

1 SB188  
2 147781-2  
3 By Senators Coleman and Orr  
4 RFD: Banking and Insurance  
5 First Read: 12-FEB-13

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a mortgage or deed of  
9 trust may be recorded in the office of a judge of  
10 probate.

11 This bill would provide that a mortgage or  
12 deed of trust that has not been recorded within six  
13 years of its execution may not attach as a lien on  
14 property of the mortgagor or the trustor, unless  
15 the mortgagor or trustor agrees to the recordation  
16 of the mortgage or the deed of trust after the  
17 expiration of the period for the recordation.

18 This bill would require the mortgagee or the  
19 beneficiary of a deed of trust to provide written  
20 notice to the mortgagor or the trustor of the  
21 assignment of the mortgage or the deed of trust  
22 within 30 days of the assignment.

23 This bill would further provide that if  
24 written notice of the assignment of the mortgage or  
25 the deed of trust is not provided to a mortgagor or  
26 trustor within 30 days, the mortgage or deed of

1 trust may not attach as a lien on the property of  
2 the mortgagor or the trustor.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 To amend Section 35-4-51, Code of Alabama 1975,  
9 relating to recording and assigning of mortgages and deeds of  
10 trust; to provide that a mortgage or deed of trust that has  
11 not been recorded within six years of its execution may not  
12 attach as a lien on the property of the mortgagor or the  
13 trustor unless the mortgagor or trustor agrees to the  
14 recordation of the mortgage or the deed of trust after the  
15 expiration of the period for the recordation; to require each  
16 mortgagee or the beneficiary of a deed of trust to provide  
17 written notice to the mortgagor or the trustor of the  
18 assignment of the mortgage or the deed of trust within 30 days  
19 of the assignment; and to provide that if written notice of  
20 the assignment of the mortgage or the deed of trust is not  
21 provided to a mortgagor or trustor within 30 days, the  
22 mortgage or deed of trust may not attach as a lien on the  
23 property of the mortgagor or trustor.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 35-4-51, Code of Alabama 1975, is  
26 amended to read as follows:

27 "§35-4-51.

1           "(a) Except as may be otherwise provided by the  
2 Uniform Commercial Code, all deeds, mortgages, deeds of trust,  
3 bills of sale, contracts or other documents purporting to  
4 convey any right, title, easement, or interest in any real  
5 estate or personal property and all assignments of mortgages,  
6 deeds of trust or other securities for debt or extension  
7 agreements with respect thereto, when executed in accordance  
8 with law, shall be admitted to record in the office of the  
9 probate judge of any county. Their filing for registration  
10 shall constitute notice of their contents.

11           "(b) A mortgage or deed of trust that has not been  
12 recorded within six years of its execution may not attach as a  
13 lien on the property of the mortgagor or the trustor unless  
14 the mortgagor or trustor agrees to the recordation of the  
15 mortgage or the deed of trust after the expiration of the  
16 period for the recordation.

17           "(c) The mortgagee or the beneficiary of a deed of  
18 trust shall provide written notice to the mortgagor or the  
19 trustor of the assignment of the mortgage or the deed of trust  
20 within 30 days of the assignment. If written notice of the  
21 assignment is not provided to the mortgagor or the trustor  
22 within 30 days, the mortgage or deed of trust may not attach  
23 as a lien on the property of the mortgagor or the trustor.

24           "(d) This section shall not be construed as  
25 superseding or repealing any other laws effective in Alabama  
26 relative to the subject matter in this article, but shall be  
27 held and construed to be cumulative."

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