

HB190 INTRODUCED



1 TBOV91-1
2 By Representative Wadsworth
3 RFD: Judiciary
4 First Read: 23-Mar-23
5



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Existing law for county and ad valorem tax sales conducted under Alabama Code Sections 40-10-1 through 40-10-143, recognizes two distinct redemption periods. The first period, commonly referred to as the "administrative" or "statutory" redemption period, begins on the date a property is sold by the county, and continues for at least three years.

This bill does not modify or affect this initial redemption period. This bill relates to the second redemption period, referred to as the "judicial" redemption period, which begins at the conclusion of the administrative redemption period.

This bill provides that, following the statutory redemption period, anyone with an interest in the property (i.e. purchasers, owners, mortgagees, and lienholders) may bring suit to determine and establish all rights and interests in the property sold so that clear title to the property can be obtained. This bill would clarify that a tax sale purchaser may, following the administrative redemption period, bring suit to establish the purchaser's title to the property without having first maintained possession of the property. Anyone having a right to redeem or challenge the tax sale may file suit, or counterclaim, to resolve such



HB190 INTRODUCED

29 claims.

30 This bill would establish, with certain
31 exceptions, an absolute six-year deadline for an owner,
32 mortgagee, or lienholder to redeem.

33 This bill would eliminate the time limit
34 identified in Rioprop Holdings, LLC v. Compass Bank,
35 256 So.3d 674 (Ala. Civ. App. 2018) for a tax purchaser
36 to obtain possession or file suit for possession of the
37 property to avoid forfeiture of the purchaser's
38 interest in the property.

39 This bill would also affirm the existing right
40 of holders of mortgages and liens recorded at the time
41 of the tax sale to redeem within one year of written
42 notice of the tax sale given by the purchaser; the
43 right of an owner who remains in actual possession of
44 the property to redeem notwithstanding the six year
45 deadline; the right of minors and incompetent persons
46 to redeem; and that the six-year deadline to redeem
47 does not apply to the state or to owners of property
48 where taxes had been paid at the time of sale or were
49 not subject to taxation.

50

51

52

53

54

55

56

A BILL

TO BE ENTITLED



HB190 INTRODUCED

AN ACT

57
58
59 Relating to rights and remedies of a purchaser of real
60 estate sold at a tax sale; to amend Section 40-10-82 of the
61 Code of Alabama 1975, to provide limitations of actions that
62 may be brought in circuit court to resolve certain issues
63 related to real estate sold for the payment of taxes and to
64 limit the period of time for a land owner to file a motion to
65 redeem real estate sold for the payment of taxes, to challenge
66 the validity of a tax sale, or to pay a court ordered judgment
67 and costs.

68 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

69 Section 1. Section 40-10-82, Code of Alabama 1975, is
70 amended to read as follows:

71 "§40-10-82

72 ~~No action for the recovery of real estate sold for the~~
73 ~~payment of taxes shall lie unless the same is brought within~~
74 ~~three years from the date when the purchaser became entitled~~
75 ~~to demand a deed therefor; but~~ (a) (1) The purchaser or his or
76 her transferee and any person entitled to redeem real estate
77 sold for the payment of taxes, at any time following the date
78 when the purchaser becomes entitled to demand a deed for the
79 real estate purchased, as provided in Section 40-10-120(a),
80 may bring an action in circuit court to resolve all rights of
81 possession, redemption, title, and all related issues.

82 (2)a. Should the person bringing the action assert a
83 right to redeem or a challenge to the validity of the tax
84 sale, he or she must pay into the court the amount of money



HB190 INTRODUCED

85 due under Section 40-10-122(a), less the amount of any excess
86 bid, within 30 days of asserting the right or the challenge.

87 b. In the event that the person fails to pay this
88 amount into the court, upon motion made and after a hearing,
89 the court shall dismiss the claim to redeem or to challenge
90 the validity of the tax sale, with prejudice.

91 (b) (1) In an action brought pursuant to subsection(a),
92 the court shall fully and finally resolve all issues among all
93 parties to the action, including, without limitation, all of
94 the following:

95 a. The validity of the sale.

96 b. The title.

97 c. The right to redeem.

98 d. The tolling of the statute of limitations under
99 subsections (c) and (e).

100 e. The possession or right to possession of, or adverse
101 possession of, the property.

102 (2) The court shall enter any of the following orders,
103 as appropriate:

104 a. Granting relief to the respective parties in the
105 event of an invalid tax sale pursuant to the remedies allowed
106 by other provisions of this chapter for the same.

107 b. Allowing the redemption, conditioned upon full
108 payment of all redemption amounts within 90 days, including
109 those determined by the court to be due under Section
110 40-10-122 and directing proper payment or credit of any excess
111 purchase amount in accordance with Sections 40-10-28 and
112 40-10-78.



HB190 INTRODUCED

113 c. Entering judgment in favor of the purchaser for the
114 real estate along with all title and interest in the real
115 estate, thus divesting and terminating all title and interest
116 in the real estate out of all parties to the action claiming a
117 right to redeem.

118 (3) Nothing in this subsection shall extend any
119 existing right or provide any new right to redeem or to
120 invalidate a tax sale.

121 (c) Except as provided in subsections (d), (e), (f),
122 and (g), no action, claim, counterclaim, motion, or other
123 right to seek redemption or to challenge the validity of a tax
124 sale shall lie unless the same is brought within six years
125 from the date of the tax sale.

126 (d) Except as provided in subsections (a) or (c), if
127 the owner of ~~such~~the real estate was, at the time of ~~such~~the
128 sale for the payment of taxes, under the age of 19 years or
129 ~~insane~~incompetent, he or she, his or her heirs, or legal
130 representatives shall be allowed one year after ~~such~~the
131 disability is removed to bring an action for the redemption
132 and recovery ~~thereof~~of the real estate.; ~~but this section~~

133 (e) The limitation set out in subsection (c) shall not
134 apply to any of the following:

135 (1) ~~action~~Actions brought by the state, ~~to.~~

136 (2) ~~cases~~ Cases in which the owner of the real estate
137 sold for the payment of taxes had paid the taxes, ~~for the~~
138 ~~payment of which such real estate was sold~~ prior to ~~such~~the
139 sale, ~~or to.~~

140 (3) ~~cases~~ Cases in which the real estate sold was not,



HB190 INTRODUCED

141 at the time of the assessment or of the sale, subject to
142 taxation. ~~There shall be no time limit for recovery of real~~
143 ~~estate by an owner of land who has retained possession. If the~~
144 ~~owner of land seeking to redeem has retained possession,~~
145 ~~character of possession need not be actual and peaceful, but~~
146 ~~may be constructive and scrambling and, where there is no real~~
147 ~~occupancy of land, constructive possession follows title of~~
148 ~~the original owner and may only be cut off by adverse~~
149 ~~possession of the tax purchaser for three years after the~~
150 ~~purchaser is entitled to possession.~~

151 (f) Except for the limitation period provided in
152 subsection (c), if a party seeks to redeem real estate that is
153 subject to a mortgage or other instrument creating a lien that
154 is duly recorded at the time specified in this chapter, the
155 party shall have the right to redeem the real estate, or any
156 portion of it subject to the mortgage or lien, at any time
157 within one year from the date of written notice from the
158 purchaser served upon the party. Written notice from the party
159 seeking to redeem, served upon the then current mortgagees or
160 lien holders of record, or their heirs, personal
161 representatives, or assigns at anytime following that sale, is
162 deemed sufficient.

163 (g) (1) Except for the limitation period provided in
164 subsection (c), there shall be no time limit for the
165 redemption and recovery of real estate sold for the payment of
166 taxes by an owner who has retained actual, open, and continuous
167 possession since the date of the tax sale.

168 (2) Where the purchaser has lawfully taken possession



HB190 INTRODUCED

169 or an owner seeking to redeem has abandoned possession,
170 re-entry by the owner shall not revive or extend his or her
171 right to redeem under this section.

172 (h) If the owner or other party with the right to
173 redeem fails to assert the right in an action under this
174 section or in any other action in which he or she may assert
175 the right, or fails to tender the action in which he or she
176 may assert the right, the court shall enter judgment in favor
177 of the purchaser for the real estate along with all title and
178 interest in the real estate, thus divesting all title and
179 interest in the real estate out of all parties to the action
180 that failed to assert the right to redeem or failed to tender
181 the amount due for redemption, including divesting and
182 terminating all rights to challenge the validity of the sale
183 and all redemption rights of those parties that failed to
184 assert them or to tender the amount due for redemption.

185 (i) (1) This section serves only to limit the rights of
186 an owner to recover real estate.

187 (2) There exists no time limit on the right of a tax
188 sale purchaser who is current with the payment of ad valorem
189 taxes to bring an action for possession, or to clear title to
190 the real estate if the real estate has not yet been recovered
191 by the owner, as described in this section.

192 (3) This section shall not serve as a basis for real
193 estate to revert in the owner, absent an action for recovery
194 initiated pursuant to this section."

195 Section 2. This act shall become effective on the
196 first day of the third month following its passage and



HB190 INTRODUCED

197 approval by the Governor, or its otherwise becoming law.