

1                   HB682  
2                   135705-1  
3                   By Representative Hubbard (M) (N & P)  
4                   RFD: Lee County Legislation  
5                   First Read: 12-APR-12

1 135705-1:n:02/06/2012:JET/tan LRS2012-140

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A BILL

10 TO BE ENTITLED

11 AN ACT

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13 Relating to any Class 6 municipality adopting the  
14 form of government provided in Chapter 44D, Title 11, Code of  
15 Alabama 1975; to provide for the abatement of weeds which  
16 become a nuisance under certain conditions; to provide for  
17 notice to the property owners; to provide for the assessment  
18 of costs for the abatement when the work is to be performed by  
19 the municipality; and to provide for liens on the property  
20 under certain conditions.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall apply only to a Class 6  
23 municipality adopting the form of government provided in  
24 Chapter 44D, Title 11, Code of Alabama 1975.

25 Section 2. (a) An abundance of overgrown grass or  
26 weeds within the municipality which is injurious to the  
27 general public health, safety, and general welfare by

1 providing breeding grounds and shelter for rats, mice, snakes,  
2 mosquitoes, and other vermin, insects, and pests; or attaining  
3 heights and dryness so as to constitute a serious fire threat  
4 and hazard; or bearing wingy or downy seeds, which when  
5 mature, cause the spread of weeds and, when breathed in, cause  
6 irritation of the throat, lungs, and eyes of the public; or  
7 hiding debris, such as broken glass or metal, which could  
8 inflict injury to persons; or being unsightly; or growth of  
9 grass or weeds, other than ornamental plant growth, which  
10 exceeds 12 inches in height may be declared to be a public  
11 nuisance and abated as provided in this act.

12 (b) This act shall not apply to any of the  
13 following:

14 (1) Heavily wooded areas in their natural state  
15 which are undeveloped.

16 (2) Farm properties.

17 (3) Properties under current construction.

18 Section 3. (a) Whenever, in the opinion of the city  
19 official or any other city employee designated by the mayor, a  
20 nuisance exists, the official shall order the owner of the  
21 property on which the nuisance is located to abate the  
22 condition.

23 (b) The enforcing official shall give the owner  
24 written notice in person or by certified letter with signature  
25 of receipt required. The notice shall require the owner to  
26 abate the condition within the time stated in the notice or to  
27 request a hearing before an administrative official of the

city designated by the mayor or council to determine whether there is a nuisance. The notice shall apprise the owner of the facts of the alleged nuisance and shall name the particular date, time, and place for the hearing if requested by the owner.

(c) The notice shall be sent to that person shown by the records of the county to have been the last person assessed for payment of ad valorem tax on the property where the nuisance is situated. It shall be the responsibility of that person to promptly advise the enforcing official of a change of ownership or interest in the property.

(d) The notice shall also be posted in a conspicuous place on the property.

(e) The notice shall require the owner to complete abatement of the nuisance within 14 days from the date of notice, provided the enforcing official may stipulate additional time, but in no case more than 28 days.

(f) A hearing before the administrative official shall be requested within five days of the date of the notice by the enforcing official. The enforcing official shall notify the owner by personal service or by certified mail of the determination of the administrative official. If the administrative official determines that a nuisance exists, the owner shall comply with the initial order to abate issued by the enforcing official, with modifications as may be made by the administrative official.

(g) Any person aggrieved by the decision of the administrative official at the hearing may, within 10 days from receipt of the determination by the administrative official, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk. Upon filing of the notice of appeal and approval of the bond, the clerk of the court shall serve a copy of the notice of appeal on the clerk of the municipality and the appeal shall be docketed in the court and shall be a preferred case. The clerk of the municipality shall, upon receiving the notice, file with the clerk of the court a copy of the finding and determination of the administrative official in its proceedings. Any trials shall be held without a jury upon the determination of the administrative official that the weeds are a public nuisance.

Section 4. (a) If the owner fails, neglects, or refuses to abate the condition after notice to do so, the enforcing official shall cause the offending grass or weeds to be cut.

(b) Upon completion of the abatement work performed by the municipality, including work by contractors employed by the city, the enforcing official shall compute the actual expenses, including, but not limited to, total wages paid, value of the use of equipment, advertising expenses, postage, and materials purchased, which were incurred by the municipality as a result of the work. An itemized statement of

1 the expenses shall be provided by certified letter with  
2 signature receipt required to the last known address of the  
3 owner of the property. This notice shall be sent at least five  
4 days in advance of the time fixed by the city council to  
5 consider the assessment of the cost against the property.

6 (c) At the time fixed for receiving and considering  
7 the statement, the council shall hear the same, together with  
8 any objections which may be raised by the owner whose property  
9 is liable to be assessed for the work and make modifications  
10 in the statement as deemed necessary, after which a resolution  
11 may assess the cost. The cost stated in the resolution shall  
12 constitute a lien on the property. The revenue officer shall  
13 charge the assessments against the respective lots or parcels  
14 of land for municipal purposes. Thereafter, the amounts shall  
15 be collected at the same time and in the same manner as  
16 ordinary municipal assessments are collected, and shall be  
17 subject to the same penalties and the same procedure under  
18 foreclosure and sale in case of delinquency as provided for  
19 ordinary municipal assessments.

20 (d) The revenue officer shall cause a certified copy  
21 of the resolution assessing the cost of abatement to be filed  
22 for recording in the office of the judge of probate and shall  
23 forward a copy to the Lee County Revenue Commissioner. Upon a  
24 filing, the Lee County Revenue Commissioner shall add the  
25 amount of the lien to the ad valorem tax bill on the property  
26 and shall collect the amount as if it were a tax, using all

1 methods available for collecting ad valorem tax, and remit the  
2 amount to the municipality.

3                   Section 5. Where an assessment is made against a lot  
4 or lots or parcel or parcels of land, a subsequent redemption  
5 by a person authorized to redeem, or sale by the state, shall  
6 not operate to discharge, or in any manner affect the lien of  
7 the municipality for the assessment, but a redemptioner or  
8 purchaser at a sale by the state of any lot or lots or parcel  
9 or parcels of land upon which an assessment has been levied,  
10 whether prior to or subsequent to a sale to the state for the  
11 nonpayment of taxes, shall take the same subject to the  
12 assessment.

13                   Section 6. This act is cumulative in its nature and  
14 is in addition to any and all power and authority which a  
15 Class 6 municipality may have under any other law.

16                   Section 7. The provisions of this act are severable.  
17 If any part of this act is declared invalid or  
18 unconstitutional, that declaration shall not affect the part,  
19 which remains.

20                   Section 8. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.