (5) That all existing recorded and unrecorded  
7 interests in the property are extinguished, except for  
8 recorded easements or right-of-way, private deed restrictions,  
9 plat restrictions, or restrictions or covenants imposed under  
10 the Alabama Land Recycling and Economic Development Act or any  
11 other environmental law in effect in the state.

12           (6) That the municipality provided notice to all  
13 interested parties or that the municipality complied with the  
14 notice procedures in Section 5, which compliance shall create  
15 a rebuttable presumption that all interested parties received  
16 notice and an opportunity to be heard.

17           Section 9. A municipality or interested party may,  
18 within 42 days following the effective date of the judgment,  
19 appeal the judgment of the circuit court to the Court of Civil  
20 Appeals. Any party appealing from an order vesting title in  
21 the municipality shall, as a condition of the appeal, identify  
22 the parcel which is the subject of the appeal and, with  
23 respect to that parcel, post a bond with at least one solvent  
24 surety in the amount due to redeem the property under Chapter  
25 10, Title 40, Code of Alabama 1975. The appeal shall stay the  
26 order of the circuit court only with respect to each parcel  
27 identified as the subject of the appeal. The order of the

1 circuit court shall be affirmed absent a defect in the  
2 identification of the property or in the notice such that the  
3 notice deprived a party of the right to due process of law.  
4 The order shall not be reversed on the basis of merely  
5 technical noncompliance with this section.

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

12 Section 11. All laws or parts of laws which conflict  
13 with this act are repealed.

14 Section 12. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.