



**House Jefferson County Legislation Reported
Substitute for HB315**

A BILL

TO BE ENTITLED

AN ACT

Relating to vacant real property located in a Class 1 municipality; to authorize the governing body of a Class 1 municipality to enact and enforce vacant property registration ordinances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only to a Class 1 municipality.

Section 2. The provisions of this act shall apply in any Class 1 municipality that adopts this act to be applicable to the registration of vacant property in the municipality.

Section 3. The Legislature finds and declares all of the following:

(1) Vacant properties create numerous problems in a Class 1 municipality, including a propensity to foster criminal activity, create blight and blighting conditions, create public health problems, and otherwise diminish quality of life for residents and business operators in the surrounding area.

(2) Vacant properties negatively impact the property rights of neighboring property owners by reducing the value of



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surrounding properties, impacting the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism, and discouraging neighborhood stability and revitalization.

(3) Abandoned properties are presumptively considered to be nuisances, in view of their negative effects on nearby properties and the residents or users of those properties.

(4) Vacant properties require a Class 1 municipality to expend significant monetary and personnel resources and to incur a disproportionate cost to address problems of vacant and abandoned structures, which include, but are not limited to, property inspections, nuisance abatement, fire calls, and police calls.

(5) Vacant properties represent unrealized economic growth for a Class 1 municipality.

(6) A vacant property registration ordinance would allow a Class 1 municipality to discourage property vacancy, to maintain unoccupied buildings, to provide a database of vacant properties and their owners in order to better ensure compliance with applicable property codes, and to assess fees for the increased public costs associated with vacant properties.

(7) Fees imposed under a vacant property registration ordinance have the potential to benefit the owners of vacant properties by helping to finance additional government services by a Class 1 municipality to protect the value and security of such properties.

(8) Enactment of a vacant property registration



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ordinance is a proper exercise of governmental authority to protect the public health, safety, and welfare of community residents and a valid regulatory scheme.

Section 4. The purposes of this act are to promote the health, safety, and welfare of residents in a Class 1 municipality by providing authority for a Class 1 municipality to enact a vacant property registration ordinance. The ordinance will allow a Class 1 municipality to identify and register vacant properties, collect fees to compensate for the public costs of vacant properties, plan for the rehabilitation of vacant properties, and encourage the occupancy of vacant properties.

Section 5. For purposes of this act the following terms have the following meanings:

(1) EVIDENCE OF VACANCY. Any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential building or commercial building is vacant. Conditions or circumstances may include, but are not limited to:

a. Overgrown or dead vegetation, including grass, shrubbery, and other plantings;

b. An accumulation of abandoned personal property, trash, or other waste;

c. Visible deterioration or lack of maintenance of any building or structure on the property;

d. Graffiti or other defacement of any building or structure on the property;



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e. An absence of legal occupancy or routine legal activity occurring on the property; or

f. Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes or being used for the operation of a lawful business.

(2) OWNER. A person who individually or jointly with others:

a. Has legal title to the property, with or without actual possession, or who is shown to be the owner or owners of record in the records of the probate office;

b. Has charge, care, or control of the property as owner or agent of the owner;

c. Is an executor, administrator, trustee, or guardian of the estate of the owner;

d. Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

e. Is entitled to control or direct the management or disposition of the property.

(3) RESIDENTIAL BUILDING. A house, condominium, townhouse, apartment unit or building, or any other building where the whole building or parts thereof are designed or used as residential dwellings or auxiliary uses to a residential dwelling.

(4) VACANT. A residential building or commercial building that is lacking habitual presence of human beings who have a legal right to be on the property, or at which substantially all lawful business operations or residential occupancy has ceased for a period of 90 consecutive days. In



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determining whether a property is vacant, a Class 1 municipality may consider, among other factors, evidence of vacancy.

Section 6. (a) The governing body of a Class 1 municipality may adopt a vacant property registration ordinance that establishes a vacant property registration and maintenance program that applies to any type of either residential or commercial buildings, or both, located within the corporate limits of the municipality, except that a vacant property registration ordinance shall not apply to property owned by the federal government, the State of Alabama, any political subdivision thereof, or a public corporation.

(b) A vacant property registration ordinance shall create a city-wide vacant property registration database and clearly designate a program administrator.

Section 7. (a) Owners of vacant property subject to a vacant property registration ordinance shall register the property with the program administrator within 30 days after the property becomes vacant or within 30 days after assuming ownership of the vacant property, whichever is later, or within 10 days after receipt of notice by the municipality that the property is vacant.

(b) A vacant property registration ordinance registration form shall be in either paper or electronic form, and the following information, at a minimum, shall be required:

(1) The name, street address, mailing address, telephone number, and, if applicable, the facsimile number and



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email address of the property owner and his or her agent who is an individual at least 21 years of age who is designated by the owner as authorized agent for receiving notice of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of the owner in connection with the enforcement of any applicable law, regulation, or code.

(2) The street address and parcel identification number of the vacant property.

(3) The transfer date of the instrument conveying the property to the owner.

(4) The date on which the property became vacant.

(c) (1) A vacant registration ordinance shall require payment of an annual registration fee for each vacant property as follows:

a. For residential property, an initial fee of two hundred fifty dollars (\$250), and each year thereafter the fee shall increase by an additional one hundred dollars (\$100), capped at an annual fee of seven hundred fifty dollars (\$750).

b. For commercial property, an initial fee of five hundred dollars (\$500), and each year thereafter the fee shall increase by an additional two hundred fifty dollars (\$250), capped at an annual fee of two thousand dollars (\$2,000).

(2) Registration fees may be refundable on a prorated basis for the year preceding the date on which the property is no longer vacant.

(3) A vacant property registration ordinance shall provide an exemption for time periods set forth in the



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ordinance to the registration and fee requirements for vacant property that is advertised in good faith for sale or lease.

(4) A vacant property registration ordinance may provide exemptions to the registration and fee requirements, including, but not limited to, for vacant property:

a. Only considered to be a seasonal residence;

b. Damaged by fire, weather, an act of God, or vandalism, and the owner demonstrates his or her intent to repair or renovate;

c. Under construction or renovation;

d. Where the owner is temporarily absent but who has demonstrated his or her intent to return;

e. That is subject to divorce, probate, or estate proceedings;

f. When the owner or occupant of the vacant property files with the program administrator a detailed statement of the owner or occupant's plans for restoration of the vacant property to productive use and occupancy during the 12-month period following the date when the initial registration of the property would otherwise be due. If the restoration or occupancy of the property has not commenced by the end of the 12-month period, the owner or occupant shall be liable for any fee waived. The program administrator may extend the waiver of the registration fee for not more than one additional year in response to a written request by the property owner or occupant where the program administrator finds that compelling conditions outside the owner or occupant's control made it impossible for the owner or occupant to restore the property



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within the initial 12-month period; or

g. In other situations in which the governing body of the municipality, on a case-by-case basis and upon request by the property owner, determines that an exemption of a vacant property from registration is appropriate upon a finding for good cause shown that the owner or lawful occupant will be unable to occupy the building for a determinant period of time, provided that the property owner or occupant provides a detailed statement of the owner or occupant's plans for restoration of the vacant property to productive use and occupancy during the 12-month period following the date when the initial registration of the property would otherwise be due.

(d) A vacant property registration ordinance may require that when the owner of the vacant property resides outside of the state, the owner shall provide the name and address of an individual who resides within the state who is authorized to accept service of process and notices of fees due under this act on behalf of the owner and who is designated as a responsible, local party or agent for the purposes of notification in the event of an emergency affecting the public health, safety, or welfare.

Section 8. (a) A vacant property registration ordinance shall:

(1) Provide that a subsequent owner or owners of property subject to the ordinance shall assume the obligations of the previous owner or owners;

(2) Provide for removal of the property from the vacant



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property registration database when the property is no longer vacant;

(3) Require submission of an owner plan for restoration and occupancy of the property; and

(4) Provide that owners have the right to prior notice and to appeal adverse decisions of the municipality or the program administrator. Prior notice shall be sent by certified mail to the registered owner at the address maintained in the probate office or according to the records of the tax assessor or revenue commissioner, if different, at least 10 days prior to the adverse decision.

(b) A vacant property registration ordinance may allow the program administrator or his or her designee to inspect the interior and exterior of the vacant property upon registration and at one--year intervals thereafter or more frequently if necessary to protect public health and safety, for so long as the property remains on the vacant property registration database.

(c) A vacant property registration ordinance may provide for municipal fines for failure to comply with its requirements. A municipality may enforce the collection of vacant property registration fees by civil action in any court of competent jurisdiction. Unpaid vacant property registration fees and unpaid fines for any violation of a vacant property registration ordinance shall become a lien on the applicable property upon the recording of a notice of the lien in the probate office. The lien created under this subsection shall be superior to all other liens, except those liens for taxes



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described or referenced in Section 11-51-6, Code of Alabama
1975.

(d) The vacant property registration ordinance may
require that the owner enclose and secure the vacant property
within a designated period of time and thereafter to maintain
the vacant property to minimum standards required under
applicable state law and municipal ordinances and codes or to
standards adopted under the vacant property registration
ordinance. The ordinance may include authority for the
municipality, following notice to the owner, to act to bring
the vacant property into compliance with the applicable
standards, or otherwise eliminate the public nuisance caused
by any noncomplaint conditions; provided, however, that
nothing in this section is to be interpreted to impose a duty,
obligation, or requirement that a municipality must undertake
such repairs, demolition, or maintenance measures which remain
as obligations and responsibilities of the owner. Cost of the
repairs, demolition, and maintenance and related legal and
administrative costs incurred by the municipality shall be
paid by the owner. A vacant property registration ordinance
may provide that these costs shall become a lien on the
applicable property, upon the recording of a notice of the
lien in the probate office, or may be collected in civil
proceedings against the owner.

Section 9. The provisions of this act shall be
supplemental and in pari materia with other laws of the State
of Alabama relating to vacant or abandoned property.

Section 10. This act shall become effective on October



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