

HB335 ENGROSSED



1 HB335
2 YIYM626-2
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 19-Mar-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to tax lien auctions and sales; to amend Sections 40-10-182, 40-10-183, 40-10-184, 40-10-186, 40-10-187, 40-10-191, 40-10-193, 40-10-198, 40-10-199, and 40-10-200, Code of Alabama 1975; and to add Section 40-10-202 to the Code of Alabama 1975; to further provide for times a public auction may be held; to further provide for fees; to provide for the purchase price of a tax lien if a holder of a tax lien certificate fails to purchase a subsequent tax lien; to provide for the transfer of the tax lien and rights of the purchaser; to further provide for who may redeem a tax lien that has been auctioned or sold; to further provide for a title report for use in a foreclosure and quiet title action; to prohibit a holder of a tax lien certificate from entering upon or possessing any property until a deed is received; to prevent a holder of a tax lien certificate from being criminally or civilly liable for violations in certain circumstances; and to provide that certain books and records are prima facie evidence in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-10-182, 40-10-183, 40-10-184,



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29 40-10-186, 40-10-187, 40-10-191, 40-10-193, 40-10-198,
30 40-10-199, and 40-10-200, Code of Alabama 1975, are amended to
31 read as follows:

32 "§40-10-182

33 (a) All tax liens representing unpaid and delinquent
34 taxes on real property shall be subject to a tax lien auction
35 or a tax lien sale.

36 (b) (1) If the sale of a tax lien is chosen as the
37 method to collect delinquent property taxes, the tax
38 collecting official of any county shall conduct a public
39 auction for the sale and transfer of delinquent tax liens
40 between the hours of 8:30 a.m. and 4:00 p.m. on the auction
41 date. The tax collecting official shall notify the delinquent
42 taxpayer of the auction and all charges pursuant to Section
43 40-10-183 at least 30 days prior to the tax lien auction by
44 first class mail and by any one of the following:

45 a. Advertising ~~for~~ once a week for three consecutive
46 weeks in a newspaper with general circulation in the county
47 where the property is located.

48 b. Advertising on an online website controlled by the
49 tax collecting official and accessible from the tax collecting
50 official's website.

51 c. Posting at the courthouse of the county and if
52 possible in a public place in the precinct where the property
53 is located.

54 (2) The notices shall declare the time, the method,
55 whether online or in person, and the location of the auction.

56 (c) The tax collecting official may auction or sell tax



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57 liens representing delinquent taxes for any year taxes are
58 delinquent and unpaid."

59 "§40-10-183

60 At least 30 days prior to any tax lien auction, the tax
61 collecting official shall prepare and maintain a list of all
62 unsold tax liens. The list shall be known as the tax lien
63 auction list and shall contain all of the following:

64 (1) The names of the several persons appearing in the
65 latest tax roll as the respective owners of tax-delinquent
66 properties.

67 (2) A description of each property as it appears in the
68 latest tax roll.

69 (3) The year or years for which taxes are delinquent on
70 each property.

71 (4) The principal amount of the delinquent taxes and
72 the amount of accrued and accruing interest thereon and
73 penalties, fees, and administration costs pursuant to Section
74 40-10-184(b) relating to each year of assessment."

75 "§40-10-184

76 (a) On the day and time designated for a tax lien
77 auction, the tax collecting official shall proceed to auction
78 all tax liens described in the tax lien auction list compiled
79 as provided in Section 40-10-183, except those for which the
80 taxes, penalties, interest, fees, and costs ~~thereon~~ have been
81 paid. Any tax lien unsold after a tax lien auction shall ~~be~~
82 ~~retained by the county~~ continue pursuant to Section 40-1-3 for
83 future auction or sale as provided in this article. Interest
84 shall continue to accrue on unsold tax liens at the rate



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85 imposed on delinquent real property taxes.

86 (b) (1) A tax lien shall be sold at auction pursuant to
87 this article to the person who: (i) pays all taxes due,
88 including unpaid taxes for previous years, interest,
89 penalties, fees, and costs due on the property, including an
90 origination cost of twenty dollars (\$20) as of the date of
91 auction and a twenty dollar (\$20) auction (ii) pays an
92 administrative fee, and who, in addition, of forty-five
93 dollars (\$45), effective upon the preparation of the tax lien
94 auction list, plus the amount to be paid to the holder of a
95 tax lien certificate who has not exercised his or her first
96 right to purchase as provided in Section 40-10-191; and (iii)
97 bids the lowest interest rate on the amount required to be
98 paid to redeem the property from the sale.

99 (2) The beginning interest rate bid shall not exceed a
100 rate of 12 percent and additional bids may be made at a rate
101 less than the immediately preceding bid.

102 (3) ~~If the interest rate bid for the property reaches~~
103 ~~0.00 percent and more than one bidder remains, an in-person~~
104 ~~auction ends in a tie and the winner cannot be determined, the~~
105 ~~tax collecting official shall draw lots to determine the~~
106 ~~winning bidder for the property. If an online auction ends in~~
107 ~~a tie and the winner cannot be determined, the tie shall be~~
108 ~~resolved by a random number generator.~~

109 (c) The sale of a tax lien does not extinguish any deed
110 restriction, deed covenant, or easement on or appurtenant to
111 the parcel. A tax lien offered for auction or sale shall be
112 identified by a uniform parcel number and a legal



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113 description."

114 "§40-10-186

115 (a) The purchase price for a tax lien shall be the
116 amount ~~of delinquent taxes plus any interest, penalties, fees,~~
117 ~~and costs accrued as of the date of the auction or sales~~
118 required in Section 40-10-184.

119 (b) The purchase price for a tax lien shall be paid in
120 a form acceptable to the tax collecting official not later
121 than one hour before close of business on the date of the
122 auction or sale or, if the auction is online, not later than
123 the close of business two days following the date of the
124 auction.

125 (c) The purchase price for a tax lien received by the
126 tax collecting official shall be credited to the tax
127 collecting official for purposes of calculating commissions,
128 if any, on taxes collected by the tax collecting official
129 pursuant to Section 40-5-4."

130 "§40-10-187

131 (a) The tax collecting official, upon receipt of the
132 purchase price, shall make, execute, and deliver a tax lien
133 certificate to each purchaser ~~at a tax lien sale or auction or~~
134 ~~to each assignee thereafter and shall collect from the~~
135 ~~purchaser or assignee a fee of five dollars (\$5) for each tax~~
136 ~~lien certificate.~~ The tax lien certificate shall be in a form
137 provided by the Department of Revenue and shall also include a
138 certificate of redemption form as provided in Section
139 40-10-194.

140 (b) A tax lien certificate shall evidence the auction



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141 or sale or assignment to the holder of the tax lien
142 certificate of the delinquent and unpaid taxes, penalties,
143 interest, fees, and costs set forth therein and represented by
144 the tax lien.

145 (c) A tax lien certificate shall bear the interest rate
146 per annum as bid on by the purchaser at the tax lien auction
147 or as agreed upon by the purchaser at the tax lien sale, until
148 the tax lien certificate is redeemed as provided pursuant to
149 Section 40-10-193 or Section 40-10-197.

150 (d) The tax lien certificate shall do all of the
151 following:

152 (1) Describe the real property on which a tax lien is
153 auctioned or sold as it is described in the tax lien auction
154 list.

155 (2) Specify the date on which the tax lien was
156 auctioned or sold to the original purchaser.

157 (3) Specify the year of assessment to which the tax
158 lien relates and the amount for which the tax lien was
159 auctioned or sold to the original purchaser.

160 (4) Recite the amount of all taxes, penalties,
161 interest, fees, and costs due on the property, which relate to
162 the year of assessment described in subdivision (3), as of the
163 date specified in subdivision (2).

164 (5) Recite the rate per annum bid on by the purchaser
165 at the tax lien auction or agreed upon at the tax lien sale on
166 the amount described in subdivision (4) from the date
167 specified in subdivision (2).

168 (e) The purchaser of a tax lien certificate may



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169 transfer and assign the certificate to any person, and the
170 transferee of a tax lien certificate may subsequently transfer
171 the certificate to any other person. The transferor of a tax
172 lien certificate shall endorse the certificate and shall swear
173 to the endorsement before a notary public or other officer
174 empowered to administer oaths. The transferee shall present
175 the endorsed tax lien certificate to the tax collecting
176 official who prepared and executed the certificate, or his or
177 her successor, who, for a fee of five dollars (\$5), shall
178 acknowledge the transfer on the certificate and shall make
179 note of the transfer on the record of tax lien auctions and
180 sales kept as provided in Section 40-10-188. An assignment and
181 transfer as provided in this subsection shall vest in the
182 assignee all the right and title of the original purchaser.

183 (f) A security interest in a tax lien certificate may
184 be created and perfected in the manner provided for general
185 intangibles under Title 7. Notice of the security interest
186 shall be given to the tax collecting official pursuant to
187 Section 7-9A-406 and as otherwise required by law.

188 (g) Within 30 days of a completed tax lien auction or
189 sale, the tax collecting official shall send notice to the
190 property owner for whom the property was assessed informing
191 the property owner that the tax lien has been auctioned or
192 sold. The notice shall include the date of auction or sale and
193 the name of the purchaser and shall be made by first class
194 mail to the address listed in the assessment."

195 "§40-10-191

196 (a) The holder of a tax lien certificate shall have the



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197 first right to purchase the tax lien relating to a subsequent
198 delinquency on the property described in the tax lien
199 certificate of the holder. A holder of the certificate shall
200 exercise this right between five and 30 days prior to the tax
201 lien auction date, and the purchase by the holder shall be
202 effective as of the date of the tax lien auction as if the
203 holder has been the winning bidder. A holder of the
204 certificate who exercises this right, upon payment of the
205 purchase price, shall be issued a certificate of purchase in
206 accordance with Section 40-10-187 and is entitled to the same
207 interest rate as shown on the previous tax lien certificate.
208 The owner of the property shall be notified within 30 days of
209 the completion of the first right of purchase, in accordance
210 with Section 40-10-187(g). ~~The owner of the property may pay~~
211 ~~the current year taxes due once the property owner redeems all~~
212 ~~outstanding tax liens on the property.~~

213 (b) (1) If the holder of a tax lien certificate fails to
214 exercise the first right to purchase a subsequent tax lien, an
215 amount equal to the redemption price of the tax lien shall be
216 added to the purchase price at the subsequent tax lien sale or
217 auction and the tax lien certificate shall be transferred to
218 the purchaser of the subsequent tax lien.

219 (2) A transfer of the tax lien certificate as provided
220 in this subsection shall vest in the transferee all the rights
221 and title of the previous holder of the tax lien certificate;
222 the previous tax lien certificate shall be canceled; and a new
223 tax lien certificate shall be issued to the purchaser.

224 (3) The amount paid from the transfer shall be



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225 distributed to the previous holder of the tax lien
226 certificate, along with a notice of cancellation of the
227 previous tax lien certificate, within 30 days of the receipt
228 of the purchase price.

229 ~~(b)~~(c) In the event that a mortgagee is or becomes the
230 holder of a tax lien certificate, the mortgagee may add all
231 costs, fees, interest, penalties, and taxes regarding the tax
232 sale to the principal of the loan.

233 ~~(e)~~(d) A holder of a tax lien certificate may abandon
234 the certificate at any time upon notification given to the tax
235 collecting official and the surrender of the tax lien
236 certificate. Abandonment of a tax lien certificate
237 relinquishes all rights of recovery of any monies or
238 expenses."

239 "§40-10-193

240 (a) (1) Tax liens auctioned or sold may be redeemed by
241 any of the following:

242 a. The owner, including a partial owner under Section
243 40-10-195, or his or her heirs or personal~~representative~~
244 representatives.

245 b. Any mortgagee or purchaser of the property or any
246 portion of the property.

247 ~~c. Any other person listed under subsection (a) of~~
248 ~~Section 40-10-120, if the property had been sold for taxes.~~Any
249 person having an interest in the property or any portion of
250 the property, legal or equitable, in severalty or as tenant in
251 common, including a judgment creditor or other creditor having
252 a lien on the property or any portion of the property.



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253 (2) Property may be redeemed under subdivision (1) by
254 payment to the tax collecting official of the amount specified
255 on the tax lien certificate as the total amount of delinquent
256 tax, interest, penalties, fees excluding lost certificate fees
257 provided in Section 40-10-190, and costs paid to purchase the
258 tax lien and to obtain a title report for use in a foreclosure
259 and quiet title action under Section 40-10-197, plus interest
260 at the rate specified in the tax lien certificate, plus any
261 due and owing taxes, interest, penalties, fees, and costs due.
262 The tax collecting official shall provide a separate receipt
263 for any current taxes, interest, penalties, fees, or costs
264 paid.

265 (b) Statutory fees paid by the holder of the tax lien
266 certificate in connection with the tax lien certificate shall
267 be added to the amount payable on redemption and shall also
268 bear interest at the rate of interest specified in the tax
269 lien certificate."

270 "§40-10-198

271 (a) Each holder of a tax lien certificate shall be
272 entitled to the same rights and remedies with respect to the
273 collection of the amounts due on ~~such~~ the tax lien certificate
274 as are available to the tax collecting official with respect
275 to the collection of delinquent taxes, including, but not
276 limited to, the right to institute garnishment proceedings
277 against the taxpayer for the payment of taxes.

278 (b) The holder of a tax lien certificate shall not be
279 entitled to charge the taxpayer for the release or
280 satisfaction of the tax lien any amount more than what would



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281 otherwise have been available to the tax collecting official
282 with respect to the collection of the delinquent tax.

283 (c) The holder of a tax lien certificate shall not have
284 the right to enter upon or otherwise possess any property upon
285 which he or she holds a tax lien until he or she receives a
286 deed from the circuit clerk pursuant to a court action under
287 this article. Prior to receiving a clerk's deed, the holder of
288 a tax lien certificate shall not make any repairs or
289 alterations to the property or require the property owner to
290 pay mesne profits or rents as part of any redemption amount.
291 The holder of a tax lien certificate shall not be held
292 criminally or civilly liable for any code violation on the
293 property occurring prior to obtaining a clerk's deed unless
294 the holder of the tax lien certificate has otherwise violated
295 this subsection."

296 "§40-10-199

297 (a) Tax liens that are not sold at the tax lien auction
298 conducted by the tax collecting official shall be separated in
299 the tax lien auction list as prescribed by Section 40-10-183
300 and ~~the county shall retain the lien~~ shall continue pursuant
301 to Section 40-1-3. The tax collecting official, within 45 days
302 at any time after the tax lien auction date, may sell at
303 private sale an unsold tax lien for no less than all taxes,
304 interest, penalties, costs, and fees, plus the amount to be
305 paid to the holder of a tax lien certificate who has not
306 exercised his or her first right to purchase as provided in
307 Section 40-10-191. The purchaser at private sale shall be
308 entitled to interest on the amount paid at a rate agreed to by



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309 the tax collecting official, not to exceed 12 percent. All
310 private tax lien sales shall be entered in the record of tax
311 lien auctions and sales, as provided in Section 40-10-188.

312 (b) All tax liens that remain unsold by the tax lien
313 auction or sale shall be included in all future tax lien
314 auctions or sales until sold.

315 (c) Any tax lien that does not sell at auction shall be
316 reported to the county commission when seeking approval of
317 errors in assessments, litigations, or insolvents as the tax
318 collecting official ~~will~~ shall be allowed credit for taxes due
319 to this state upon final settlement with the state
320 Comptroller."

321 "§40-10-200

322 (a) (1) Except as provided in subdivision (2), ~~no~~ a tax
323 ~~assessor, assessing or~~ tax collecting official, commissioner of
324 revenue, ~~officer~~ judge or clerk of the court with jurisdiction
325 over actions filed under this article, or any employee of any
326 of those offices shall not knowingly have a direct or indirect
327 financial interest in the purchase of any tax lien sold for
328 delinquent taxes within their jurisdiction. A sale made in
329 violation of this subsection is void.

330 (2) This section does not apply to an attorney
331 representing a party in the purchase of a tax lien sold for
332 delinquent taxes or an employee of the attorney.

333 (b) A violation of this section ~~shall be~~ is a Class C
334 misdemeanor and the sureties on his or her official bond shall
335 be liable for a penalty not to exceed five hundred dollars
336 (\$500) and to be fixed by the circuit judge with jurisdiction



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337 in the county. The penalty shall be remitted to the general
338 fund of the county."

339 Section 2. Section 40-10-202 is added to the Code of
340 Alabama 1975, to read as follows:

341 §40-10-202

342 Unless otherwise provided, in the trial of any issue
343 involving the auction, sale, or redemption of a tax lien
344 certificate, an action for public auction, or a foreclosure
345 and quiet title action filed under this article, the originals
346 or certified copies of the books and records belonging to the
347 office of the tax assessing official, tax collecting official,
348 or board of equalization required to be kept by law shall be
349 prima facie evidence of the facts included in the books or
350 records.

351 Section 3. This act applies to all tax liens for which
352 a final judgment in a foreclosure and quiet title action has
353 not been rendered on or before June 1, 2024

354 Section 4. This act shall become effective on June 1,
355 2024.



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House of Representatives

Read for the first time and referred19-Mar-24
to the House of Representatives
committee on Judiciary

Read for the second time and placed04-Apr-24
on the calendar:
1 amendment

Read for the third time and passed16-Apr-24
as amended
Yeas 102
Nays 0
Abstains 0

John Treadwell
Clerk