

1 SB375
2 128982-1
3 By Senator Bedford
4 RFD: Judiciary
5 First Read: 07-APR-11

SYNOPSIS: Under existing law, legal notices that are required by any law, mortgage, or other contract are generally required to be published in a newspaper.

This bill would require the State of Alabama to publish legal notices on a state-sanctioned website.

This bill would permit a county or municipality to publish legal notices through a state-sanctioned public notice website. This bill would require the public notice website provider submit status reports to the director of the Administrative Office of Courts.

This bill would permit a reasonable fee, not to exceed \$10, for the service and provide that an increase can be obtained after two years of operation.

This bill would provide that the public notice website be publicly accessible at all times at no cost to the state. This bill would also

1 provide that both current and archived legal
2 notices be searchable by keyword, file number, or
3 area and no fee be charged for searching.

4 This bill would not require legal notices be
5 placed on a state-sanctioned website.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the publication of legal notices, to
12 require the State of Alabama to publish legal notices on a
13 state-sanctioned website; and to permit a county or
14 municipality to publish legal notices through a
15 state-sanctioned website.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. The Legislature finds and declares all of
18 the following:

19 (1) Public notice websites would serve the public
20 interest consistent with the goals of providing greater public
21 access to public information and to public or legal notice
22 items in particular.

23 (2) Public notice websites allow ready access from
24 all counties to an Internet-based forum and eliminate the need
25 for those members of the public who are unable to physically
26 access the courthouses of the state to ascertain publicly
27 posted notices.

1 (3) Public notice websites operate consistent with
2 furthering the ease with which public or legal notices may be
3 posted and read by an interested party as well as the public
4 and provide an archive to store all posted public and legal
5 notices.

6 (4) Public notice websites make public and legal
7 notices accessible indefinitely during all hours of the day
8 and every day of the week.

9 Section 2. As used in this act, the following terms
10 shall have the following meanings:

11 (1) LEGAL NOTICE or NOTICE. Any matter that,
12 pursuant to law or rule, is required to be officially
13 advertised.

14 (2) PUBLIC NOTICE WEBSITE. An Internet website that
15 is maintained by a third party under contract with the state
16 which electronically publishes legal notices.

17 Section 3. (a) The state shall enter into an
18 agreement with a website service provider to maintain a public
19 notice website.

20 (b) Any legal notice that is required to be
21 published by the State of Alabama shall be published on the
22 public notice website.

23 Section 4. (a) Notwithstanding any other provision
24 of law and in addition to other public or legal notice
25 requirements, when a county or municipality within the county
26 is required by law to post public or legal notices in a
27 newspaper publication or at a courthouse, notice may be made

1 instead in the same form on the Internet through a public
2 notice website meeting the requirements of this act.

3 (b) The submission of the public or legal notice
4 must be made through the website provider by the person or
5 entity purporting to provide the notice. A reasonable fee, not
6 to exceed ten dollars (\$10), may be collected by the public
7 notice website provider for the provision of this service and
8 the maintenance of the public notice website to compensate the
9 provider of the public notice website. Neither the state nor a
10 state officer or employee is responsible for funding or
11 providing personnel for the operation or maintenance of a
12 public notice website.

13 (c) A public notice website provider shall submit a
14 status report twice yearly to the director of the
15 Administrative Office of Courts indicating compliance with
16 statutory requirements governing the posting of public or
17 legal notices as applicable to an Internet-based website. In
18 addition, a public notice website shall submit to a quality
19 review by the Director of the Administrative Office of Courts
20 if, in his or her discretion, he or she finds a quality review
21 necessary. If a quality review is requested, full access to
22 the technical and informational operations of the public
23 notice website provider must be provided.

24 Section 5. In addition to other requirements
25 contained in this act, a public notice website provider also
26 shall do all of the following:

1 (1) Establish and operate the public notice website
2 at no cost to the state or other governmental entity.

3 (2) Maintain the public notice website without
4 interruption 24 hours per day, seven days a week, each day of
5 the year; and the public notice website, including all its
6 features, must be fully publicly accessible at all times.

7 (3) Maintain adequate systematic protection,
8 back-up, and contingency planning in the event of power
9 outages, systemic failures, or other unforeseen difficulties.

10 (4) Have the right to hold and use a domain name
11 which is easily recognizable and understandable by the
12 citizens of the state. The domain name should indicate both
13 functionality and geography. The right to use the domain name
14 and Internet location must be maintained at the expense of the
15 public notice website provider.

16 (5) Not infringe on a legally protected right such
17 as a federal provisional patent application, registered
18 patent, or prior invention to operate a website of this
19 nature, and its right to operate without infringement must be
20 clear and without the possibility of causing subsequent
21 interruption to the site by virtue of legal process.

22 (6) Possess appropriate hardware infrastructure and
23 intellectual property for feasible processes to deploy a state
24 and national website with proper methodology for communication
25 with the court systems of the state.

26 (7) Have sufficient minimal capital requirements to
27 ensure its smooth and uninterrupted ongoing operation and

1 shall certify this to the Director of the Administrative
2 Office of Courts upon request.

3 (8) Provide a reasonable plan for the implementation
4 of the public notice website where public or legal notices may
5 be posted with reasonable ease onto the public notice website
6 directly from the courts of this state and must be ready to
7 reasonably demonstrate and implement the technology necessary
8 at no cost to the state. The public notice website provider
9 shall provide the necessary personnel to ensure ongoing
10 communication with the various courts of the state concerning
11 the smooth flow of data transmission and posting at no cost to
12 the state.

13 (9) Not raise the cost for providing the website
14 without prior reasonable consultation with the Director of the
15 Administrative Office of Courts and not seek, in any event, to
16 raise the cost of posting a notice for the first two years of
17 operation.

18 (10) Ensure that individual notices shall include at
19 least the same information and are displayed on the public
20 notice website using similar display and print standards as
21 are established for newspaper postings made pursuant to other
22 applicable public notice statutory requirements.

23 (11) Ensure that individual notices are displayed
24 for not less than the length of time requested by the posting
25 entity. At the end of the posting time, the public notice
26 website provider, with prior approval of the person or entity
27 that arranged for the posting and for a reasonable fee, may

1 send a reminder to the entity that the notice is due to
2 expire.

3 (12) Include an archives feature, accessible, free
4 of charge, as a public service at all times and also shall
5 include a function which allows the public to determine which
6 notices have been posted in a given county.

7 (13) Provide that legal notices, both current and
8 archived, are publicly searchable by keyword, by either party
9 to a law suit, by courthouse file number, and by publication
10 area.

11 (14) Not charge a fee to a person accessing,
12 searching, or using a public notice website function, except
13 for the posting of a notice as allowed by this act.

14 (15) Post a bond of reasonable amount sufficient to
15 insure the public interest as may be required by the Director
16 of the Administrative Office of Courts.

17 Section 6. This act shall become effective on the
18 first day of the sixth month following its passage and
19 approval by the Governor, or its otherwise becoming law.