

1 SB73
2 134911-3
3 By Senators Ward and Holtzclaw
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 11/30/2011

1 SB73

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
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:

1 Section 1. Sections 6-8-60, 6-8-62, 6-8-64, and
2 6-8-65, Code of Alabama 1975, are amended to read as follows:

3 "§6-8-60.

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

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

1 shall also post legal notice publications on an Internet
2 website published by the newspaper without additional charge.

3 "§6-8-62.

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

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

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

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

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

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

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

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

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

1 "(c) A newspaper publishing a notice shall also
2 place the notice on an Internet website operated by the
3 newspaper, if the newspaper publishes a website, and on the
4 statewide website established and maintained by an entity
5 having the access and ability to upload legal notices from the
6 majority of newspapers in this state as a repository for the
7 notices. Posting on the Internet shall begin on the first day
8 of insertion and run continuously until the expiration of the
9 specified time. All Internet notices required pursuant to this
10 section to be placed on the Internet shall remain valid for
11 all purposes when any error in the posting on the Internet is
12 the fault of the newspaper, an Internet provider, or the
13 statewide website.

14 "§6-8-64.

15 ~~"(a) No newspaper may charge more than its then~~
16 ~~current published commercial classified rates. When any matter~~
17 ~~or material is required to be published in tabular form, the~~
18 ~~rate to be charged and paid shall not exceed the nationally~~
19 ~~published rate. The rate charged for publication of a public~~
20 notice shall not exceed the lowest classified rate paid by or
21 published on a rate card for commercial customers for an
22 advertisement of similar size, and frequency in the same
23 newspapers in which the public notice appears. The lowest
24 classified rate paid by or published on a rate card for
25 commercial customers for such advertisements shall be
26 calculated to also include all cash discounts, multiple

1 insertion discounts, and any other commercial contract
2 benefits for which the public notice also qualifies.

3 "(b) The newspaper publishing the notice shall place
4 the notice on its own website, if it publishes a website, and
5 the statewide website at no additional charge to government or
6 to the party in interest or at whose instance the publication
7 of a legal notice is to be given. The amount charged for the
8 notice shall include publication in the print edition of the
9 newspaper; the newspaper's website, if it publishes one; and
10 the statewide website.

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

23 "§6-8-65.

24 "All agreements between any officer charged with the
25 duty of advertising legal notices in a newspaper and the
26 printer, publisher, or manager of such paper whereby any

1 advantage, gain or profit is to accrue to such officer are
2 void; and before the charge for such advertisement can be
3 demanded or received, the officer and the printer, publisher,
4 or manager must each make and file an affidavit that no such
5 agreement exists. The printer, publisher, or manager must, in
6 addition, make affidavit to the entity required to publish the
7 legal notice that the sum charged ~~is the actual lowest regular~~
8 ~~price for such advertisement~~ does not exceed the lowest
9 classified rate paid by commercial customers for an
10 advertisement of similar size, and frequency in the same
11 newspapers in which the public notice appears."

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.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Judiciary..... 07-FEB-12
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7 Read for the second time and placed on the calen-
8 dar 1 amendment..... 08-FEB-12
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10 Read for the third time and passed as amended 16-FEB-12

11 Yeas 23
12 Nays 0

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15 Patrick Harris
16 Secretary
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