

1 HB693
2 114480-1
3 By Representatives Guin and Sherer (N & P)
4 RFD: Local Legislation
5 First Read: 09-MAR-10

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Walker County; to authorize the county
14 commission to declare any abandoned or unsafe manufactured
15 dwelling or any other unsafe dwelling outside of the corporate
16 limits of any municipality a public nuisance under certain
17 conditions; to provide notice and hearing requirements to the
18 owner of the real property where the public nuisance is
19 located; to provide abatement procedures for the public
20 nuisance; and to authorize civil actions to abate or enjoin a
21 public nuisance pursuant to this act.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) This act shall apply only in Walker
24 County.

25 (b) This act shall be operative in Walker County
26 upon the adoption of a resolution by the county commission
27 providing for the county to be covered by the provisions of

1 this act. The resolution may provide additional procedures to
2 implement this act not in conflict with this act.

3 Section 2. A manufactured dwelling, as defined in
4 Section 35-12A-1, Code of Alabama 1975, or any other dwelling
5 may be declared a public nuisance pursuant to this act if the
6 dwelling is located outside the corporate limits of any
7 municipality and it is dangerous or injurious to the health,
8 safety, or general welfare of the occupants, the occupants of
9 neighboring structures, or other residents of the county
10 because it is either of the following:

11 (1) Abandoned, wrecked, or nonoperative.

12 (2) Unfit and unsafe for human habitation or
13 occupancy.

14 Section 3. (a) The county commission shall appoint a
15 county employee or employees who shall be responsible for
16 assessing the existence of a public nuisance pursuant to this
17 act.

18 (b) Upon a determination by the county employee of
19 the instance of a public nuisance pursuant to this act, the
20 county employee shall notify the owner of the real property on
21 which the manufactured dwelling or any other dwelling is
22 located of the existence of the public nuisance, and shall
23 give the real property owner not less than 60 days to abate
24 the nuisance in the manner agreed upon by the county employee
25 and the real property owner.

26 (c) The notice to the real property owner shall
27 consist of a letter mailed to the person last assessed for

1 property taxes due on the property according to the records of
2 the county revenue commissioner.

3 (d) If the manufactured dwelling deemed a public
4 nuisance does not belong to the owner of the real property,
5 the county employee shall notify the real property owner of
6 the provisions of Title 35, Chapter 12A, Code of Alabama 1975,
7 relating to abandoned manufactured dwellings.

8 Section 4. (a) If the real property owner has not
9 abated the nuisance within 60 days of the notice from the
10 county employee, or a reasonable time agreed upon by the
11 county employee and the property owner, the county employee
12 shall report to the county commission that a public nuisance
13 exists.

14 (b) The county commission, by resolution, if the
15 proof is satisfactory, shall declare the condition to be a
16 public nuisance.

17 (c) The resolution shall refer to the street or road
18 by the name under which it is commonly known and describe the
19 property upon which the nuisance exists by giving a legal
20 description of the real property.

21 (d) After the county commission passes the
22 resolution, the resolution shall be conspicuously posted as a
23 "Notice to Abate Public Nuisance" in front of the property on
24 which the nuisance exists.

25 (e) The "Notice to Abate Public Nuisance" shall have
26 substantially the following form:

27 "NOTICE TO ABATE PUBLIC NUISANCE

1 "Notice is hereby given that on the _____ day
2 of _____, 2___, the county commission passed a resolution
3 declaring that a public nuisance exists upon the real property
4 on _____ (street) (road) in the county, more particularly
5 described in the resolution. The public nuisance must be
6 abated by its removal by the owner or the county commission,
7 and if the county commission abates the nuisance the cost of
8 the removal shall be assessed upon the property from which the
9 public nuisance is removed. The cost shall constitute a lien
10 upon the property until paid. A copy of the resolution of the
11 county commission is attached.

12 "Any owners of the real property having any
13 objections to the proposed removal of the public nuisance are
14 notified to attend a meeting of the county commission to be
15 held (date, time, and location), when their objections will be
16 heard and given due consideration.

17 "Dated this _____ day of _____, 2___, (County
18 Name), By _____ (county authority)."

19 (f) The notice shall be posted on the manufactured
20 dwelling or any other dwelling at least 10 days prior to the
21 time for hearing objections by the county commission. In
22 addition, a notice shall be mailed to the owner of the real
23 property at least 10 days before the meeting at which
24 objections will be heard. A notice mailed to the person last
25 assessed for real property taxes due on the real property
26 according to the records of the county revenue commissioner

1 shall be conclusively presumed to be adequate and to comply
2 with these requirements.

3 Section 5. (a) At the time stated in the notice, the
4 county commission shall hear and consider all objections or
5 protests, if any, to the proposed removal of the public
6 nuisance.

7 (b) Upon the conclusion of the hearing, the county
8 commission may allow or overrule any or all objections. If the
9 objections are overruled with respect to the property, or if
10 there are no protests or objections, the county commission, by
11 resolution, shall declare the property to be a public nuisance
12 and shall order the abatement of the nuisance by the removal
13 of the nuisance not less than 60 days following the final
14 action of the commission.

15 Section 6. (a) All necessary employees and agents of
16 the county are expressly authorized to enter upon private
17 property to carry out this act.

18 (b) Any real property owner may have any nuisance
19 removed at his or her own expense prior to the arrival of the
20 employees or agents of the county to remove the nuisance.

21 Section 7. (a) An accounting for the cost of abating
22 the nuisance shall be made by the county commission. A copy of
23 the account shall be mailed to the owner of the real property
24 at least five days prior to the account being considered by
25 the commission.

26 (b) At the time fixed for considering the account,
27 any objections which may be raised by any owner of the real

1 property liable to be assessed for the work of abating the
2 nuisance shall be considered by the county commission. The
3 county commission may make modifications to the account as it
4 deems necessary, after which by resolution the account shall
5 be confirmed.

6 (c) The cost for abating the nuisance on the real
7 property shall constitute a lien on the property for the
8 amount of the assessments. After confirmation of the report, a
9 copy shall be turned over to the county revenue commissioner.

10 (d) The county revenue commissioner shall add the
11 amounts of the respective assessments to the next regular
12 bills for taxes levied against the real property. Thereafter,
13 the amounts shall be collected at the same time and in the
14 same manner as ordinary county taxes are collected and shall
15 be subject to the same penalties and the same procedures under
16 foreclosure and sale in the case of delinquency as provided
17 for ordinary county taxes.

18 Section 8. (a) In addition to the above provisions,
19 the county commission may enforce this act by the commencement
20 of a civil action to abate or enjoin any public nuisance
21 pursuant to this act. Prior to commencing a civil action, the
22 county commission shall give reasonable notice to the owner of
23 the real property to abate the alleged nuisance and the owner
24 of the real property may request a reasonable time to abate or
25 have abated the condition on the land.

26 (b) In the action, the court shall enter a judgment
27 for all costs of abating the public nuisance declared by this

1 act, including attorney's fees, court costs, and all other
2 expenses of litigation, against the person creating or
3 maintaining the public nuisance.

4 Section 9. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.