

1 HB200
2 156015-2
3 By Representatives Clarke and Ison (N & P)
4 RFD: Mobile County Legislation
5 First Read: 14-JAN-14

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ENROLLED, An Act,

Relating to Class 2 municipalities; to amend Sections 11-70-1, 11-70-2, 11-70-3, and 11-70-8, Code of Alabama 1975, pertaining to expedited quiet title and foreclosure actions in a Class 2 municipality.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-70-1, 11-70-2, 11-70-3, and 11-70-8, Code of Alabama 1975, are amended to read as follows:

"§11-70-1.

"This chapter shall apply only in a Class 2 municipality and provides the exclusive procedure for an expedited quiet title and foreclosure action for a Class 2 municipality, notwithstanding Section 24-9-8. Section 40-10-82 shall not apply to, restrict, or otherwise affect any cause of action or action brought by a Class 2 municipality pursuant to this chapter and shall not remove any limitation of action or extend the period of redemption of any abandoned tax sale properties within the corporate limits of the Class 2 municipality.

"§11-70-2.

"(a) Class 2 municipalities may initiate an expedited quiet title and foreclosure action under this chapter against a parcel of tax sale property located within its municipal limits and purchased by the municipality ~~from~~

1 ~~the State Land Commissioner~~. The municipality shall record, in
2 the office of the judge of probate in the county in which the
3 property is located, a notice of its intention to file an
4 expedited quiet title and foreclosure action. The notice shall
5 include a legal description of the property, street address of
6 the property if available, a statement that the property is
7 subject to expedited quiet title and foreclosure proceedings
8 under this chapter, and a statement that those proceedings may
9 extinguish any legal interests in the property. As used
10 herein, interested parties shall mean the owner, his or her
11 heirs or personal representatives, any mortgagee or purchaser
12 of the subject property or any part thereof, and any party
13 with an interest in the property, or in any part thereof,
14 legal or equitable, in severalty or as tenant in common,
15 including a judgment creditor or other creditor having a lien
16 thereon, or any part thereof.

17 "(b) The municipality shall make a good faith effort
18 to identify the interested parties and the addresses at which
19 they can be reached. The municipality shall be presumed to
20 have made a good faith effort to identify interested parties
21 if it does all of the following:

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

1 "THIS PROPERTY WAS SOLD TO THE CITY OF
2 _____ FOR UNPAID TAXES. ANYONE WITH INFORMATION ABOUT
3 THE OWNER OF THIS PROPERTY, PLEASE CALL _____.

4 "(2) Examines the addresses that appear on the face
5 of the recorded deeds, mortgages, and relevant instruments.

6 "(3) Examines the records of the tax assessor or
7 revenue commissioner to find the names and addresses of all
8 parties who paid taxes in the five-year period prior to the
9 date of the tax sale; provided, however, that the municipality
10 is not required to search for parties who paid taxes more than
11 20 years prior to the year of the inquiry.

12 "(4) If the interested party is an individual, the
13 municipality shall examine voter registration lists, available
14 municipal archives for records of deaths, and the probate
15 court records of estates opened in the county in which the
16 property is located.

17 "(5) If the interested party is a business entity,
18 the municipality shall search the records of the Secretary of
19 State for the name and address of a registered agent.

20 "§11-70-3.

21 "The municipality may file a single petition with
22 the clerk of the circuit court for the judicial circuit in
23 which the subject property is located for an order to quiet
24 title and expedite foreclosure to one or more parcels of
25 property under this chapter. The petition shall identify each

1 parcel by its tax parcel number and street address and shall
2 be served on all interested parties identified in accordance
3 with subsection (b) of Section 11-70-2. No action filed
4 pursuant to this chapter shall be subject to the payment of
5 filing fees.

6 "§11-70-8.

7 "(a) If an interested party appears at the hearing
8 and asserts a right to redeem the property, ~~that~~ the party may
9 redeem in accordance with the property by paying all the
10 taxes, interest, municipal liens, penalties, fees, and any
11 other charges due and owing pursuant to Chapter 10 of Title
12 40, including the amount due to the land commissioner had the
13 property not been sold to the municipality.

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
21 identification number, and, if known, the street address of
22 the property foreclosed.

23 "(2) That fee simple title to property foreclosed by
24 the judgment is vested absolutely in the municipality, except

1 as otherwise provided in subdivision (5) without any further
2 rights of redemption.

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

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

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

14 "(6) That the municipality provided notice to all
15 interested parties or that the municipality complied with the
16 notice procedures in Section 11-70-5, which compliance shall
17 create a rebuttable presumption that all interested parties
18 received notice and an opportunity to be heard."

19 Section 2. All laws or parts of laws which conflict
20 with this act are repealed.

21 Section 3. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

