

1 HB701  
2 119323-2  
3 By Representative Greeson  
4 RFD: Banking and Insurance  
5 First Read: 09-MAR-10

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ENGROSSED

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 6-5-248, Code of Alabama 1975, relating to exercising the right of redemption of real estate, to reduce the time period for commercial property to 90 days from the date of the foreclosure sale.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 6-5-248, Code of Alabama 1975, is amended to read as follows:

"§6-5-248.

"(a) Where real estate, or any interest therein, is sold the same may be redeemed by:

"(1) Any debtor, including any surety or guarantor.

"(2) Any mortgagor, even if such mortgagor is not personally liable for payment of a debt.

"(3) Any junior mortgagee, or its transferee.

"(4) Judgment creditor, or its transferee.

"(5) Any transferee of the interests of the debtor or mortgagor, either before or after the sale. A transfer of any kind made by the debtor or mortgagor will accomplish a transfer of the interests of that party.

1           "(6) The respective spouses of all debtors,  
2 mortgagors, or transferees of any interest of the debtor or  
3 mortgagor, who are spouses on the day of the execution,  
4 judgment, or foreclosure sale.

5           "(7) Children, heirs, or devisees of any debtor or  
6 mortgagor.

7           "(b) All persons named or enumerated in subdivisions  
8 (a) (1) through (a) (7) ~~may~~ shall exercise the right of  
9 redemption granted by this article within one year ~~for~~  
10 ~~residential property and within 90 days for commercial~~  
11 ~~property~~ from the date of the sale.

12           Notwithstanding the foregoing, the right of  
13 redemption period for commercial mortgages secured by real  
14 property executed after the effective date of this amendatory  
15 act shall be ~~90~~ 180 days from the date of the foreclosure  
16 sale. Residential development and residential property  
17 mortgages, for purposes of the section, are not commercial  
18 mortgages.

19           "(c) When any judgment creditor or junior mortgagee  
20 or any transferee of a judgment creditor or a junior mortgagee  
21 redeems under this article, all recorded judgments, recorded  
22 mortgages and recorded liens having a higher recorded priority  
23 in existence at the time of the sale are revived against the  
24 real estate redeemed and against the redeeming party and such  
25 shall become lawful charges pursuant to Section 6-5-253(a) (4)  
26 to be paid off at redemption.

1           "Once any lienholder, recorded judgment creditor, or  
2 junior mortgagee is paid the amount of such person's debt and  
3 any accrued interest and other contractual charges, such  
4 person has no further right to redeem.

5           "Any lienholder, recorded judgment creditor, or  
6 junior mortgagee with a lower recorded priority may redeem  
7 from those having a higher recorded priority who have  
8 redeemed.

9           "(d) When any debtor, mortgagor, their transferees,  
10 their respective spouses, children, heirs, or devisees redeem,  
11 all recorded judgments, recorded mortgages, and recorded liens  
12 in existence at the time of the sale, are revived against the  
13 real estate redeemed and against the redeeming party and  
14 further redemption by some party other than the mortgagor or  
15 debtor under this article is precluded.

16           "(e) When any debtor or mortgagor conveys his  
17 interest in property subject to a mortgage prior to sale  
18 wherein they are released from liability for the debt, his  
19 right of redemption under this article is terminated. In the  
20 same manner, the right of redemption granted under this  
21 article to the spouses, children, heirs, or devisees of  
22 debtors or mortgagors terminates when the debtors or  
23 mortgagors have conveyed their interests in the property and  
24 are released from liability for the debt.

25           "However, where debtors or mortgagors have conveyed  
26 their interests in the property but remain liable on the debt

1 and are debtors at the date of the foreclosure sale, the  
2 debtors and mortgagors retain their right of redemption under  
3 this article and in the same manner, their spouses, children,  
4 heirs or devisees continue to be entitled to the right of  
5 redemption under this article.

6 "(f) A redemption made by any person under this  
7 article, other than the debtors or mortgagors, and their  
8 respective spouses, children, heirs, or devisees, shall  
9 preclude any further redemption by such person.

10 "(g) Subject to subsection (e), a mortgagor and  
11 debtor have priority over any other redeeming party and a  
12 mortgagor has priority over a debtor."

13 Section 2. This act shall become effective on the  
14 first day of the third month following its passage and  
15 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Banking and In-  
surance ..... 09-MAR-10

Read for the second time and placed  
on the calendar ..... 25-MAR-10

Read for the third time and failed  
as amended ..... 13-APR-10  
Yeas 32, Nays 43, Abstains 9

Motion to reconsider failed by Voice Vote on April 13, 2010.

Motion to reconsider adopted by Voice Vote on April 14, 2010.

Read for the third time and passed  
as amended ..... 14-APR-10  
Yeas 92, Nays 1, Abstains 1

Greg Pappas  
Clerk