

1 SB124
2 164938-2
3 By Senators Reed, Scofield, Waggoner, Smith, Albritton,
4 Melson, Holley, Hightower, Ward, Dial, Marsh, Chambliss,
5 Stutts, Bussman, Williams and Livingston
6 RFD: Banking and Insurance
7 First Read: 03-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to redemption of certain real property
12 foreclosed on under a mortgage or sold by virtue of a
13 judgment; to reduce the redemption period; to amend Sections
14 6-5-248, 6-5-252, and 8-1-172 of the Code of Alabama 1975; and
15 to provide for partial prospective operation.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 6-5-248, 6-5-252, and 8-1-172 of
18 the Code of Alabama 1975, are amended to read as follows:

19 "§6-5-248.

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

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

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

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

26 "(4) Judgment creditor, or its transferee.

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

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

9 "(7) Children, heirs, or devisees of any debtor or
10 mortgagor.

11 "(b) All persons named or enumerated in subdivisions
12 (a)(1) through (a)(7) may exercise the right of redemption
13 granted by this article within 180 days from the date of the
14 sale for residential property on which a homestead exemption
15 was claimed in the tax year during which the sale occurred, or
16 within one year from the date of the sale for all other
17 property.

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

26 "Once any lienholder, recorded judgment creditor, or
27 junior mortgagee is paid the amount of ~~such~~ the person's debt

1 and any accrued interest and other contractual charges, ~~such~~
2 the person has no further right to redeem.

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

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

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

23 "However, where debtors or mortgagors have conveyed
24 their interests in the property but remain liable on the debt
25 and are debtors at the date of the foreclosure sale, the
26 debtors and mortgagors retain their right of redemption under
27 this article and in the same manner, their spouses, children,

1 heirs or devisees continue to be entitled to the right of
2 redemption under this article.

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

7 "(g) Subject to subsection (e), a mortgagor and
8 debtor have priority over any other redeeming party and a
9 mortgagor has priority over a debtor.

10 "(h) The mortgagee who forecloses residential
11 property on which a homestead exemption was claimed in the tax
12 year during which the sale occurred shall give notice to the
13 mortgagor who signed the mortgage in substance as follows:
14 "Alabama law gives some persons who have an interest in
15 property the right to redeem the property under certain
16 circumstances. Programs may also exist that help persons avoid
17 or delay the foreclosure process. An attorney should be
18 consulted to help you understand these rights and programs as
19 a part of the foreclosure process. This notice shall be given
20 at the same time and in the same manner as all other notices
21 that are a part of the foreclosure process. For foreclosed
22 residential property on which a homestead exemption was
23 claimed in the tax year during which the sale occurred, the
24 period of time during which a right of redemption may be
25 exercised shall not begin until notice is given in accordance
26 with this subsection. A defective notice, or the failure to
27 give notice, will not affect the validity of the foreclosure,

1 including the transfer of title to the property. All actions
2 related to the notice requirement must be brought within two
3 years after the date of foreclosure, or the action shall be
4 barred.

5 "§6-5-252.

6 "Anyone desiring and entitled to redeem may make
7 written demand of the purchaser or his or her transferees for
8 a statement in writing of the debt and all lawful charges
9 claimed by him or her, and ~~such~~ the purchaser or their
10 transferees shall, within 10 days after ~~such~~ the written
11 demand, furnish ~~such~~ the person making the demand with a
12 written, itemized statement of all lawful charges claimed by
13 him or her. The redeeming party must then tender all lawful
14 charges to the purchaser or his or her transferee. If the
15 purchaser or his or her transferee fails to furnish a written,
16 itemized statement of all lawful charges within 10 days after
17 demand, he or she shall forfeit all claims or right to
18 compensation for improvements, and the party so entitled to
19 redeem may, on the expiration of the 10 days, file his or her
20 complaint without a tender to enforce his or her rights under
21 this article and file a lis pendens with the probate court.

22 "Tender or suit ~~must~~ shall be made or filed within
23 ~~one year from foreclosure~~ 180 days from foreclosure for
24 residential property on which a homestead exemption was
25 claimed in the tax year during which the foreclosure occurred,
26 or within one year from foreclosure for all other property.

27 "§8-1-172.

1 "(a) When any person shall in good faith take a
2 mortgage on real estate from an insane person without notice
3 of ~~such the~~ insanity, ~~such the~~ mortgage deed shall not be
4 void; but ~~such the~~ insane person may redeem the property so
5 mortgaged at any time prior to a foreclosure by paying to the
6 mortgagee the amount actually received by the insane person at
7 the time of executing the mortgage, or any balance due
8 thereon, with interest thereon to the date of redemption.

9 "(b) If the mortgage shall have been foreclosed,
10 ~~such the~~ insane person may redeem from the vendee at ~~such the~~
11 foreclosure sale, or those claiming under ~~him the~~ vendee, at
12 any time within ~~one year thereafter~~ 180 days from foreclosure
13 for residential property on which a homestead exemption was
14 claimed in the tax year during which the foreclosure occurred,
15 or at any time within one year from foreclosure for all other
16 property, by paying to ~~such the~~ vendee, or those claiming
17 under ~~him the~~ vendee, the amount which the vendee at the
18 mortgage foreclosure sale actually paid at ~~such the~~ sale for
19 the property, with interest thereon at the rate of eight
20 percent per annum to the date of redemption, together with all
21 lawful charges as provided for ~~the redemption of property~~
22 ~~under Section 6-5-235~~ by law."

23 Section 2. (a) This act is prospective and shall not
24 apply to the following:

25 (1) Sales made under a power of sale contained in
26 any mortgage or junior mortgage dated prior to the effective
27 date of this act.

1 (2) Sales made pursuant to a statutory power of sale
2 with respect to any mortgage or junior mortgage dated prior to
3 the effective date of this act.

4 (3) Sales by virtue of a judgment rendered by a
5 court prior to the effective date of this act.

6 (b) Except as provided in subsection (a), the
7 amendments in this act reducing the period during which a
8 person is required to exercise the right of redemption or file
9 his or her complaint shall apply to all sales of property
10 foreclosed under a mortgage or sold by virtue of a judgment.

11 Section 3. This act shall become effective on
12 January 1, 2016, following its passage and approval by the
13 Governor, or its otherwise becoming law.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Banking and Insurance..... 03-MAR-15
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7 Read for the second time and placed on the calen-
8 dar..... 18-MAR-15
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10 Read for the third time and passed as amended 02-APR-15

11 Yeas 27
12 Nays 0
13 Abstaining 1

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16 Patrick Harris
17 Secretary
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