

1 HB290  
2 136676-1  
3 By Representatives Hill and McCutcheon  
4 RFD: State Government  
5 First Read: 09-FEB-12

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8 SYNOPSIS: Under existing law, legal notices required  
9 by any law, mortgage, or other contract are  
10 generally required to be published in a newspaper.

11 This bill would require newspapers accepting  
12 legal notices, in addition to publishing the legal  
13 notice in print, to publish the legal notice on an  
14 Internet website if the newspaper maintains an  
15 Internet website, as well as on a statewide website  
16 maintained by an entity having the access and  
17 ability to upload notices from newspapers in this  
18 state.

19 This bill would provide that the publication  
20 on the Internet websites would be at no charge to  
21 the government or the party requesting the  
22 publication of the legal notice.

23 This bill would protect the validity of  
24 legal notices if the failure for the notice to be  
25 posted on the website is attributed to the fault of  
26 the newspaper, Internet provider, or the Secretary  
27 of State.

1                   This bill would also provide that the rate  
2                   charged for publication of a public notice shall  
3                   not exceed the lowest classified rate paid by  
4                   commercial customers for comparable advertisements  
5                   in the same newspaper in which the notice appears.

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7                   A BILL  
8                   TO BE ENTITLED  
9                   AN ACT

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11                   Relating to the publication of legal notices; to  
12                   amend Sections 6-8-60, 6-8-62, 6-8-64, and 6-8-65, Code of  
13                   Alabama 1975, to authorize the electronic publication of legal  
14                   notices; to require newspapers maintaining Internet websites  
15                   to publish legal notices on the website in addition to  
16                   publication in print in a newspaper; to require the  
17                   publication of legal notices on a statewide Internet website;  
18                   to specify that legal notices shall remain valid if the  
19                   failure to publish was attributed to the fault of the  
20                   newspaper, Internet provider, or entity hosting the statewide  
21                   website; to prohibit newspapers from charging additional fees  
22                   for the electronic publication of legal notices; and to  
23                   further provide for the rate charged for publication of a  
24                   public notice.

25                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26                   Section 1. Sections 6-8-60, 6-8-62, 6-8-64, and  
27                   6-8-65, Code of Alabama 1975, are amended to read as follows:

1           "§6-8-60.

2           "(a) The party in interest or at whose instance the  
3 publication of notice is to be given by advertisement in a  
4 newspaper may designate the newspaper in which such  
5 advertisement shall be made. If the officer charged with the  
6 duty of making the advertisement disregards such designation  
7 and makes advertisement in some other paper, he or she must  
8 pay the cost thereof and shall not be entitled to  
9 reimbursement; ~~but all.~~

10           "(b) All publications required by any law, mortgage  
11 or other contract to be published in a newspaper must be  
12 published in any newspaper printed in the English language  
13 which has a general circulation in the county, regardless of  
14 where the paper is printed, if the principal editorial office  
15 of the newspaper is located within the county and which  
16 newspaper shall have been mailed under the ~~second~~ publication  
17 class mailing privilege of the United States Postal Service  
18 from the post office where it is published for at least 51  
19 weeks a year. The newspaper shall, without additional charge,  
20 also upload legal notice publications to a statewide website  
21 established and maintained by an entity having the capacity to  
22 receive notices from a majority of newspapers in this state.  
23 Any newspaper which also publishes a website in its own name  
24 shall also post legal notice publications on an Internet  
25 website published by the newspaper without additional charge.

26           "§6-8-62.

1           "(a) When the notice is required to be given for a  
2 specified number of weeks, it must be given by consecutive  
3 weekly insertions for the number of weeks so specified. When  
4 the notice is of a proceeding to be had or of an act to be  
5 done on a specified day:

6           "(1) If the publication is for one week, the  
7 insertion must be not less than six days before such day;

8           "(2) If for two weeks, the first insertion must be  
9 at least 12 days before such day;

10          "(3) If for three weeks, the first insertion must be  
11 at least 18 days before such day;

12          "(4) If for four weeks, the first insertion must be  
13 at least 24 days before such day;

14          "(5) If for five weeks, the first insertion must be  
15 at least 30 days before such day;

16          "(6) If for six weeks, the first insertion must be  
17 at least 36 days before such day; and

18          "(7) So on at the same rate of increase, the time to  
19 be computed as provided in Section 1-1-4.

20          "(b) When the time is specified in days, two weeks'  
21 notice is equal to 15 days' notice; three weeks to 20 days;  
22 four weeks to 30 days; and six weeks to 40 days.

23          "(c) A newspaper publishing a notice shall also  
24 place the notice on an Internet website operated by the  
25 newspaper, if the newspaper publishes a website, and on the  
26 statewide website established and maintained by an entity  
27 having the access and ability to upload legal notices from the

1 majority of newspapers in this state as a repository for the  
2 notices. Posting on the Internet shall begin on the first day  
3 of insertion and run continuously until the expiration of the  
4 specified time. All Internet notices required pursuant to this  
5 section to be placed on the Internet shall remain valid for  
6 all purposes when any error in the posting on the Internet is  
7 the fault of the newspaper, an Internet provider, or the  
8 statewide website.

9 "§6-8-64.

10 "(a) ~~No newspaper may charge more than its then~~  
11 ~~current published commercial classified rates. When any matter~~  
12 ~~or material is required to be published in tabular form, the~~  
13 ~~rate to be charged and paid shall not exceed the nationally~~  
14 ~~published rate. The rate charged for publication of a public~~  
15 notice shall not exceed the lowest classified rate paid by  
16 commercial customers for comparable advertisements in the same  
17 newspapers in which the public notice appears. The lowest  
18 classified rate paid by commercial customers for comparable  
19 advertisements shall be calculated to include all cash  
20 discounts, multiple insertion discounts, and any other  
21 commercial contract benefits for which the public notice also  
22 qualifies.

23 "(b) The newspaper publishing the notice shall place  
24 the notice on its own website, if it publishes a website, and  
25 the statewide website at no additional charge to government or  
26 to the party in interest or at whose instance the publication  
27 of a legal notice is to be given. The amount charged for the

1 notice shall include publication in the print edition of the  
2 newspaper; the newspaper's website, if it publishes one; and  
3 the statewide website.

4 ~~"(b)(c)~~ The rates established in this section shall  
5 apply to any and all legal notices, advertisements,  
6 publications, statements, or other matter of whatever kind or  
7 character required by the Constitution of Alabama, by general,  
8 local, or special law or by rules or orders of courts to be  
9 published in newspapers in this state, whether the agency  
10 required to cause the publication to be made is an individual,  
11 officer, municipality, county, the state, governmental  
12 subdivision, or any other legal entity; provided, that rates  
13 established in this section shall not apply when a local law  
14 prescribes a different rate, in which event said local law  
15 shall be applicable.

16 "§6-8-65.

17 "All agreements between any officer charged with the  
18 duty of advertising legal notices in a newspaper and the  
19 printer, publisher, or manager of such paper whereby any  
20 advantage, gain or profit is to accrue to such officer are  
21 void; and before the charge for such advertisement can be  
22 demanded or received, the officer and the printer, publisher,  
23 or manager must each make and file an affidavit that no such  
24 agreement exists. The printer, publisher, or manager must, in  
25 addition, make affidavit that the sum charged ~~is the actual~~  
26 ~~lowest regular price for such advertisement~~ does not exceed  
27 the lowest classified rate paid by commercial customers for

1       comparable advertisements in the same newspapers in which the  
2       public notice appears."

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