

1 SB73
2 134911-2
3 By Senators Ward and Holtzclaw
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 11/30/2011

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, legal notices required
9 by any law, mortgage, or other contract are
10 generally required to be published in a newspaper.

11 This bill would require newspapers accepting
12 legal notices, in addition to publishing the legal
13 notice in print, to publish the legal notice on an
14 Internet website if the newspaper maintains an
15 Internet website, as well as on a statewide website
16 maintained by an entity having the access and
17 ability to upload notices from newspapers in this
18 state.

19 This bill would provide that the publication
20 on the Internet websites would be at no charge to
21 the government or the party requesting the
22 publication of the legal notice.

23 This bill would protect the validity of
24 legal notices if the failure for the notice to be
25 posted on the website is attributed to the fault of
26 the newspaper, Internet provider, or the Secretary
27 of State.

1 This bill would also provide that the rate
2 charged for publication of a public notice shall
3 not exceed the lowest classified rate paid by
4 commercial customers for comparable advertisements
5 in the same newspaper in which the notice appears.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the publication of legal notices; to
12 amend Sections 6-8-60, 6-8-62, 6-8-64, and 6-8-65, Code of
13 Alabama 1975, to authorize the electronic publication of legal
14 notices; to require newspapers maintaining Internet websites
15 to publish legal notices on the website in addition to
16 publication in print in a newspaper; to require the
17 publication of legal notices on a statewide Internet website;
18 to specify that legal notices shall remain valid if the
19 failure to publish was attributed to the fault of the
20 newspaper, Internet provider, or entity hosting the statewide
21 website; to prohibit newspapers from charging additional fees
22 for the electronic publication of legal notices; and to
23 further provide for the rate charged for publication of a
24 public notice.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 6-8-60, 6-8-62, 6-8-64, and
27 6-8-65, Code of Alabama 1975, are amended to read as follows:

1 "§6-8-60.

2 "(a) The party in interest or at whose instance the
3 publication of notice is to be given by advertisement in a
4 newspaper may designate the newspaper in which such
5 advertisement shall be made. If the officer charged with the
6 duty of making the advertisement disregards such designation
7 and makes advertisement in some other paper, he or she must
8 pay the cost thereof and shall not be entitled to
9 reimbursement; ~~but all.~~

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

26 "§6-8-62.

1 "(a) When the notice is required to be given for a
2 specified number of weeks, it must be given by consecutive
3 weekly insertions for the number of weeks so specified. When
4 the notice is of a proceeding to be had or of an act to be
5 done on a specified day:

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

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

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

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

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

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

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

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

23 "(c) A newspaper publishing a notice shall also
24 place the notice on an Internet website operated by the
25 newspaper, if the newspaper publishes a website, and on the
26 statewide website established and maintained by an entity
27 having the access and ability to upload legal notices from the

1 majority of newspapers in this state as a repository for the
2 notices. Posting on the Internet shall begin on the first day
3 of insertion and run continuously until the expiration of the
4 specified time. All Internet notices required pursuant to this
5 section to be placed on the Internet shall remain valid for
6 all purposes when any error in the posting on the Internet is
7 the fault of the newspaper, an Internet provider, or the
8 statewide website.

9 "§6-8-64.

10 "(a) ~~No newspaper may charge more than its then~~
11 ~~current published commercial classified rates. When any matter~~
12 ~~or material is required to be published in tabular form, the~~
13 ~~rate to be charged and paid shall not exceed the nationally~~
14 ~~published rate. The rate charged for publication of a public~~
15 notice shall not exceed the lowest classified rate paid by
16 commercial customers for comparable advertisements in the same
17 newspapers in which the public notice appears. The lowest
18 classified rate paid by commercial customers for comparable
19 advertisements shall be calculated to include all cash
20 discounts, multiple insertion discounts, and any other
21 commercial contract benefits for which the public notice also
22 qualifies.

23 "(b) The newspaper publishing the notice shall place
24 the notice on its own website, if it publishes a website, and
25 the statewide website at no additional charge to government or
26 to the party in interest or at whose instance the publication
27 of a legal notice is to be given. The amount charged for the

1 notice shall include publication in the print edition of the
2 newspaper; the newspaper's website, if it publishes one; and
3 the statewide website.

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

16 "§6-8-65.

17 "All agreements between any officer charged with the
18 duty of advertising legal notices in a newspaper and the
19 printer, publisher, or manager of such paper whereby any
20 advantage, gain or profit is to accrue to such officer are
21 void; and before the charge for such advertisement can be
22 demanded or received, the officer and the printer, publisher,
23 or manager must each make and file an affidavit that no such
24 agreement exists. The printer, publisher, or manager must, in
25 addition, make affidavit that the sum charged ~~is the actual~~
26 ~~lowest regular price for such advertisement~~ does not exceed
27 the lowest classified rate paid by commercial customers for

1 comparable advertisements in the same newspapers in which the
2 public notice appears."

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