

1 HB91
2 208151-2
3 By Representative Lee (N & P)
4 RFD: Local Legislation
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2 ENROLLED, An Act,

3 Relating to any Class 5 municipality with a
4 mayor/commission/city manager form of government; to provide
5 for the abatement of grass or weeds that become a nuisance
6 under certain conditions; to provide for notice to the
7 property owners; to provide for the assessment of the costs
8 for abatement when the work is required to be performed by the
9 municipalities; to provide for the collection by the
10 municipality of the costs through the addition of the costs to
11 ad valorem taxes and for enforcement by the county tax
12 collecting official; and to provide for liens on the property
13 under certain conditions.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall only apply to a Class 5
16 municipality with a mayor/commission/city manager form of
17 government.

18 Section 2. (a) An abundance of overgrown grass or
19 weeds within the municipality which is injurious to the
20 general public health, safety, and general welfare by
21 providing breeding grounds and shelter for rats, mice, snakes,
22 mosquitoes, and other vermin, insects, and pests; or attaining
23 heights and dryness so as to constitute a serious fire threat
24 or hazard; or bearing wingy or downy seeds, when mature, that
25 cause the spread of weeds and, when breathed, irritation to

1 the throat, lungs, and eyes of the public; or hiding debris,
2 such as broken glass or metal, which could inflict injury on a
3 person going upon the property; or being unsightly; or a
4 growth of grass or weeds, including plants of no value,
5 undesirable, and usually of rank growth; or grass, shrubs, and
6 undergrowth, other than ornamental plant growth, which exceeds
7 12 inches in height, are declared to be a public nuisance and
8 abated as provided in this act.

9 (b) This act shall not apply to any of the
10 following:

11 (1) Heavily wooded areas in their natural state
12 which are undeveloped.

13 (2) Farm properties.

14 (3) Properties under current construction.

15 Section 3. For the purposes of this act, the
16 following words have the following meanings:

17 (1) ADMINISTRATIVE OFFICIAL. A person designated by
18 the city manager to hear appeals for the purposes of this act,
19 but the person may not be the same person as the enforcing
20 official.

21 (2) ENFORCING OFFICIAL. The municipal official or
22 employee the city manager from time to time may designate.

23 (3) TAX COLLECTING OFFICIAL. The county tax
24 collector, county revenue commissioner, or other county ad
25 valorem tax collecting official.

1 Section 4. (a) Whenever in the opinion of the city
2 official or any other city employee designated by the city
3 manager, a nuisance exists, the enforcing official shall order
4 the owner of the property on which the nuisance is located to
5 abate the condition.

6 (b) The enforcing official shall give the owner
7 written notice in person or by first class mail. The notice
8 shall apprise the owner of the facts of the alleged nuisance
9 and require the condition be abated within the time stated in
10 the notice or to request a hearing before an administrative
11 official of the city designated by the city manager, to
12 determine whether there has been a violation.

13 (c) The notice shall be sent to that person shown
14 by the records of the county to have been the last person
15 assessed for payment of ad valorem tax on the property where
16 the nuisance is situated. It shall be the responsibility of
17 that person to promptly advise the enforcing official of a
18 change of ownership or interest in the property.

19 (d) The notice shall also be posted in a
20 conspicuous place on the property.

21 (e) The notice shall require the owner to complete
22 abatement of the nuisance within 10 days from the date of
23 notice, provided the enforcing official may stipulate
24 additional time, but in no case more than 28 days.

1 (f) A property owner shall have five days in which
2 to request a hearing before the administrative official to
3 appeal the determination of the enforcing official. After the
4 hearing, the enforcing official shall notify the owner by
5 personal service or by first class mail of the determination
6 of the administrative official.

7 (g) At the hearing, any interested party shall have
8 the right to present evidence and testimony. The hearing shall
9 be open to the public, and a record of the proceedings shall
10 be kept as a part of the public records of the municipality.

11 (h) The administrative official shall render a
12 written decision on the merits of the proposed abatement
13 within five days of the conclusion of the hearing. The
14 enforcing official shall notify the owner by personal service
15 or by first class mail of the written determination of the
16 administrative official. If the administrative official
17 determines that a nuisance exists and should be abated, the
18 written determination of the administrative official shall
19 inform the owner that the owner must complete the abatement
20 ordered by the enforcing official within 10 days of the date
21 of the administrative official's decision, or upon such
22 additional time, but in no case more than 28 days from the
23 administrative official's determination. If the administrative
24 official determines that a nuisance does not exist, then the
25 enforcing official's notice to abate the nuisance will be null

1 and void, but that determination shall not bar any subsequent
2 notice concerning the same property.

3 Section 5. (a) Any person aggrieved by the decision
4 of the administrative official at the hearing, within 10 days,
5 may appeal to the circuit court upon filing with the clerk of
6 the court notice of the appeal and bond for security of costs
7 in the form and amount to be approved by the circuit clerk.
8 Upon filing of the notice of appeal and approval of the bond,
9 the clerk of the court shall serve a copy of the notice of
10 appeal on the clerk of the municipality and the appeal shall
11 be docketed in the court and shall be a preferred case
12 therein. The clerk of the municipality, upon receiving the
13 notice, shall file with the clerk of the court a copy of the
14 record, findings and determination of the administrative
15 official in its proceedings. Any trials shall be held without
16 jury upon the determination of the administrative official
17 that the weeds are a public nuisance.

18 (b) The circuit court shall not itself hear or
19 accept any further evidence with respect to those issues made
20 the basis of the appeal. The review shall be conducted by the
21 court without a jury and shall be confined to the record. The
22 findings of the administrative official, if supported by
23 substantial evidence, shall be conclusive on appeal. If upon
24 appeal the court finds that the ruling appealed from is

1 unlawful within the meaning of this act, it shall have the
2 power to vacate or modify the same.

3 Section 6. (a) If the owner fails, neglects, or
4 refuses to abate the nuisance, or the nuisance is not
5 otherwise abated, (1) within the time permitted to do so as
6 stated in the enforcing official's notice, where such notice
7 was not suspended by the request for a hearing before the
8 administrative official; or (2) within the time permitted to
9 do so as stated in the administrative official's written
10 determination, then the municipality may enter upon the
11 property and abate the nuisance using its own forces, or it
12 may provide by contract for the abatement. However, if an
13 appeal has been taken to the circuit court as provided in
14 Section 5, then the municipality may not abate the nuisance
15 until the determination or judgment authorizing abatement
16 becomes final as provided by law.

17 (b) Upon completion of the abatement work performed
18 by the municipality, including work by contractors employed by
19 the municipality, the enforcing official shall compute the
20 expenses of the municipality for the abatement of the
21 nuisance, including, but not limited to, cost of labor, value
22 of the use of the equipment, advertising expenses, postage,
23 administrative expense, legal expense, and materials purchased
24 which were incurred by the municipality as a result of the
25 work. An itemized statement of the expenses shall be given by

1 first class mail to the last known address of the owner of the
2 property. This notice shall be sent at least five days in
3 advance of the time fixed by the municipal governing body to
4 consider the assessment of the cost against property.

5 (c) At the time fixed for receiving and considering
6 the statement, the municipal governing body shall hear the
7 same, together with any objections which may be raised by the
8 owner whose property is liable to be assessed for the expenses
9 of the municipality for the abatement of the nuisance, and
10 thereupon make modifications in the statement as deemed
11 necessary, after which a resolution may assess the cost. The
12 cost stated in the resolution shall constitute a lien on the
13 property and shall be referred to as a weed lien on the
14 property. A weed lien established pursuant to this act is
15 subject to and subordinate to any mortgage or security
16 interest recorded prior to the recordation of the weed lien.

17 (d) A copy of the resolution shall be given to the
18 county tax collecting official. It shall be the duty of the
19 county tax collecting official to add the costs of the weed
20 lien to the next regular bill for taxes levied against the
21 property subject to the weed lien, and thereafter, the costs
22 shall be collected and remitted to the municipality at the
23 same time and in the same manner as ordinary municipal ad
24 valorem taxes are collected, and shall be subject to the same
25 penalties and the same procedure under foreclosure and sale in

1 case of delinquency; provided, however, that if the
2 foreclosure and sale is the result of a delinquency caused by
3 a weed lien, the municipality shall reimburse the county tax
4 collecting official for all costs associated with the
5 foreclosure and sale unless the costs are collected at the
6 time of sale as part of the sale.

7 (e) The municipal clerk may also cause a certified
8 copy of the resolution showing the weed lien to be filed for
9 recording in the office of the judge of probate.

10 Section 7. When a weed lien is made against a lot or
11 lots or parcel or parcels of land, a subsequent redemption
12 thereof by a person authorized to redeem, or sale thereof by
13 the state, shall not operate to discharge, or in any manner
14 affect the weed lien of the municipality, but a redemptioner
15 or purchaser at a sale by the state of any lot or lots, parcel
16 or parcels of land upon which a weed lien has been made,
17 whether prior to or subsequent to a sale to the state for the
18 nonpayment of taxes, shall take the same subject to the weed
19 lien.

20 Section 8. Upon payment of the weed lien, the city
21 clerk shall notify the county tax collecting official and may
22 file a notice of satisfaction of weed lien in the records of
23 the probate court.

1 Section 9. This act is cumulative in its nature and
2 in addition to any and all power and authority which a
3 municipality may have under any other law.

4 Section 10. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

