

HB529 INTRODUCED



1 HB529
2 7BCG82E-1
3 By Representative Drummond (N & P)
4 RFD: Mobile County Legislation
5 First Read: 26-Feb-26



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SYNOPSIS:

Under existing law, Class 2 municipalities may put a lien on real properties for unpaid municipal code violations and foreclose on those properties with unpaid municipal code liens.

This bill would revise the foreclosure process for Class 2 municipalities by removing the requirement to notify the State of Alabama and all other taxing officials in the municipality's jurisdiction of the municipality's intent to complete a municipal lien foreclosure sale. This bill would authorize the municipality to create and adopt its own petition for judicial in rem foreclosure by local ordinance and would remove the statutory petition and deed language.

This bill would shorten the time periods for proceeding to a foreclosure sale, executing foreclosure deeds, and filing foreclosure reports.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT



HB529 INTRODUCED

29
30 Relating to Class 2 municipalities; to amend Sections
31 11-40-65, 11-40-67, and 11-40-68, Code of Alabama 1975; to
32 remove the requirement to notify state and local taxing
33 authorities, other than the local ad valorem tax collector, of
34 the municipalities' intent to foreclose on a municipal lien;
35 to remove the requirement to use statutory language for
36 petitions for judicial in rem foreclosure and foreclosure
37 deeds; to authorize a Class 2 municipality to adopt its own
38 forms for petitions to foreclose and foreclosure deeds; to
39 authorize the municipality to proceed with a foreclosure sale
40 30 days from the date of the judicial order directing the sale
41 instead of 45 days; to authorize the circuit court to execute
42 foreclosure deeds within 30 days after the foreclosure sale
43 instead of 90 days; to authorize the municipality to file a
44 foreclosure report with the circuit clerk within 30 days of
45 the foreclosure sale instead of 90 days; and to make
46 nonsubstantive, technical revisions to update the existing
47 code language to current style.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. This act shall apply only to Class 2
50 municipalities.

51 Section 2. Sections 11-40-65, 11-40-67, and 11-40-68,
52 Code of Alabama 1975, are amended to read as follows:

53 "§11-40-65

54 (a) After a municipal code lien has been recorded with
55 the ~~office of the probate judge~~ judge of probate of the county
56 in which the real property lies, the Class 2 municipality may



HB529 INTRODUCED

57 identify those properties on which to commence a judicial in
58 rem foreclosure in accordance with this article, except that
59 ~~those~~ properties identified by the Class 2 municipality
60 ~~identifies~~ as ~~owner-occupied~~ owner-occupied shall not be
61 subject to judicial in rem foreclosure under this article. The
62 Class 2 municipality shall not file a petition for judicial in
63 rem foreclosure in accordance with this article for a period
64 of six months following the date ~~upon which~~ the municipal code
65 lien is recorded in the office of the ~~probate judge~~ judge of
66 probate. A petition for judicial in rem foreclosure may
67 include any other municipal code lien that has been filed
68 prior to the date the petition is filed. After enforcement
69 proceedings have commenced in accordance with this article,
70 the enforcement proceedings may be amended to include any
71 subsequently arising municipal code liens and, if applicable,
72 any ~~and all~~ taxes as defined in this article.

73 (b) If the property on which the Class 2 municipality
74 is seeking to foreclose under this article is subject to taxes
75 as defined in this article, then at least 60 days prior to the
76 filing of the petition, the Class 2 municipality shall notify
77 the county's ad valorem tax collecting official ~~all other~~
78 ~~taxing agencies within the jurisdiction~~ of the ~~Class 2~~
79 ~~municipality, and the State of Alabama of the~~ Class 2
80 municipality's intention to file a petition for judicial in
81 rem foreclosure of the real property on which a municipal code
82 lien exists. Upon notification, the ~~Revenue Commissioner~~
83 county's ad valorem tax collector shall provide the tax payoff
84 amount to the Class 2 municipality.



HB529 INTRODUCED

85 (c) The Class 2 municipality shall record in the
86 appropriate lis pendens record in the office of the judge of
87 probate of the county in which the real property is located, a
88 notice of ~~his or her~~ its intent to file a judicial in rem
89 foreclosure action. The notice shall include a legal
90 description of the property, the property's street address ~~of~~
91 ~~the property,~~ if available, a statement that the property is
92 subject to judicial in rem foreclosure proceedings under this
93 article, and a statement that those proceedings may extinguish
94 any legal interests in the property.

95 (d) Simultaneous with the filing of ~~his or her~~ the
96 notice of intent to file a judicial in rem foreclosure action,
97 the Class 2 municipality shall file a petition with the clerk
98 of the circuit court for the judicial circuit in which the
99 real property is located, ~~the petition shall have form and~~
100 ~~content substantially identical to that form as provided in~~
101 ~~subsection (i).~~

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

- 105 (1) The identity of the Class 2 municipality.
- 106 (2) The real property address.
- 107 (3) A description of the real property.
- 108 (4) The tax identification number of the real property.
- 109 (5) The municipal code lien ~~which~~ that is being
110 foreclosed.
- 111 (6) The principal amount of the municipal code lien
112 together with applicable interest and penalties.



HB529 INTRODUCED

113 (7) The principal amount of any additional municipal
114 code liens, if any, in accordance with subsection (a) together
115 with applicable interest and penalties ~~in accordance with~~
116 ~~subsection (a) if any.~~

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

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

121 (10) The tax payoff amount.

122 (11) A statement that upon final sale, in accordance
123 with this article and payment of the tax payoff amount, if
124 applicable, an interested party's rights of redemption under
125 Title 40, or under Chapter 10 or ~~this title,~~ Chapter 51 of
126 this title, shall be extinguished.

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

130 (f) The Class 2 municipality shall mail copies of the
131 petition by both certified mail, return receipt requested, and
132 by regular mail to all interested parties whose identity and
133 address are reasonably ascertainable. Copies of the petition
134 shall also be mailed by first-class mail to the real property
135 address to the attention of the occupants of the property, if
136 any. In addition, notice shall be physically posted on the
137 real property and shall include the following statement: "THIS
138 PROPERTY IS SUBJECT TO A JUDICIAL IN REM FORECLOSURE ACTION
139 AND MAY BE TRANSFERRED TO [NAME OF CLASS 2 MUNICIPALITY] OR
140 ANOTHER PARTY. PERSONS WITH INFORMATION REGARDING THE CURRENT



HB529 INTRODUCED

141 OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [NAME OF CLASS
142 2 MUNICIPALITY]."

143 (g) If the Class 2 municipality finds reason to believe
144 that the real property is ~~owner-occupied~~ owner-occupied after
145 the filing of the petition, the Class 2 municipality shall
146 immediately seek dismissal of its petition.

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

- 152 (1) The name and address of the Class 2 municipality.
- 153 (2) The real property address.
- 154 (3) A description of the real property.
- 155 (4) The tax identification number of the real property.
- 156 (5) Any applicable municipal code lien upon which is
157 being foreclosed ~~upon~~.
- 158 (6) The principal amount of any municipal code lien
159 together with interest and penalties.
- 160 (7) The applicable period of tax delinquency, if any.
- 161 (8) The principal amount of taxes, if any.
- 162 (9) Upon deposit with the appropriate parties by the
163 court of the tax payoff amounts, if any, ~~any and~~ all rights of
164 redemption accorded to interested parties under Title 40 ~~or~~ or
165 under Chapter 10 or ~~under this title,~~ Chapter 51 of this
166 title, are extinguished.
- 167 (10) The date and place of the filing of the petition.

168 (i) The Class 2 Municipality, by local ordinance, may



HB529 INTRODUCED

169 adopt forms and policies to implement and administer this
170 section. ~~The petition for judicial in rem foreclosure shall be~~
171 ~~in substantially the following form:~~

172 ~~IN THE CIRCUIT COURT FOR _____ COUNTY~~
173 ~~STATE OF ALABAMA-~~

174 ~~Petitioner:)~~
175 ~~{Class 2 municipality})~~

176 ~~Name, Address,)~~
177 ~~Telephone Number)~~

178 ~~v. Civil Action No: _____~~

179 ~~Respondents:~~
180 ~~_____, ACRES OF LAND LYING)~~
181 ~~AND BEING IN _____,)~~
182 ~~_____ COUNTY, ALABAMA)~~

183 ~~_____)~~
184 ~~_____)~~
185 ~~(Address of Property)~~

186 ~~And~~
187 ~~_____)~~
188 ~~Name and mailing address of Owner~~

189 ~~PETITION FOR JUDICIAL IN REM FORECLOSURE COMES NOW~~
190 ~~(Petitioner) and petitions this Court for judicial in rem~~
191 ~~foreclosure in accordance with Section _____ of the Code~~
192 ~~of Alabama 1975, by showing this Court as follows:~~

193 ~~1. _____ is the owner of certain real property~~
194 ~~located at _____ (the "Property") having a tax~~
195 ~~identification number of _____. (A legal description of the~~
196 ~~Property is attached hereto as Exhibit "A" and by this~~



HB529 INTRODUCED

197 ~~reference incorporated herein).~~

198 2. ~~The municipal code lien(s) recorded against the~~
199 ~~Property by City of _____ for nonpayment of costs incurred,~~
200 ~~penalties, or fees arising from violations of the City of~~
201 ~~_____ 's Code of Ordinances related to the Property, the~~
202 ~~total amount of which is \$ _____ (amount includes principal~~
203 ~~amount of the municipal code lien and any accrued interest and~~
204 ~~penalties as of this date) have not been paid. (An itemized~~
205 ~~list of any municipal code lien recorded against the Property~~
206 ~~and the subject of this Petition is attached hereto as Exhibit~~
207 ~~"B" and by this reference incorporated herein.)~~

208 3. ~~The taxes assessed against the Property by~~
209 ~~City/County of _____ or by the State of Alabama for the~~
210 ~~year(s) _____ in the amount of \$ _____ (amount includes~~
211 ~~principal amount of taxes owed and any accrued interest and~~
212 ~~penalties as of this date) [have] [have not] been paid.~~

213 4. ~~Attached hereto as Exhibit "C" is a list of the~~
214 ~~names and addresses of interested parties also receiving a~~
215 ~~copy of this Petition by first class mail.~~

216 5. ~~Occupants of the Property shall be served by mailing~~
217 ~~the petition by first-class mail to the attention of the~~
218 ~~occupants at the above-listed Property address.~~

219 6. ~~Based upon the information and belief of the~~
220 ~~Petitioner the Property is not owner-occupied property.~~

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

223 8. ~~Simultaneously with the filing of this Petition,~~
224 ~~Petitioner has filed a lis pendens in the appropriate office~~



HB529 INTRODUCED

225 ~~of the judge of probate.~~

226 ~~WHEREFORE, Petitioner demands (1) a hearing before the~~
227 ~~Circuit Court in _____ County (the "Court") and (2) a judgment~~
228 ~~by the Court stating that (a) the municipal code lien recorded~~
229 ~~against the Property is delinquent and (b) that notice has~~
230 ~~been given to all interested parties, and an order that the~~
231 ~~Court may cause the Property to be sold at public outcry in a~~
232 ~~similar manner as that required in Section 40-10-15 of the~~
233 ~~Code of Alabama.~~

234 ~~CITY OF _____~~

235 ~~By: _____~~

236 ~~Its: _____~~

237 ~~NOTICE TO RESPONDENTS AND ALL INTERESTED PARTIES~~

238 ~~This petition serves as notice to the respondents and~~
239 ~~all interested parties that (1) each party is presumed to own~~
240 ~~or have a legal interest in the property, (2) that foreclosure~~
241 ~~proceedings have been commenced because of the failure to pay~~
242 ~~the municipal code lien cited above, and (3) foreclosure will~~
243 ~~result in the loss of ownership of the Property and all rights~~
244 ~~or interests of all interested parties, including any and all~~
245 ~~rights or redemption accorded to by interested parties under~~
246 ~~Title 40, Chapter 10 and Title 11, Chapter 5, Code of Alabama~~
247 ~~1975.~~

248 ~~To avoid loss of ownership or any interest in the~~
249 ~~property, payment of the full amount of the municipal code~~
250 ~~lien, penalties, interest, and costs, plus payment of the full~~
251 ~~amount of any property taxes that are due or delinquent, if~~
252 ~~any, including any related penalties, interest, and costs must~~



HB529 INTRODUCED

253 ~~be paid to the _____ office located at _____ by _____ date.~~
254 ~~Respondents and all interested parties are also reminded that~~
255 ~~each of you may wish to contact an attorney to protect your~~
256 ~~rights.~~

257 ~~A hearing on the above matter shall take place before~~
258 ~~the Circuit Court of _____ County no earlier than 30 days~~
259 ~~after the filing of this petition. To determine the exact time~~
260 ~~and date of such hearing, please call the office of the~~
261 ~~Circuit Court of _____ County.~~

262 ~~This _____ day of _____,~~
263 ~~_____~~

264 ~~Circuit Clerk of _____ County~~

265 ~~EXHIBIT A~~

266 ~~Description of the Property~~

267 ~~Together with all rights, title, and interest running~~
268 ~~with the above-described property but not taxed under a~~
269 ~~separate tax reference number as delineated on the tax maps of~~
270 ~~the petitioner for the year(s) for the municipal code liens~~
271 ~~being foreclosed.~~

272 ~~EXHIBIT B~~

273 ~~Names and Addresses of Interested Parties"~~

274 ~~"§11-40-67~~

275 (a) At any point prior to the moment of the sale, any
276 interested party may redeem the real property from the sale by
277 ~~payment of~~ paying the redemption amount. Payment shall be made
278 to the Class 2 municipality. ~~Following~~ Upon receipt of the
279 payment, the Class 2 municipality shall file for dismissal of
280 the proceedings. If any delinquent ad valorem property taxes,



HB529 INTRODUCED

281 interest, or fees are included in the redemption amount, the
282 Class 2 municipality shall remit those amounts to the county's
283 tax collecting official.

284 (b) ~~In the event of the payment by~~ If the owner of the
285 real property makes payment of the redemption amount, the
286 proceedings shall be dismissed, and the rights and interests
287 of all interested parties shall remain unaffected.

288 (c) In the event of payment by any interested party
289 other than the owner, the party making the payment shall
290 possess a lien on the real property for the full amount of the
291 payment, which lien shall have the same priority as the
292 municipal code lien discussed in ~~subsection (b) of~~ Section
293 11-40-63 (b). The lienholder shall have the right to enforce
294 the lien as permitted to the holder of any lien under existing
295 law. The lienholder shall not otherwise succeed to the rights
296 of the Class 2 municipality or the tax certificate holder."

297 "§11-40-68

298 (a) Following the hearing and order of the court in
299 accordance with Section 11-40-66, the court shall order the
300 Class 2 municipality to ~~cause a sale of~~ sell the real
301 property. ~~to~~ The sale shall be advertised in a newspaper of
302 general circulation in the county where the land is
303 located. ~~and conducted by the court in a manner similar to that~~
304 ~~procedure contemplated by Section 40-10-15.~~ The sale shall not
305 occur earlier than ~~45~~ 30 days following the date of the order
306 of the court.

307 (b) Except as otherwise authorized by law, the minimum
308 bid price for the sale of the real property shall be the



HB529 INTRODUCED

309 redemption amount.

310 (1) In the absence of any bid higher than the minimum
311 bid price, the court or its designee shall submit a bid~~in~~ for
312 the real property on behalf of the Class 2 municipality or its
313 designee in an amount equal to the minimum bid price,~~thereby~~
314 causing the Class 2 municipality to become the purchaser at
315 the sale pursuant to Section 11-40-66.

316 (2) A bid~~in~~ submitted on behalf of the Class 2
317 municipality or its designee shall be tendered as a credit bid
318 for that part of the minimum bid price equal to the municipal
319 code lien payoff, as defined in this article. If the minimum
320 bid price bid~~in~~ submitted by the Class 2 municipality
321 includes a tax payoff amount, as defined in this article, the
322 Class 2 municipality shall tender the amount of the tax payoff
323 to the court, ~~which, together~~ Together with the municipal
324 code lien payoff, the tax payoff shall satisfy the full amount
325 of the minimum bid price.

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

329 (1) If the purchaser is a party other than the Class 2
330 municipality, the court or its designee shall deposit with the
331 Class 2 municipality the amount of the proceeds equal to the
332 municipal code lien payoff,~~less any costs incurred or fees~~
333 ~~charged by the office of the judge of probate~~.

334 (2) If the purchaser is the Class 2 municipality,~~then~~
335 the Class 2 municipality shall tender to the court an amount
336 equal to any costs incurred by the court that are included in



HB529 INTRODUCED

337 the ~~amount of the~~ municipal code lien payoff.

338 (3) ~~If~~ If the purchaser is a party other than the Class
339 2 municipality, and the minimum bid price includes a tax
340 payoff amount, the court shall deposit the amounts paid with
341 the appropriate parties in accordance with ~~the following~~
342 Sections 40-5-10, 40-10-128, 40-10-129, and 40-10-193, and any
343 applicable local acts.

344 (4) In the event that the foreclosure sale price
345 exceeds the minimum bid price at the foreclosure sale, the
346 surplus shall be distributed by the court to the interested
347 parties, including the owner, as their interests appear and in
348 the order of priority in which their interests exist.

349 (d) Upon deposit with the appropriate parties by the
350 court of the tax payoff amounts, if any, described in
351 subsection (c) (3), any ~~and all~~ rights of redemption accorded
352 to interested parties under Title 40, or under Chapter 10 or
353 ~~under this title,~~ Chapter 51 of this title, are extinguished.

354 (e) ~~From and after the moment of the sale, the sale~~
355 Once the sale is completed, the sale shall be considered final
356 and binding.

357 (f) Within ~~90~~ 30 days following the date of the sale,
358 the court shall cause ~~to be executed~~ a deed to the real
359 property identified in the petition to be executed. Upon
360 execution, the court shall cause the deed to be recorded with
361 the office of the judge of probate.

362 (g) Within ~~90~~ 30 days following the date of the sale,
363 the Class 2 municipality shall file a report of the sale with
364 the clerk of the circuit court, ~~which report shall identify~~



HB529 INTRODUCED

365 identifying whether a sale took place, the foreclosure sale
366 price, and the identity of the purchaser.

367 (h) The Class 2 municipality, by local ordinance, may
368 adopt forms and policies to implement and administer this
369 section. ~~The form of the deed provided for in subsection (e)~~
370 ~~shall be substantially as follows:~~

~~When recorded please return to: Cross-reference:~~

~~_____ Deed Book _____, Page~~

~~_____ County, Alabama~~

~~Records~~

~~STATE OF ALABAMA~~

~~COUNTY OF _____~~

~~JUDICIAL IN REM FORECLOSURE DEED~~

~~This indenture (the "deed") made this _____ day of~~
379 ~~_____, _____, by and between _____, a _____ ("grantor") and~~
380 ~~_____, a _____ ("grantee").~~

~~WITNESSETH~~

~~WHEREAS, on the _____ day of _____, _____, during the~~
383 ~~legal hours of sale, grantor did expose for sale at public~~
384 ~~outery to the highest bidder for cash before the courthouse~~
385 ~~door in _____ County, Alabama, the property (as hereinafter~~
386 ~~defined) at which sale grantee was the highest and best bidder~~
387 ~~for the sum of \$ _____ and the property was then and there sold~~
388 ~~to grantee for the sum. The sale was made by grantor pursuant~~
389 ~~to and by virtue of the power and authority granted to it in~~
390 ~~that certain order of the court granted _____, _____, Case No.~~
391 ~~_____, Circuit Court of _____ County, Alabama, (the "order").~~
392 ~~Said sale was made after advertising the time, place, and~~



HB529 INTRODUCED

393 ~~terms thereof in the _____, published in _____, Alabama, in~~
394 ~~the aforesaid county, and being the publication in which the~~
395 ~~[Class 2 municipality's] advertisements for the county are now~~
396 ~~published, once a week for three consecutive weeks prior to~~
397 ~~the sale on the _____, _____, _____, and _____ of _____,~~
398 ~~_____ , and the advertisement in all respects complied with the~~
399 ~~requirements of Section _____ of the Code of Alabama 1975.~~
400 ~~Notice of the time, place, and terms of the sale of the~~
401 ~~property was given pursuant to Section _____, Code of Alabama~~
402 ~~1975. Sale was made for the purpose of paying the municipal~~
403 ~~code lien(s) owed to _____, the interest and penalties on the~~
404 ~~indebtedness, the expenses of the sale including attorneys'~~
405 ~~fees, all of which were mature and payable because of failure~~
406 ~~of the owner to pay the amount owed and reflected in the~~
407 ~~municipal code lien.~~

408 ~~NOW, THEREFORE, grantor, acting under and by virtue of~~
409 ~~the order and pursuant to Section _____, Code of Alabama 1975,~~
410 ~~for and in consideration of the facts hereinbefore recited,~~
411 ~~has bargained, sold, and conveyed and does hereby bargain,~~
412 ~~sell, and convey unto grantee, its successors and assigns, the~~
413 ~~following described property (herein referred to as the~~
414 ~~"property"); to wit:~~

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

419 ~~This deed is given subject to all restrictions,~~
420 ~~easements, rights-of-way, declarations, and covenants, if any,~~



HB529 INTRODUCED

421 ~~to which the deed is junior and inferior in terms of priority.~~

422 ~~TO HAVE AND TO HOLD, the property unto grantee, its~~
423 ~~successors and assigns in fee simple.~~

424 ~~IN TESTIMONY WHEREOF, I have hereunto set my hand and~~
425 ~~seal, this _____ day of _____, 20_____.~~

426 _____
427 ~~Judge of the Circuit Court of _____ County~~

428 ~~THE STATE OF ALABAMA,~~
429 ~~_____ COUNTY.~~

430 ~~I, _____, a~~
431 ~~_____ in and for the County, in the State of~~

432 ~~Alabama, hereby certify that _____ whose~~
433 ~~name as Judge of the Circuit Court of _____ County is~~

434 ~~signed to the foregoing conveyance and who is known to me,~~
435 ~~acknowledged before me, on this day, that, being informed of~~

436 ~~the contents of this conveyance, he or she, in his or her~~
437 ~~capacity as Judge of the Circuit Court of _____ County,~~

438 ~~executed the same voluntarily, on this day.~~

439 ~~Given under my hand, this _____ day of~~
440 ~~_____, 20_____.~~

441 _____
442 ~~EXHIBIT~~

443 ~~Description of the Property~~

444 ~~Together with all right, title, and interest running~~
445 ~~with the above-described property but not taxed under a~~
446 ~~separate tax reference number as delineated on the tax maps of~~
447 ~~the petitioner for the year(s) for the municipal code lien~~
448 ~~being foreclosed."~~



HB529 INTRODUCED

449 Section 3. This act shall become effective on October
450 1, 2026.