

1 HB430  
2 183536-1  
3 By Representatives Drummond, Sessions, Williams (JW) and  
4 Clarke (N & P)  
5 RFD: Mobile County Legislation  
6 First Read: 16-MAR-17

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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) CODE ENFORCEMENT DIRECTOR. An employee of the  
18 Class 2 municipality who is tasked by the Mayor with the  
19 enforcement of state law or local ordinances related to the  
20 condition of real property within the jurisdiction of the  
21 Class 2 municipality.

22 (2) INTERESTED PARTY. Includes the following  
23 parties:

24 a. The person who last appears as owner of the real  
25 property in the county office of the judge of probate's  
26 property records.

1           b. The current mortgagee of record of the property  
2 or assignee of record of the mortgagee.

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

5           d. A tax certificate holder.

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

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

18           (3) MINIMUM BID PRICE. The price that equals the  
19 Redemption Amount.

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

1 comply with a Class 2 municipality's ordinance or resolution  
2 enacted pursuant to the authority granted in any of the  
3 following provisions of the Code of Alabama: Sections 11-40-30  
4 through 11-40-36; 11-47-117; 11-47-118; 11-47-130 through  
5 11-47-131; 11-47-140; 11-53-1 through 11-53-4; 11-53B-1  
6 through 11-53B-16; and 11-67-1 through 11-67-10.

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

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

22 (6) OWNER OCCUPIED. Real property that is lawfully  
23 occupied as a principal residence that is any of the  
24 following:

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

1           b. Exempt from ad valorem taxation under Sections  
2           40-9-19.1, 40-9-20, and 40-9-21 of the Code of Alabama 1975.

3           c. Eligible for the designations listed in  
4           paragraphs (1) or (2), but which has not yet been granted such  
5           designation and which is lawfully occupied by the family of a  
6           deceased individual.

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

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

26          (9) TAX CERTIFICATE HOLDER. Any of the following:

1           a. A tax sale purchaser that holds a certificate of  
2 purchase in accordance with Section 40-10-19 of the Code of  
3 Alabama 1975.

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

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

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

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

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

23           b. If the property has been sold for taxes to either  
24 the state or to a party other than the state, then those  
25 amounts required for redemption and described in Sections  
26 40-10-83, 40-10-120, 40-10-121 and 40-10-122, Code of Alabama  
27 1975; and

1           c. If a tax lien has been sold by a county in  
2 accordance with the provisions of Section 40-10-182, Code of  
3 Alabama 1975, then the amount required for redemption in  
4 accordance with Section 40-10-193, Code of Alabama 1975.

5           Section 4. Violations of Class 2 municipality  
6 Housing and Building Code; Priority of Liens.

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

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

17           Section 5. Nature of Rights and Remedies.

18           (a) Any Class 2 municipality to which this act  
19 applies may proceed with judicial in rem foreclosures of  
20 municipal code liens in accordance with the provisions of this  
21 act by enactment of an ordinance or resolution of the  
22 governing authority of the Class 2 municipality in which the  
23 real property is located which ordinance or resolution shall  
24 be sufficient authority for use of this act by the Class 2  
25 municipality to enforce its municipal code liens.



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

4 (1) The initial effective date for application of  
5 these procedures.

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

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

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

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

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

24 (d) Proceedings in accordance with this act are  
25 designed solely to enforce the municipal code lien for real  
26 property subject to the municipal code lien and shall not

1 constitute an action for personal liability for the municipal  
2 code liens against the owner or owners of the real property.

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

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

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

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

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

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

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

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

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

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

12 (1) The identity of the Class 2 municipality and the  
13 name and address of the code enforcement director.

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

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

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

24           (g) If the Class 2 municipality finds reason to  
25 believe that the real property is owner occupied after the  
26 filing of the petition, the Class 2 municipality shall  
27 immediately seek dismissal of its petition.

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

7                   (1) The name and address of the code enforcement  
8 director.

9                   (2) The real property address.

10                  (3) A description of the real property.

11                  (4) The tax identification number of the real  
12 property.

13                  (5) Any applicable municipal code lien which is  
14 being foreclosed upon.

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

17                  (7) The applicable period of tax delinquency, if  
18 any.

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

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

26                  (10) The date and place of the filing of the  
27 petition.

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

3 IN THE CIRCUIT COURT FOR \_\_\_\_\_ COUNTY

4 STATE OF ALABAMA-

5 Petitioner: )

6 [Class 2 municipality] )

7 Name, Address, )

8 Telephone Number )

9 v. Civil Action No: \_\_\_\_\_

10 Respondents:

11 \_\_\_\_\_, ACRES OF LAND LYING )

12 AND BEING IN \_\_\_\_\_, )

13 \_\_\_\_\_ COUNTY, ALABAMA )

14 \_\_\_\_\_ )

15 \_\_\_\_\_ )

16 (Address of Property)

17 And

18 \_\_\_\_\_ )

19 Name and mailing address of Owner

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

24 1. \_\_\_\_\_ is the owner of certain real property  
25 located at \_\_\_\_\_ (the "Property") having a tax  
26 identification number of \_\_\_\_\_. (A legal description of the

1 Property is attached hereto as Exhibit "A" and by this  
2 reference incorporated herein).

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

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

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

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

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

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



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

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

12                   Code Enforcement Director

13                   CITY OF \_\_\_\_\_

14                   By: \_\_\_\_\_

15                   Its: \_\_\_\_\_

16                   NOTICE TO RESPONDENTS AND ALL INTERESTED PARTIES

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

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

24 Section 12. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or its otherwise becoming law.