

1 SB177  
2 136288-1  
3 By Senator Ward  
4 RFD: Finance and Taxation General Fund  
5 First Read: 07-FEB-12

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8 SYNOPSIS: Under existing law, if property is sold for  
9 delinquent ad valorem taxes, the tax sale purchaser  
10 may pay an excess amount which can be paid over to  
11 the delinquent taxpayer under certain  
12 circumstances.

13 This bill would more clearly define who is  
14 entitled to be paid the excess amount and the  
15 circumstances under which the excess can be paid.  
16 This bill would also require that the excess amount  
17 be held in escrow in the county treasury until such  
18 time as proper application for payment of the  
19 excess is made, and that if not paid within 10  
20 years, the excess would be paid into the county  
21 general fund for use by the county.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Section 40-10-28, Code of Alabama 1975, to  
2 provide procedures and time for making application for the  
3 excess paid by a tax sale purchaser; to require that the  
4 excess be held in escrow in the county treasury until proper  
5 application for payment of the escrow is made; and to provide  
6 that the excess shall be paid into the county general fund for  
7 use by the county if not claimed within 10 years.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. Section 40-10-28, Code of Alabama 1975,  
10 is amended to read as follows:

11           "§40-10-28.

12           "(a) The excess arising from the sale of any real  
13 estate remaining after paying the amount of the decree of sale  
14 issued pursuant to Section 40-10-11, and costs and expenses  
15 subsequently accruing, shall be paid over to the rightful  
16 ~~owner, or his agent, or to the person legally representing~~  
17 ~~such owner, or into the county treasury, and it may be paid~~  
18 ~~therefrom to such owner, agent or representative in the same~~  
19 ~~manner as to the excess arising from the sale of personal~~  
20 ~~property sold for taxes is paid.~~ of such real estate under the  
21 following circumstances:

22           "(1) The rightful owner requests that the excess be  
23 applied to the redemption of the real estate during the  
24 three-year period for redemption of the property.

1           "(2) The rightful owner requests the excess and  
2           submits an affidavit stating that he or she is waiving the  
3           right to redeem the property as provided in Section 40-10-120.

4           "(3) The rightful owner requests payment of the  
5           excess following the expiration of the redemption period  
6           provided such request is made within 10 years of the date of  
7           the tax sale.

8           "(b) The excess funds shall be held in an escrow  
9           account in the county treasury unless payment is properly  
10          requested by the rightful owner as provided herein. If such  
11          ~~excess is not called for within three years after such sale by~~  
12          ~~the person entitled to receive the same~~ requested as provided  
13          herein, upon the order of the county commission stating the  
14          case or cases in which such excess was paid, together with a  
15          description of the lands sold, when sold and the amount of  
16          such excess, ~~the county treasurer shall place such excess~~  
17          funds of money to the credit of the general fund of the county  
18          ~~and make a record on his books of the same, and such money~~  
19          shall thereafter be treated as part of the general fund of the  
20          county. ~~At any time within 10 years after such excess has been~~  
21          ~~passed to the credit of the general fund of the county, the~~  
22          ~~county commission may on proof made by any person that he is~~  
23          ~~the rightful owner of such excess of money order the payment~~  
24          ~~thereof to such owner, his heir or legal representative, but~~  
25          ~~if not so ordered and paid within such time, the same shall~~  
26          ~~become the property of the county.~~

1           "(c) For the purposes of this section, the term  
2 "rightful owner" shall mean any of the following:

3           "(1) The person against whom the taxes had been  
4 assessed as set out in the decree of sale if he or she submits  
5 an affidavit to the county commission attesting that he or she  
6 has not sold the property upon which the taxes had been  
7 assessed.

8           "(2) A person who presents proof satisfactory to the  
9 county commission that he or she is the agent or legal  
10 representative of the person against whom the taxes had been  
11 assessed as set out in the decree of sale.

12           "(3) A person who presents proof satisfactory to the  
13 county commission that he or she purchased the property from  
14 the person against whom the taxes had been assessed as set out  
15 in the decree of sale after the date of the assessment of  
16 unpaid taxes."

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