

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

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8 SYNOPSIS: Under existing law, a Class 2 municipality
9 may initiate an expedited quiet title and
10 foreclosure action against tax sale property in the
11 municipality.

12 This bill would further provide that a
13 limitation under general law would not apply, would
14 delete a provision specifying that the property
15 would be purchased from the State Land
16 Commissioner, and would further provide for
17 redemption by an interested party.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to Class 2 municipalities; to amend
24 Sections 11-70-1, 11-70-2, 11-70-3, and 11-70-8, Code of
25 Alabama 1975, pertaining to expedited quiet title and
26 foreclosure actions in a Class 2 municipality.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§11-70-1.

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

14 "§11-70-2.

15 "(a) Class 2 municipalities may initiate an
16 expedited quiet title and foreclosure action under this
17 chapter against a parcel of tax sale property located within
18 its municipal limits and purchased by the municipality ~~from~~
19 ~~the State Land Commissioner~~. The municipality shall record, in
20 the office of the judge of probate in the county in which the
21 property is located, a notice of its intention to file an
22 expedited quiet title and foreclosure action. The notice shall
23 include a legal description of the property, street address of
24 the property if available, a statement that the property is
25 subject to expedited quiet title and foreclosure proceedings
26 under this chapter, and a statement that those proceedings may
27 extinguish any legal interests in the property. As used

1 herein, interested parties shall mean the owner, his or her
2 heirs or personal representatives, any mortgagee or purchaser
3 of the subject property or any part thereof, and any party
4 with an interest in the property, or in any part thereof,
5 legal or equitable, in severalty or as tenant in common,
6 including a judgment creditor or other creditor having a lien
7 thereon, or any part thereof.

8 "(b) The municipality shall make a good faith effort
9 to identify the interested parties and the addresses at which
10 they can be reached. The municipality shall be presumed to
11 have made a good faith effort to identify interested parties
12 if it does all of the following:

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

16 "THIS PROPERTY WAS SOLD TO THE CITY OF
17 _____ FOR UNPAID TAXES. ANYONE WITH INFORMATION ABOUT
18 THE OWNER OF THIS PROPERTY, PLEASE CALL _____.

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

21 "(3) Examines the records of the tax assessor or
22 revenue commissioner to find the names and addresses of all
23 parties who paid taxes in the five-year period prior to the
24 date of the tax sale; provided, however, that the municipality
25 is not required to search for parties who paid taxes more than
26 20 years prior to the year of the inquiry.

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

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

9 "§11-70-3.

10 "The municipality may file a single petition with
11 the clerk of the circuit court for the judicial circuit in
12 which the subject property is located for an order to quiet
13 title and expedite foreclosure to one or more parcels of
14 property under this chapter. The petition shall identify each
15 parcel by its tax parcel number and street address and shall
16 be served on all interested parties identified in accordance
17 with subsection (b) of Section 11-70-2. No action filed
18 pursuant to this chapter shall be subject to the payment of
19 filing fees.

20 "§11-70-8.

21 "(a) If an interested party appears at the hearing
22 and asserts a right to redeem the property, ~~that~~ the party may
23 redeem in accordance with the property by paying all the
24 taxes, interest, municipal liens, penalties, fees, and any
25 other charges due and owing pursuant to Chapter 10 of Title
26 40, including the amount due to the land commissioner had the
27 property not been sold to the municipality.

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

5 "(c) The judgment of the circuit court shall specify
6 all of the following:

7 "(1) The legal description, tax parcel
8 identification number, and, if known, the street address of
9 the property foreclosed.

10 "(2) That fee simple title to property foreclosed by
11 the judgment is vested absolutely in the municipality, except
12 as otherwise provided in subdivision (5) without any further
13 rights of redemption.

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

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

19 "(5) That all existing recorded and unrecorded
20 interests in the property are extinguished, except for
21 recorded easements or right-of-way, private deed restrictions,
22 plat restrictions, or restrictions or covenants imposed under
23 the Alabama Land Recycling and Economic Development Act or any
24 other environmental law in effect in the state.

25 "(6) That the municipality provided notice to all
26 interested parties or that the municipality complied with the
27 notice procedures in Section 11-70-5, which compliance shall

1 create a rebuttable presumption that all interested parties
2 received notice and an opportunity to be heard."

3 Section 2. All laws or parts of laws which conflict
4 with this act are repealed.

5 Section 3. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.