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3 HOUSE MOBILE COUNTY COMMITTEE SUBSTITUTE FOR HB430
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8 SYNOPSIS: This bill would establish a procedure for a
9 Class 2 municipality to conduct a judicial in rem
10 foreclosure of non-owner occupied property that
11 does not comply with local building codes.
12

13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to Class 2 municipalities; to repeal
18 Sections 11-40-50 through 11-40-54, Code of Alabama 1975,
19 relating to the use and occupancy of buildings; to grant the
20 Class 2 municipality the authority to enact by ordinance
21 provisions for enforcement of local and state building
22 regulations for the maintenance of structures; to provide for
23 a judicial in rem foreclosure on non-owner occupied
24 properties; to provide for recovery of taxpayer costs and
25 transfer of title to property under certain circumstances; to
26 provide that non-owner property may be transferred to a
27 responsible owner if the property owner fails to reimburse for

1 costs of the enforcement; and to repeal Sections 11-40-50
2 through 11-40-54, Code of Alabama 1975, relating to the use
3 and occupancy of buildings.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act applies only to Class 2
6 municipalities.

7 Section 2. (a) The provisions of this act shall
8 apply in any Class 2 municipality that adopts the provisions
9 of this act to be applicable to the collection of municipal
10 code liens as to real property, other than owner occupied
11 property, in the municipality.

12 (b) The provisions of this act shall not apply to
13 owner occupied property.

14 Section 3. Definitions.

15 As used in this act, the following words and phrases
16 shall have the following meanings:

17 (1) INTERESTED PARTY. Includes the following
18 parties:

19 a. The person who last appears as owner of the real
20 property in the county office of the judge of probate's
21 property records.

22 b. The current mortgagee of record of the property
23 or assignee of record of the mortgagee.

24 c. The current holder of a beneficial interest in a
25 deed of trust recorded against the real property.

26 d. A tax certificate holder.

1 e. A tax sale purchaser that holds a deed of
2 purchase in accordance with Section 40-10-29 of the Code of
3 Alabama 1975.

4 f. Any party having an interest in the real
5 property, or in any part thereof, legal or equitable, in
6 severalty or as tenant in common, whose identity and addresses
7 are reasonably ascertainable from the records of the Class 2
8 municipality or records maintained in the county office of the
9 judge of probate or as revealed by a full title search,
10 consisting of 50 years or more.

11 g. An Interested Party shall not include the holder
12 of the benefit of an easement which burdens the real property,
13 the holder of the benefit or burden of a real covenant which
14 burdens the real property, or the holder of the benefit of a
15 utility easement which burdens the real property.

16 (2) MINIMUM BID PRICE. The price that equals the
17 Redemption Amount.

18 (3) MUNICIPAL CODE LIEN. Any lien that has been
19 levied against real property by a Class 2 municipality that is
20 the result of the non-payment of any fine, penalty, abatement
21 cost, or enforcement cost incurred by a Class 2 municipality
22 related to the enforcement of state or local housing and
23 building codes. Such lien shall include only those liens which
24 arise out of a failure to comply with any of the following
25 provisions of the Code of Alabama, or from the failure to
26 comply with a Class 2 municipality's ordinance or resolution
27 enacted pursuant to the authority granted in any of the

1 following provisions of the Code of Alabama: Sections 11-40-30
2 through 11-40-36; 11-47-117; 11-47-118; 11-47-130 through
3 11-47-131; 11-47-140; 11-53-1 through 11-53-4; 11-53B-1
4 through 11-53B-16; and 11-67-1 through 11-67-10.

5 A municipal code lien shall not include any lien
6 that has previously been certified to the tax collector of the
7 county for inclusion on the property tax bill associated with
8 the real property, such as those liens certified under Section
9 11-67-8 of the Code of Alabama 1975.

10 (4) MUNICIPAL CODE LIEN PAYOFF. The principal amount
11 of a municipal code lien, interest accrued at the rate of
12 seven and one-half percent per annum from the date the
13 municipal code lien was filed in the office of the judge of
14 the probate, any fees or costs incurred in the collection of
15 such a lien under this act including, without limitations, the
16 cost of title examinations and publication of notices, and any
17 other penalties allowable under either state law or under an
18 ordinance or resolution enacted by the Class 2 municipality.

19 (5) OWNER OCCUPIED. Real property that is lawfully
20 occupied as a principal residence that is any of the
21 following:

22 a. A homestead as described in Section 40-9-19 of
23 the Code of Alabama 1975.

24 b. Exempt from ad valorem taxation under Sections
25 40-9-19.1, 40-9-20, and 40-9-21 of the Code of Alabama 1975.

26 c. Eligible for the designations listed in
27 paragraphs a. or b., but which has not yet been granted such

1 designation and which is lawfully occupied by the family of a
2 deceased individual.

3 (6) REDEMPTION AMOUNT. The sum of (1) the full
4 amount of the municipal code lien payoff for each municipal
5 code lien on which the Class 2 municipality is seeking to
6 foreclose under this act, and (2) any tax payoff that may be
7 applicable to the property on which the Class 2 municipality
8 is seeking to foreclose under this act.

9 (7) TAXES. Those taxes assessed against real
10 property by either the State of Alabama, the county in which
11 the real property is situated, or the Class 2 municipality
12 that are delinquent, as defined in Section 40-11-4 or Section
13 11-51-2 of the Code of Alabama 1975, as of the date a
14 proceeding under this act is commenced or at any time before
15 final resolution of the same, and shall also include any taxes
16 assessed against real property that are unpaid from any
17 previous year and any amounts required for redemption under
18 Section 40-10-82, 40-10-120, or Section 11-51-23 of the Code
19 of Alabama 1975. As provided in Section 11-51-6 of the Code of
20 Alabama 1975, a lien for taxes shall be superior to all other
21 liens, including municipal code liens.

22 (8) TAX CERTIFICATE HOLDER. Any of the following:

23 a. A tax sale purchaser that holds a certificate of
24 purchase in accordance with Section 40-10-19 of the Code of
25 Alabama 1975.

1 b. The state, where it has accepted and recorded a
2 certificate of purchase obtained at a tax sale in accordance
3 with Section 40-10-20 of the Code of Alabama 1975.

4 c. Any party to which a certificate of purchase
5 obtained at a tax sale has been assigned in accordance with
6 Section 40-10-21 of the Code of Alabama 1975.

7 d. The purchaser or assignee of a tax lien
8 certificate as described in Section 40-10-187 of the Code of
9 Alabama 1975.

10 (9) TAX PAYOFF. Any and all amounts necessary to
11 satisfy any claims for delinquent taxes assessed against the
12 real property on which the Class 2 municipality is seeking to
13 foreclosure under this act. Those amounts shall include:

14 a. If the taxes associated with the property are
15 delinquent as defined in Section 40-11-4 or Section 11-51-2,
16 Code of Alabama 1975, but the property has not yet been sold
17 for taxes, then the full amount of delinquent taxes, costs,
18 fees and charges due to the county tax collector in accordance
19 with Section 40-5-8 of the Code of Alabama 1975; and

20 b. If the property has been sold for taxes to the
21 state, then those amounts required for redemption and
22 described in Sections 40-10-83, 40-10-120, 40-10-121, and
23 40-10-122 of the Code of Alabama 1975, except that when a
24 Class 2 municipality is the prevailing bidder, the tax payoff
25 amount shall be the lesser of these amounts or the amount as
26 determined by Section 40-10-132(a) (2) of the Code of Alabama
27 1975.

1 c. If the property has been sold for taxes to a
2 party other than the state, then those amounts required for
3 redemption and described in Sections 40-10-83, 40-10-120,
4 40-10-121, and 40-10-122 of the Code of Alabama 1975.

5 d. If a tax lien has been sold by a county in
6 accordance with the provisions of Section 40-10-182, Code of
7 Alabama 1975, then the amount required for redemption in
8 accordance with Section 40-10-193, Code of Alabama 1975.

9 Section 4. Violations of Class 2 municipality
10 Housing and Building Code; Priority of Liens.

11 (a) Notwithstanding any law to the contrary, any
12 fees, penalties and abatement costs imposed against property
13 other than owner occupied real property for violations of a
14 Class 2 municipality's housing and building codes adopted
15 pursuant to the Code of Alabama 1975, may be enforced in rem
16 as a lien in accordance with this act.

17 (b) Every municipal code lien, as defined in this
18 act, shall be superior to all other liens, except those liens
19 for taxes described or referenced in Section 11-51-6, Code of
20 Alabama 1975.

21 Section 5. Nature of Rights and Remedies.

22 (a) Any Class 2 municipality to which this act
23 applies may proceed with judicial in rem foreclosures of
24 municipal code liens in accordance with the provisions of this
25 act by enactment of an ordinance or resolution of the
26 governing authority of the Class 2 municipality in which the
27 real property is located which ordinance or resolution shall

1 be sufficient authority for use of this act by the Class 2
2 municipality to enforce its municipal code liens.

3 (b) The ordinance of a Class 2 municipality
4 authorizing and approving the use of this act shall include
5 all the following matters:

6 (1) The initial effective date for application of
7 these procedures.

8 (2) If the Class 2 municipality elects not to apply
9 these procedures to all real properties as of the same future
10 date, then the phase-in of these procedures over a period of
11 time and the manner of determination of which real properties
12 are subject in which sequence to these procedures.

13 (3) The explicit exclusion of owner-occupied
14 properties from the application of the judicial in rem
15 foreclosure procedures authorized in this act.

16 (4) The nature and extent of notices, support
17 services, and referrals to be provided to the owners and
18 occupants of owner-occupied properties.

19 (5) Any other matters the Class 2 municipality
20 specifies to be addressed through administrative regulations
21 and policies.

22 (c) The provisions of the Class 2 municipality
23 ordinance and administrative regulations and policies issued
24 pursuant thereto shall not be in conflict with Sections 7
25 through 10 of this act.

26 (d) Proceedings in accordance with this act are
27 designed solely to enforce the municipal code lien for real

1 property subject to the municipal code lien and shall not
2 constitute an action for personal liability for the municipal
3 code liens against the owner or owners of the real property.

4 (e) The rights and remedies set forth in this act
5 are available solely to the governmental entities authorized
6 by law to enforce municipal ordinances and shall not extend to
7 any nongovernmental transferee of municipal code liens.

8 (f) A Class 2 municipality that has adopted the
9 provisions of this act and that seeks to enforce a municipal
10 code lien through the sale of real property shall utilize the
11 judicial in rem proceedings of this act as the sole remedy for
12 the enforcement through the sale of real property.

13 (g) The enforcement proceedings authorized by this
14 act may be initiated only by the Class 2 municipality.

15 Section 6. Filing Petition for Foreclosure; Form of
16 Petition; Notice.

17 (a) After a municipal code lien has been recorded
18 with the office of the probate judge of the county in which
19 the real property lies, the Class 2 municipality may identify
20 those properties on which to commence a judicial in rem
21 foreclosure in accordance with this act, except that those
22 properties the Class 2 municipality identifies as owner
23 occupied shall not be subject to judicial in rem foreclosure
24 under this act. The Class 2 municipality shall not file a
25 petition for judicial in rem foreclosure in accordance with
26 this act for a period of six months following the date upon
27 which the municipal code lien is recorded in the office of the

1 probate judge. A petition for judicial in rem foreclosure may
2 include any other municipal code lien that has been filed
3 prior to the date the petition is filed. After enforcement
4 proceedings have commenced in accordance with this act, the
5 enforcement proceedings may be amended to include any
6 subsequently arising municipal code liens and, if applicable,
7 any and all taxes as defined in this act.

8 (b) If the property on which the Class 2
9 municipality is seeking to foreclose under this act is subject
10 to taxes as defined in this act, then at least 60 days prior
11 to the filing of the petition, the Class 2 municipality shall
12 notify all other taxing agencies within the jurisdiction of
13 the Class 2 municipality, and the State of Alabama of the
14 Class 2 municipality's intention to file a petition for
15 judicial in rem foreclosure of the real property on which a
16 municipal code liens exists. Upon notification, the Revenue
17 Commissioner shall provide the tax payoff amount to the Class
18 2 municipality.

19 (c) The Class 2 municipality shall record in the
20 appropriate lis pendens record in the office of the judge of
21 probate of the county in which the real property is located, a
22 notice of his or her intent to file a judicial in rem
23 foreclosure action. The notice shall include a legal
24 description of the property, street address of the property if
25 available, a statement that the property is subject to
26 judicial in rem foreclosure proceedings under this act, and a

1 statement that those proceedings may extinguish any legal
2 interests in the property.

3 (d) Simultaneous with the filing of his or her
4 notice of intent to file a judicial in rem foreclosure action,
5 the Class 2 municipality shall file a petition with the clerk
6 of the circuit court for the judicial circuit in which the
7 real property is located, the petition shall have form and
8 content substantially identical to that form as provided in
9 subsection (i).

10 (e) The petition shall be filed against the real
11 property against which the municipal code lien has been
12 recorded and shall provide all of the following:

13 (1) The identity of the Class 2 municipality.

14 (2) The real property address.

15 (3) A description of the real property.

16 (4) The tax identification number of the real
17 property.

18 (5) The municipal code lien which is being
19 foreclosed.

20 (6) The principal amount of the municipal code lien
21 together with applicable interest and penalties.

22 (7) The principal amount of any additional municipal
23 code liens together with applicable interest and penalties in
24 accordance with subsection (a) if any.

25 (8) The year or years for which the taxes are
26 delinquent, if any.

1 (9) The principal amount of the taxes together with
2 interest and penalties, if any.

3 (10) The tax payoff amount.

4 (11) A statement that upon final sale in accordance
5 with this act and payment of the tax payoff amount, if
6 applicable, an interested party's rights of redemption under
7 Title 40, Chapter 10 or Title 11, Chapter 51, Code of Alabama
8 1975, shall be extinguished.

9 (12) The names and addresses of all interested
10 parties to whom copies of the petition are to be sent in
11 accordance with subsection (f).

12 (f) The Class 2 municipality shall mail copies of
13 the petition by both certified mail, return receipt requested,
14 and by regular mail to all interested parties whose identity
15 and address are reasonably ascertainable. Copies of the
16 petition shall also be mailed by first-class mail to the real
17 property address to the attention of the occupants of the
18 property, if any. In addition, notice shall be physically
19 posted on the real property and shall include the following
20 statement: "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM
21 FORECLOSURE ACTION AND MAY BE TRANSFERRED TO [NAME OF CLASS 2
22 MUNICIPALITY] OR ANOTHER PARTY. PERSONS WITH INFORMATION
23 REGARDING THE CURRENT OWNER OF THE PROPERTY ARE REQUESTED TO
24 CONTACT [NAME OF CLASS 2 MUNICIPALITY]."

25 (g) If the Class 2 municipality finds reason to
26 believe that the real property is owner occupied after the

1 filing of the petition, the Class 2 municipality shall
2 immediately seek dismissal of its petition.

3 (h) Within 30 days of the filing of the petition,
4 the Class 2 municipality shall cause a notice of the filing of
5 the petition to be published once each week for three
6 consecutive weeks in a newspaper of general circulation in the
7 county in which the property is located. Such notice shall
8 specify:

9 (1) The name and address of the Class 2
10 municipality.

11 (2) The real property address.

12 (3) A description of the real property.

13 (4) The tax identification number of the real
14 property.

15 (5) Any applicable municipal code lien which is
16 being foreclosed upon.

17 (6) The principal amount of any municipal code lien
18 together with interest and penalties.

19 (7) The applicable period of tax delinquency, if
20 any.

21 (8) The principal amount of taxes, if any.

22 (9) Upon deposit with the appropriate parties by the
23 court of the tax payoff amounts, if any, described in
24 subsection (c) (3) of Section 11-40-57, Code of Alabama 1975,
25 any and all rights of redemption accorded to interested
26 parties under Title 40, Chapter 10 or under Title 11, Chapter
27 51, Code of Alabama 1975, are extinguished.

1 (10) The date and place of the filing of the
2 petition.

3 (i) The petition for judicial in rem foreclosure
4 shall be in substantially the following form:

5 IN THE CIRCUIT COURT FOR _____ COUNTY

6 STATE OF ALABAMA-

7 Petitioner:)

8 [Class 2 municipality])

9 Name, Address,)

10 Telephone Number)

11 v. Civil Action No: _____

12 Respondents:

13 _____, ACRES OF LAND LYING)

14 AND BEING IN _____,)

15 _____ COUNTY, ALABAMA)

16 _____)

17 _____)

18 (Address of Property)

19 And

20 _____)

21 Name and mailing address of Owner

22 PETITION FOR JUDICIAL IN REM FORECLOSURE COMES NOW
23 (Petitioner) and petitions this Court for judicial in rem
24 foreclosure in accordance with Section _____ of the Code
25 of Alabama 1975, by showing this Court as follows:

26 1. _____ is the owner of certain real property
27 located at _____ (the "Property") having a tax

1 identification number of _____. (A legal description of the
2 Property is attached hereto as Exhibit "A" and by this
3 reference incorporated herein).

4 2. The municipal code lien(s) recorded against the
5 Property by City of _____ for nonpayment of costs incurred,
6 penalties, or fees arising from violations of the City of
7 _____'s Code of Ordinances related to the Property, the
8 total amount of which is \$ _____ (amount includes principal
9 amount of the municipal code lien and any accrued interest and
10 penalties as of this date) have not been paid. (An itemized
11 list of any municipal code lien recorded against the Property
12 and the subject of this Petition is attached hereto as Exhibit
13 "B" and by this reference incorporated herein.)

14 3. The taxes assessed against the Property by
15 City/County of _____ or by the State of Alabama for the
16 year(s) _____ in the amount of \$ _____ (amount includes
17 principal amount of taxes owed and any accrued interest and
18 penalties as of this date) [have] [have not] been paid.

19 4. Attached hereto as Exhibit "C" is a list of the
20 names and addresses of interested parties also receiving a
21 copy of this Petition by first class mail.

22 5. Occupants of the Property shall be served by
23 mailing the petition by first-class mail to the attention of
24 the occupants at the above-listed Property address.

25 6. Based upon the information and belief of the
26 Petitioner the Property is not owner-occupied property.

1 7. The Petition has also been posted on the Property
2 in accordance with Section 11-4-54(f), Code of Alabama 1975.

3 8. Simultaneously with the filing of this Petition,
4 Petitioner has filed a lis pendens in the appropriate office
5 of the judge of probate.

6 WHEREFORE, Petitioner demands (1) a hearing before
7 the Circuit Court in _____ County (the "Court") and (2) a
8 judgment by the Court stating that (a) the municipal code lien
9 recorded against the Property is delinquent and (b) that
10 notice has been given to all interested parties, and an order
11 that the Court may cause the Property to be sold at public
12 outcry in a similar manner as that required in Section
13 40-10-15 of the Code of Alabama.

14 CITY OF _____

15 By: _____

16 Its: _____

17 NOTICE TO RESPONDENTS AND ALL INTERESTED PARTIES

18 This petition serves as notice to the respondents
19 and all interested parties that (1) each party is presumed to
20 own or have a legal interest in the property, (2) that
21 foreclosure proceedings have been commenced because of the
22 failure to pay the municipal code lien cited above, and (3)
23 foreclosure will result in the loss of ownership of the
24 Property and all rights or interests of all interested
25 parties, including any and all rights or redemption accorded
26 to by interested parties under Title 40, Chapter 10 and Title
27 11, Chapter 5, Code of Alabama 1975.

1 To avoid loss of ownership or any interest in the
2 property, payment of the full amount of the municipal code
3 lien, penalties, interest, and costs, plus payment of the full
4 amount of any property taxes that are due or delinquent, if
5 any, including any related penalties, interest, and costs must
6 be paid to the _____ office located at _____ by _____date.
7 Respondents and all interested parties are also reminded that
8 each of you may wish to contact an attorney to protect your
9 rights.

10 A hearing on the above matter shall take place
11 before the Circuit Court of _____ County no earlier than 30
12 days after the filing of this petition. To determine the exact
13 time and date of such hearing, please call the office of the
14 Circuit Court of _____ County.

15 This _____ day of _____, _____.

16 _____
17 Circuit Clerk of _____ County

18 EXHIBIT A

19 Description of the Property

20 Together with all rights, title, and interest
21 running with the above-described property but not taxed under
22 a separate tax reference number as delineated on the tax maps
23 of the petitioner for the year(s) for the municipal code liens
24 being foreclosed.

25 EXHIBIT B

26 Names and Addresses of Interested Parties

27 Section 7. Judicial Hearing

1 (a) The Class 2 municipality shall request that a
2 judicial hearing on the petition occur not earlier than 30
3 days nor more than 90 days following the filing of the
4 petition. At the judicial hearing, any interested party shall
5 have the right to be heard and to contest the delinquency of
6 the municipal code lien, the adequacy of the proceedings, the
7 classification of the property as owner occupied, and the
8 amount of the tax payoff. If the court determines that the
9 information set forth in the petition is accurate, the court
10 shall render its judgment and order that:

11 (1) The municipal code lien is delinquent.

12 (2) The amounts of any additional municipal code
13 liens and taxes described in the petition are delinquent.

14 (3) Proper notice has been given to all interested
15 parties.

16 (4) The property is not owner occupied.

17 (5) The property as described in the petition be
18 sold in accordance with the provisions of this act.

19 (6) The sale shall become final and binding
20 immediately after the sale is conducted in accordance with
21 section 9 of this act.

22 (b) The order of the court shall provide that the
23 property be sold free and clear of all liens, claims, and
24 encumbrances other than:

25 (1) Rights of redemption provided under federal law.

1 (2) Taxes assessed against real property that are
2 due but not yet delinquent as of the date of the court's
3 order.

4 (3) An easement which burdens the real property, a
5 real covenant which burdens the real property, and any utility
6 easement which benefits the real property as of the date of
7 the filing of the municipal code lien on which the Class 2
8 municipality is seeking to foreclose under this act.

9 (c) If at any point in the proceedings the court
10 determines that the property is owner occupied, then the Class
11 2 municipality shall seek immediate dismissal of the
12 proceedings.

13 Section 8. Redemption of property prior to sale by
14 payment of redemption amount.

15 (a) At any point prior to the moment of the sale,
16 any interested party may redeem the real property from the
17 sale by payment of the redemption amount. Payment shall be
18 made to the Class 2 municipality. Following receipt of the
19 payment, the Class 2 municipality shall file for dismissal of
20 the proceedings.

21 (b) In the event of the payment by the owner of the
22 real property, the proceedings shall be dismissed and the
23 rights and interests of all interested parties shall remain
24 unaffected.

25 (c) In the event of payment by any interested party
26 other than the owner, the party making the payment shall
27 possess a lien on the real property for the full amount of the

1 payment, which lien shall have the same priority as the
2 municipal code lien discussed in subsection (b) of Section 4.
3 The lienholder shall have the right to enforce the lien as
4 permitted to the holder of any lien under existing law. The
5 lienholder shall not otherwise succeed to the rights of the
6 Class 2 municipality or tax certificate holder.

7 Section 9. Foreclosure Sale; Form of Deed.

8 (a) Following the hearing and order of the court in
9 accordance with Section 7, the court shall cause a sale of the
10 real property to be advertised and conducted by the court in a
11 manner similar to that procedure contemplated by Section
12 40-10-15, Code of Alabama 1975. The sale shall not occur
13 earlier than 45 days following the date of the order of the
14 court.

15 (b) Except as otherwise authorized by law, the
16 minimum bid price for the sale of the real property shall be
17 the redemption amount.

18 (1) In the absence of any bid higher than the
19 minimum bid price, the court or its designee shall bid in for
20 the real property on behalf of the Class 2 municipality or its
21 designee in an amount equal to the minimum bid price, thereby
22 causing the Class 2 municipality to become the purchaser at
23 the sale pursuant to Section 7.

24 (2) A bid in on behalf of the Class 2 municipality
25 or its designee shall be tendered as a credit bid for that
26 part of the minimum bid price equal to the municipal code lien
27 payoff as defined in this act. If the minimum bid price bid in

1 by the Class 2 municipality includes a tax payoff amount as
2 defined in this act, the Class 2 municipality shall tender the
3 amount of the tax payoff to the court, which, together with
4 the municipal code lien payoff, shall satisfy the full amount
5 of the minimum bid price.

6 (c) Payment of the winning bid shall be due
7 immediately after the sale is conducted. The proceeds of the
8 foreclosure sale shall be distributed in the following manner:

9 (1) If the purchaser is a party other than the Class
10 2 municipality, the court or its designee shall deposit with
11 the Class 2 municipality the amount of the proceeds equal to
12 the municipal code lien payoff, less any costs incurred or
13 fees charged by the office of the judge of probate.

14 (2) If the purchaser is the Class 2 municipality,
15 then the Class 2 municipality shall tender to the court an
16 amount equal to any costs incurred by the court that are
17 included in the amount of the municipal code lien payoff.

18 (3) If the minimum bid price includes a tax payoff
19 amount, the court shall deposit the amounts paid with the
20 appropriate parties in accordance with the following Sections
21 40-5-10, 40-10-128, 40-10-129, and 40-10-193, Code of Alabama
22 1975, and any applicable local acts.

23 (4) In the event that the foreclosure sale price
24 exceeds the minimum bid price at the foreclosure sale, the
25 surplus shall be distributed by the court to the interested
26 parties, including the owner, as their interests appear and in
27 the order of priority in which their interests exist.

1 (d) Upon deposit with the appropriate parties by the
2 court of the tax payoff amounts, if any, described in
3 subsection (c) (3), any and all rights of redemption accorded
4 to interested parties under Title 40, Chapter 10 or under
5 Title 11, Chapter 51, Code of Alabama 1975, are extinguished.

6 (e) From and after the moment of the sale, the sale
7 shall be final and binding.

8 (f) Within 90 days following the date of the sale,
9 the court shall cause to be executed a deed to the real
10 property identified in the petition. Upon execution, the court
11 shall cause the deed to be recorded with the office of the
12 judge of probate.

13 (g) Within 90 days following the date of the sale,
14 the Class 2 municipality shall file a report of the sale with
15 the clerk of the circuit court, which report shall identify
16 whether a sale took place, the foreclosure sale price, and the
17 identity of the purchaser.

18 (h) The form of the deed provided for in subsection
19 (e) shall be substantially as follows:

20 When recorded please return to: Cross-reference:

21 _____ Deed Book _____, Page

22 _____ County, Alabama

23 Records

24 STATE OF ALABAMA

25 COUNTY OF _____

26 JUDICIAL IN REM FORECLOSURE DEED

1 This indenture (the "deed") made this _____ day of
2 _____, _____, by and between _____, a _____ ("grantor") and
3 _____, a _____ ("grantee").

4 WITNESSETH

5 WHEREAS, on the _____ day of _____, _____, during
6 the legal hours of sale, grantor did expose for sale at public
7 outcry to the highest bidder for cash before the courthouse
8 door in _____ County, Alabama, the property (as hereinafter
9 defined) at which sale grantee was the highest and best bidder
10 for the sum of \$_____ and the property was then and there sold
11 to grantee for the sum. The sale was made by grantor pursuant
12 to and by virtue of the power and authority granted to it in
13 that certain order of the court granted _____, _____, Case No.
14 _____, Circuit Court of _____ County, Alabama, (the "order").
15 Said sale was made after advertising the time, place, and
16 terms thereof in the _____, published in _____, Alabama, in
17 the aforesaid county, and being the publication in which the
18 [Class 2 municipality's] advertisements for the county are now
19 published, once a week for three consecutive weeks prior to
20 the sale on the _____, _____, _____, and _____ of _____,
21 _____, and the advertisement in all respects complied with the
22 requirements of Section _____ of the Code of Alabama 1975.
23 Notice of the time, place, and terms of the sale of the
24 property was given pursuant to Section _____, Code of Alabama
25 1975. Sale was made for the purpose of paying the municipal
26 code lien(s) owed to _____, the interest and penalties on the
27 indebtedness, the expenses of the sale including attorneys'

1 fees, all of which were mature and payable because of failure
2 of the owner to pay the amount owed and reflected in the
3 municipal code lien.

4 NOW, THEREFORE, grantor, acting under and by virtue
5 of the order and pursuant to Section _____, Code of Alabama
6 1975, for and in consideration of the facts hereinbefore
7 recited, has bargained, sold, and conveyed and does hereby
8 bargain, sell, and convey unto grantee, its successors and
9 assigns, the following described property (herein referred to
10 as the "property"); to wit:

11 All that tract or parcel of land lying and being in
12 Land Lot _____ of the _____ District, _____ County, Alabama,
13 and being more particularly described on Exhibit "A" attached
14 hereto and by this reference made a party hereof.

15 This deed is given subject to all restrictions,
16 easements, rights-of-way, declarations, and covenants, if any,
17 to which the deed is junior and inferior in terms of priority.

18 TO HAVE AND TO HOLD, the property unto grantee, its
19 successors and assigns in fee simple.

20 IN TESTIMONY WHEREOF, I have hereunto set my hand
21 and seal, this _____ day of _____, 20____.

22 _____
23 Judge of the Circuit Court of _____ County
24 THE STATE OF ALABAMA,
25 _____ COUNTY.

26 I, _____, a
27 _____ in and for the County, in the State of

1 Alabama, hereby certify that _____ whose
2 name as Judge of the Circuit Court of _____ County is
3 signed to the foregoing conveyance and who is known to me,
4 acknowledged before me, on this day, that, being informed of
5 the contents of this conveyance, he or she, in his or her
6 capacity as Judge of the Circuit Court of _____ County,
7 executed the same voluntarily, on this day.

8 Given under my hand, this _____ day of
9 _____, 20_____.

10 _____

11 EXHIBIT

12 Description of the Property

13 Together with all right, title, and interest running
14 with the above-described property but not taxed under a
15 separate tax reference number as delineated on the tax maps of
16 the petitioner for the year(s) for the municipal code lien
17 being foreclosed.

18 Section 10. Sections 11-40-50 to 11-40-54,
19 inclusive, Code of Alabama 1975, relating to any continued use
20 and occupancy of buildings in Class 2 municipalities, are
21 repealed.

22 Section 11. The provisions of this act are
23 severable. If any part of this act is declared invalid or
24 unconstitutional, that declaration shall not affect the part
25 which remains.

1 Section 12. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.