

HB437 INTRODUCED



1 HB437
2 K1ZIA5U-1
3 By Representatives Tillman, Moore (M), Sellers, Givan,
4 Hendrix, Hollis (N & P)
5 RFD: Jefferson County Legislation
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SYNOPSIS:

This bill would authorize a Class 1 municipality to enact a vacant property registration ordinance to provide for the registration of vacant property and a vacant property maintenance program; to establish a vacant property registration database; to provide enforcement procedures and exemptions; to require owners of vacant property to pay a fee upon registration of the property on the vacant property registration database; and to provide for liens on the property for noncompliance.

A BILL
TO BE ENTITLED
AN ACT

Relating to any Class 1 municipality; to authorize the city council of the municipality to enact and enforce a vacant property registration ordinance.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply in any Class 1 municipality that adopts an ordinance under this act to provide for the registration of vacant property in the municipality.



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29 Section 2. The Legislature finds and declares the
30 following:

31 (1) Vacant properties create numerous problems in a
32 Class 1 municipality, including a propensity to foster
33 criminal activity, blight, public health problems, and
34 otherwise diminish the quality of life for residents and
35 businesses in the surrounding area.

36 (2) Vacant property negatively impacts the property
37 rights of neighboring property owners by reducing the value of
38 surrounding property and has a negative effect on the quality
39 of life of adjacent property owners, increasing the risk of
40 property damage through arson and vandalism and discouraging
41 neighborhood stability and revitalization.

42 (3) Abandoned properties are presumptively considered
43 to be nuisances, in view of their negative effects on nearby
44 properties and the residents or users of those properties.

45 (4) Vacant properties require a Class 1 municipality to
46 expend significant monetary and personnel resources and to
47 incur disproportionate costs to address problems of vacant and
48 abandoned structures, which include, but are not limited to,
49 property inspections, nuisance abatements, fire calls, and
50 police calls.

51 (5) Vacant properties represent unrealized economic
52 growth for a Class 1 municipality.

53 (6) A vacant property registration ordinance would
54 allow a Class 1 municipality to discourage property vacancy,
55 would encourage property owners to maintain unoccupied
56 buildings, would provide a database of vacant properties and



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57 their owners to ensure compliance with applicable property
58 codes, and would provide for the assessment of fees for the
59 increased public costs associated with vacant properties.

60 (7) Fees imposed under a vacant property registration
61 ordinance would benefit the owners of vacant properties by
62 helping to finance additional government services by a Class 1
63 municipality to protect the value and security of the
64 properties.

65 (8) The enactment of a vacant property registration
66 ordinance is a proper exercise of governmental authority to
67 protect the public health, safety, and welfare of community
68 residents and to impose a valid regulatory scheme.

69 Section 3. The purposes of this act are to promote the
70 health, safety, and welfare of residents in a Class 1
71 municipality by providing specific authority for a Class 1
72 municipality to enact a vacant property registration
73 ordinance. The ordinance shall allow a Class 1 municipality to
74 identify and register vacant properties, collect fees to
75 compensate for the public costs of vacant properties, plan for
76 the rehabilitation of vacant properties, and encourage the
77 occupancy of vacant properties.

78 Section 4. For purposes of this section, the following
79 words have the following meanings:

80 (1) EVIDENCE OF VACANCY. A condition or circumstance
81 that, on its own or in combination with other conditions or
82 circumstances, would lead a reasonable person to believe that
83 a residential building or commercial building is vacant. The
84 conditions or circumstances may include, but are not limited



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85 to, the following:

86 a. Overgrown or dead vegetation, including grass,
87 shrubbery, and other plantings.

88 b. An accumulation of abandoned personal property,
89 trash, or other waste.

90 c. Visible deterioration or lack of maintenance of any
91 building or structure on the property.

92 d. Graffiti or other defacement of any building or
93 structure on the property.

94 e. No legal occupancy or routine legal activity occurs
95 on the property.

96 f. Any other condition or circumstance reasonably
97 indicating that the property is not occupied for residential
98 purposes or being used for the operation of a lawful business.

99 (2) OWNER. A person who individually or jointly with
100 others:

101 a. Has legal title to the property, with or without
102 actual possession of the property, or who is shown to be the
103 owner or owners of record in the probate office;

104 b. Has charge, care, or control of the property as
105 owner or agent of the owner;

106 c. Is an executor, administrator, trustee, or guardian
107 of the estate of the owner;

108 d. Is the agent of the owner for the purpose of
109 managing, controlling, or collecting rents; or

110 e. Is entitled to control or direct the management or
111 disposition of the property.

112 (3) PROBATE OFFICE. The office of the judge of probate



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113 for the county in which a vacant property is located.

114 (4) RESIDENTIAL BUILDING. A house, condominium,
115 townhouse, apartment unit or building, or any other building
116 where the whole building or parts thereof are designed or used
117 as residential units or auxiliary uses to a residential unit.

118 (5) VACANT. A residential building or commercial
119 building that is lacking habitual presence of human beings who
120 have a legal right to be on the property, or at which
121 substantially all lawful business operations or residential
122 occupancy has ceased for a period of 90 consecutive days. In
123 determining whether a property is vacant, a Class 1
124 municipality may consider, among other factors, evidence of
125 vacancy.

126 Section 5. (a) The city council of a Class 1
127 municipality may adopt a vacant property registration
128 ordinance, which establishes a vacant property registration
129 and maintenance program that applies to any residential or
130 commercial buildings, or both, located within the corporate
131 limits of the municipality. A vacant property registration
132 ordinance shall not apply to property owned by the federal
133 government, the State of Alabama, any political subdivision
134 thereof, or a public corporation.

135 (b) A vacant property registration ordinance shall
136 create a citywide vacant property registration database and
137 provide for a program administrator.

138 Section 6. An owner of vacant property subject to a
139 vacant property registration ordinance adopted pursuant to
140 Section 5 shall be required to register the property with the



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141 program administrator within 30 days after the property
142 becomes vacant or within 30 days after assuming ownership of
143 the vacant property, whichever is later, or within 10 days
144 after receipt of notice by the municipality that the property
145 is vacant. The form for the registration of vacant property
146 may be in either paper or electronic form, and, at a minimum,
147 shall require the following information:

148 (1) The name, street address, mailing address,
149 telephone number, and, if applicable, the email address of the
150 property owner and his or her agent who is a natural person,
151 21 years of age or older, designated by the owner as the
152 authorized agent for receiving notice of code violations and
153 for receiving process in any court proceeding or
154 administrative enforcement proceeding on behalf of the owner
155 in connection with the enforcement of any applicable code.

156 (2) The street address and parcel identification number
157 of the vacant property.

158 (3) The transfer date of the instrument conveying the
159 property to the owner.

160 (4) The date on which the property became vacant.

161 Section 7. (a) The vacant property registration
162 ordinance may require payment of a fee upon registration of
163 the vacant property pursuant to this act, and may require the
164 payment of supplemental registration fees every 12 months
165 thereafter for as long as the property remains on the vacant
166 property registration database. The initial registration fee
167 shall be not more than two hundred fifty dollars (\$250)
168 annually for a residential property and not more than one



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169 thousand dollars (\$1,000) annually for a commercial property.
170 A supplemental registration fee shall be not more than double
171 the previous fee amount, with a maximum supplemental
172 registration fee of 10 times the initial registration fee
173 amount. Registration fees may be refundable on a prorated
174 basis for the year preceding the date on which the property is
175 no longer vacant.

176 (b) A vacant property registration ordinance shall
177 provide an exemption for time periods set forth in the
178 ordinance to the registration and fee requirements for vacant
179 property that is advertised in good faith for sale or lease.

180 (c) A vacant property registration ordinance may
181 provide exemptions for the registration and fee requirements,
182 including, but not limited to, for vacant property meeting one
183 of the following conditions:

184 (1) Property only considered to be a seasonal
185 residence.

186 (2) Property damaged by fire, weather, an act of God,
187 or vandalism, and the owner demonstrates his or her intent to
188 repair or renovate.

189 (3) Property under construction or renovation.

190 (4) Property, if the owner is temporarily absent but
191 has demonstrated an intent to return.

192 (5) Property which is subject to pending divorce,
193 probate, or estate proceedings.

194 (6) Property for which the owner or occupant of the
195 vacant property files with the program administrator a
196 detailed statement of the owner or occupant's plans for



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197 restoration of the vacant property to productive use and
198 occupancy during the 12-month period following the date when
199 the initial registration of the property would otherwise be
200 due. In the event that the property has not been restored to
201 productive use and occupancy at the end of the 12-month
202 period, the owner or occupant shall be liable for any fee
203 waived. The program administrator may extend the waiver of the
204 registration fee for not more than one additional year in
205 response to a written request by the property owner or
206 occupant where the program administrator finds that compelling
207 conditions outside the owner or occupant's control made it
208 impossible for the owner or occupant to restore the property
209 within the initial 12-month period.

210 (7) In other situations when the city council of the
211 municipality, on a case-by-case basis, upon request by the
212 property owner, determines that an exemption of a vacant
213 property from registration is appropriate, upon a finding for
214 good cause shown that the owner or lawful occupant will be
215 unable to occupy the building for a determinate period of time
216 if the property owner or occupant provides a detailed
217 statement of the owner or occupant's plans for restoration of
218 the vacant property to productive use and occupancy during the
219 12-month period following the date when the initial
220 registration of the property would otherwise be due.

221 (d) A vacant property registration ordinance may
222 require that when the owner of the vacant property resides
223 outside of the state, the owner shall provide the name and
224 address of a person who resides within the state who is



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225 authorized to accept service of process and notices of fees
226 due under this act on behalf of the owner and who is
227 designated as a responsible, local party or agent for the
228 purposes of notification in the event of an emergency
229 affecting the public health, safety, or welfare.

230 Section 8. (a) A vacant property registration ordinance
231 shall provide all of the following:

232 (1) That a subsequent owner or owners of the property,
233 subject to the ordinance, will assume the obligations of the
234 previous owner or owners.

235 (2) For removal of the property from the vacant
236 property registration database when the property is no longer
237 vacant.

238 (3) That the owner submit a plan for restoration and
239 occupancy of the property.

240 (4) That the owner has the right to prior notice and to
241 appeal adverse decisions of the municipality or the program
242 administrator. The prior notice shall be sent by certified
243 mail to the registered owner at the address maintained in the
244 office of the judge of probate, or according to the records of
245 the tax assessor, if different, at least 10 days prior to the
246 adverse decision.

247 (b) A vacant property registration ordinance may allow
248 the program administrator or his or her designee to inspect
249 the interior and exterior of the vacant property upon
250 registration and at one-year intervals thereafter or more
251 frequently if necessary to protect public health and safety,
252 so long as the property remains in the vacant property



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253 registration database. A vacant property registration
254 ordinance may provide for municipal fines for failure to
255 comply with its requirements. A municipality may enforce the
256 collection of vacant property registration fees by civil
257 action in any court of competent jurisdiction. Unpaid vacant
258 property registration fees and unpaid fines for any violation
259 of a vacant property registration ordinance shall become a
260 lien on the applicable property upon the recording of a notice
261 of the lien in the probate office. The lien created under this
262 subsection shall be superior to all other liens, except those
263 liens for taxes described or referenced in Section 11-51-6,
264 Code of Alabama 1975.

265 (c) The vacant property registration ordinance may
266 require that the owner enclose and secure the vacant property
267 within a designated period of time and thereafter to maintain
268 the vacant property to minimum standards required under
269 applicable state law and municipal ordinances and codes or to
270 standards adopted under the vacant property registration
271 ordinance. The ordinance may include authority for the
272 municipality, following notice to the owner, to bring the
273 vacant property into compliance with the applicable standards
274 or otherwise eliminate the public nuisance caused by any
275 noncomplaint conditions; provided, however, that nothing in
276 this section is to be interpreted to impose a duty,
277 obligation, or requirement that a municipality is required to
278 undertake the repairs, demolition, or maintenance measures
279 which remain as obligations and responsibilities of the owner.
280 Cost of the repairs, demolition, and maintenance and related



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281 legal and administrative costs incurred by the municipality
282 shall be paid by the owner. A vacant property registration
283 ordinance may provide that the costs shall become a lien on
284 the applicable property upon the recording of a notice of the
285 lien in the probate office or may be collected as provided by
286 law against the owner.

287 Section 9. The provisions of this act shall be
288 supplemental and in addition to any other laws of the State of
289 Alabama relating to vacant or abandoned property.

290 Section 10. This act shall become effective on October
291 1, 2024.