

1 SB73
2 137876-5
3 By Senators Ward and Holtzclaw
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 11/30/2011

1 SB73

2
3
4 ENROLLED, An Act,

5 Relating to the publication of legal notices; to
6 amend Sections 6-8-60, 6-8-62, 6-8-64, and 6-8-65, Code of
7 Alabama 1975, to authorize the electronic publication of legal
8 notices; to require newspapers maintaining Internet websites
9 to publish legal notices on the website in addition to
10 publication in print in a newspaper; to require the
11 publication of legal notices on a statewide Internet website;
12 to specify that newspaper notices shall remain valid; to
13 prohibit newspapers from charging additional fees for the
14 electronic publication of legal notices; and to further
15 provide for the rate charged for publication of a public
16 notice.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 6-8-60, 6-8-62, 6-8-64, and
19 6-8-65, Code of Alabama 1975, are amended to read as follows:

20 "§6-8-60.

21 "(a) The party in interest or at whose instance the
22 publication of notice is to be given by advertisement in a
23 newspaper may designate the newspaper in which such
24 advertisement shall be made. If the officer charged with the
25 duty of making the advertisement disregards such designation

1 and makes advertisement in some other paper, he or she must
2 pay the cost thereof and shall not be entitled to
3 reimbursement.

4 "(b) All publications required by any law, mortgage
5 or other contract to be published in a newspaper must be
6 published in any newspaper printed in the English language
7 which has a general circulation in the county, regardless of
8 where the paper is printed, if the principal editorial office
9 of the newspaper is located within the county and which
10 newspaper shall have been mailed under the publication class
11 mailing privilege of the United States Postal Service from the
12 post office where it is published for at least 51 weeks a
13 year. The newspaper shall, without additional charge, also
14 upload legal notice publications to a statewide website
15 established and maintained by an entity having the capacity
16 and ability to receive and upload notices from a majority of
17 newspapers in this state. Any newspaper which also publishes a
18 website in its own name shall also post legal notice
19 publications on an Internet website published by the newspaper
20 without additional charge.

21 "§6-8-62.

22 "(a) When the notice is required to be given for a
23 specified number of weeks, it must be given by consecutive
24 weekly insertions for the number of weeks so specified. When

1 the notice is of a proceeding to be had or of an act to be
2 done on a specified day:

3 "(1) If the publication is for one week, the
4 insertion must be not less than six days before such day;

5 "(2) If for two weeks, the first insertion must be
6 at least 12 days before such day;

7 "(3) If for three weeks, the first insertion must be
8 at least 18 days before such day;

9 "(4) If for four weeks, the first insertion must be
10 at least 24 days before such day;

11 "(5) If for five weeks, the first insertion must be
12 at least 30 days before such day;

13 "(6) If for six weeks, the first insertion must be
14 at least 36 days before such day; and

15 "(7) So on at the same rate of increase, the time to
16 be computed as provided in Section 1-1-4.

17 "(b) When the time is specified in days, two weeks'
18 notice is equal to 15 days' notice; three weeks to 20 days;
19 four weeks to 30 days; and six weeks to 40 days.

20 "(c) A newspaper publishing a notice shall also
21 place the notice on an Internet website operated by the
22 newspaper, if the newspaper publishes a website, and on a
23 statewide website established and maintained by an entity
24 having the capacity and ability to receive and upload legal
25 notices from the majority of newspapers in this state as a

1 repository for the notices. Posting on the Internet shall
2 begin on the first day of insertion and run continuously until
3 the expiration of the specified time. All newspaper notices
4 required pursuant to this section to be placed on the Internet
5 shall remain valid for all purposes, and the legality of the
6 newspaper publication shall not be affected by the failure of
7 the newspaper for any reason to upload legal notice
8 publications to a statewide website or to another Internet
9 website or to accurately post the notice publication on any
10 website.

11 "§6-8-64.

12 "(a) The rate charged for publication of a public
13 notice shall not exceed the lowest classified rate paid by or
14 published on a rate card for commercial customers for an
15 advertisement of similar size, and frequency in the same
16 newspapers in which the public notice appears. The lowest
17 classified rate paid by or published on a rate card for
18 commercial customers for such advertisements shall be
19 calculated to also include all cash discounts, multiple
20 insertion discounts, and any other commercial contract
21 benefits for which the public notice also qualifies.

22 "(b) The newspaper publishing the notice shall place
23 the notice on its own website, if it publishes a website, and
24 a statewide website at no additional charge to government or
25 to the party in interest or at whose instance the publication

1 of a legal notice is to be given. The amount charged for the
2 notice shall include publication in the print edition of the
3 newspaper; the newspaper's website, if it publishes one; and
4 the statewide website.

5 "(c) The rates established in this section shall
6 apply to any and all legal notices, advertisements,
7 publications, statements, or other matter of whatever kind or
8 character required by the Constitution of Alabama, by general,
9 local, or special law or by rules or orders of courts to be
10 published in newspapers in this state, whether the agency
11 required to cause the publication to be made is an individual,
12 officer, municipality, county, the state, governmental
13 subdivision, or any other legal entity; provided, that rates
14 established in this section shall not apply when a local law
15 prescribes a different rate, in which event said local law
16 shall be applicable.

17 "§6-8-65.

18 "All agreements between any officer charged with the
19 duty of advertising legal notices in a newspaper and the
20 printer, publisher, or manager of such paper whereby any
21 advantage, gain or profit is to accrue to such officer are
22 void; and before the charge for such advertisement can be
23 demanded or received, the officer and the printer, publisher,
24 or manager must each make and file an affidavit that no such
25 agreement exists. The printer, publisher, or manager must, in

1 addition, make affidavit to the entity required to publish the
2 legal notice that the sum charged does not exceed the lowest
3 classified rate paid by commercial customers for an
4 advertisement of similar size, and frequency in the same
5 newspapers in which the public notice appears."

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 16-FEB-12.

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 10-APR-12

I hereby certify that the within Act originated in and passed the Senate, as amended by Executive Amendment.

Patrick Harris
Secretary

House of Representatives

Amended and Passed: 06-MAR-12

House of Representatives

Passed: 10-APR-12, as amended by Executive Amendment.

By: Senator Ward