

1 HB91  
2 208151-1  
3 By Representative Lee (N & P)  
4 RFD: Local Legislation  
5 First Read: 02-FEB-21  
6 PFD: 12/17/2020

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8 SYNOPSIS: This bill would provide an alternative  
9 procedure for any Class 5 municipality with a  
10 mayor/commission/city manager form of government to  
11 abate grass or weeds that become a nuisance and  
12 would provide for the assessment and collection of  
13 the costs of the abatement when the work is  
14 required to be performed by the municipality.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to any Class 5 municipality with a  
21 mayor/commission/city manager form of government; to provide  
22 for the abatement of grass or weeds that become a nuisance  
23 under certain conditions; to provide for notice to the  
24 property owners; to provide for the assessment of the costs  
25 for abatement when the work is required to be performed by the  
26 municipalities; to provide for the collection by the  
27 municipality of the costs through the addition of the costs to

1 ad valorem taxes and for enforcement by the county tax  
2 collecting official; and to provide for liens on the property  
3 under certain conditions.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 Section 2. (a) An abundance of overgrown grass or  
9 weeds within the municipality which is injurious to the  
10 general public health, safety, and general welfare by  
11 providing breeding grounds and shelter for rats, mice, snakes,  
12 mosquitoes, and other vermin, insects, and pests; or attaining  
13 heights and dryness so as to constitute a serious fire threat  
14 or hazard; or bearing wingy or downy seeds, when mature, that  
15 cause the spread of weeds and, when breathed, irritation to  
16 the throat, lungs, and eyes of the public; or hiding debris,  
17 such as broken glass or metal, which could inflict injury on a  
18 person going upon the property; or being unsightly; or a  
19 growth of grass or weeds, including plants of no value,  
20 undesirable, and usually of rank growth; or grass, shrubs, and  
21 undergrowth, other than ornamental plant growth, which exceeds  
22 12 inches in height, are declared to be a public nuisance and  
23 abated as provided in this act.

24 (b) This act shall not apply to any of the  
25 following:

26 (1) Heavily wooded areas in their natural state  
27 which are undeveloped.

1 (2) Farm properties.

2 (3) Properties under current construction.

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

5 (1) ADMINISTRATIVE OFFICIAL. A person designated by  
6 the city manager to hear appeals for the purposes of this act,  
7 but the person may not be the same person as the enforcing  
8 official.

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

11 (3) TAX COLLECTING OFFICIAL. The county tax  
12 collector, county revenue commissioner, or other county ad  
13 valorem tax collecting official.

14 Section 4. (a) Whenever in the opinion of the city  
15 official or any other city employee designated by the city  
16 manager, a nuisance exists, the enforcing official shall order  
17 the owner of the property on which the nuisance is located to  
18 abate the condition.

19 (b) The enforcing official shall give the owner  
20 written notice in person or by first class mail. The notice  
21 shall apprise the owner of the facts of the alleged nuisance  
22 and require the condition be abated within the time stated in  
23 the notice or to request a hearing before an administrative  
24 official of the city designated by the city manager, to  
25 determine whether there has been a violation.

26 (c) The notice shall be sent to that person shown  
27 by the records of the county to have been the last person

1 assessed for payment of ad valorem tax on the property where  
2 the nuisance is situated. It shall be the responsibility of  
3 that person to promptly advise the enforcing official of a  
4 change of ownership or interest in the property.

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

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

11 (f) A property owner shall have five days in which  
12 to request a hearing before the administrative official to  
13 appeal the determination of the enforcing official. After the  
14 hearing, the enforcing official shall notify the owner by  
15 personal service or by first class mail of the determination  
16 of the administrative official.

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

21 (h) The administrative official shall render a  
22 written decision on the merits of the proposed abatement  
23 within five days of the conclusion of the hearing. The  
24 enforcing official shall notify the owner by personal service  
25 or by first class mail of the written determination of the  
26 administrative official. If the administrative official  
27 determines that a nuisance exists and should be abated, the

1 written determination of the administrative official shall  
2 inform the owner that the owner must complete the abatement  
3 ordered by the enforcing official within 10 days of the date  
4 of the administrative official's decision, or upon such  
5 additional time, but in no case more than 28 days from the  
6 administrative official's determination. If the administrative  
7 official determines that a nuisance does not exist, then the  
8 enforcing official's notice to abate the nuisance will be null  
9 and void, but that determination shall not bar any subsequent  
10 notice concerning the same property.

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

26 (b) The circuit court shall not itself hear or  
27 accept any further evidence with respect to those issues made

1 the basis of the appeal. The review shall be conducted by the  
2 court without a jury and shall be confined to the record. The  
3 findings of the administrative official, if supported by  
4 substantial evidence, shall be conclusive on appeal. If upon  
5 appeal the court finds that the ruling appealed from is  
6 unlawful within the meaning of this act, it shall have the  
7 power to vacate or modify the same.

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

22 (b) Upon completion of the abatement work performed  
23 by the municipality, including work by contractors employed by  
24 the municipality, the enforcing official shall compute the  
25 expenses of the municipality for the abatement of the  
26 nuisance, including, but not limited to, cost of labor, value  
27 of the use of the equipment, advertising expenses, postage,

1 administrative expense, legal expense, and materials purchased  
2 which were incurred by the municipality as a result of the  
3 work. An itemized statement of the expenses shall be given by  
4 first class mail to the last known address of the owner of the  
5 property. This notice shall be sent at least five days in  
6 advance of the time fixed by the municipal governing body to  
7 consider the assessment of the cost against property.

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

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



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

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

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

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

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

1                   Section 10. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.