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3 HOUSE FISCAL RESPONSIBILITY COMMITTEE SUBSTITUTE FOR SB257, AS
4 ENGROSSED

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9 SYNOPSIS: Under existing law, a party desiring to
10 redeem property sold to the state for unpaid taxes
11 is required to pay the amount of money for which
12 the property was sold, together with the amount of
13 all taxes found to be due on the property since the
14 date of sale, with interest at the rate of 12
15 percent.

16 This bill would provide that a party
17 desiring to redeem property sold to the state for
18 unpaid taxes would pay interest only on the taxes
19 due at the time of default.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 To amend Sections 40-10-75, 40-10-76, 40-10-77,
26 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975; to
27 provide that a party desiring to redeem property sold to the

1 state for unpaid taxes pay interest of not more than eight
2 percent only on the taxes due at the time of default.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 40-10-75, 40-10-76, 40-10-77,
5 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, are
6 amended to read as follows:

7 "§40-10-75.

8 ~~If, in~~ In any action brought related to taxes
9 delinquent on or after January 1, 2019, the interest rate on
10 any amounts awarded pursuant to this section shall be eight
11 percent. In any other action brought for the possession of
12 land sold for taxes delinquent before January 1, 2019, the
13 title of the purchaser at the tax sale shall be defeated on
14 account of any defect in the proceedings under which the sale
15 is had, or on account of any defect in or insufficiency of the
16 process by which the owner of the land was brought before the
17 probate court, as is provided, or in the service of the
18 process, or by reason of the failure of the judge of probate
19 on account of any negligence or refusal on his or her part to
20 produce when called upon, sufficient evidence of the proper
21 issuance and service of the notice or process, or by reason of
22 any other defect or insufficiency in any of the proceedings
23 for the condemnation and sale of the property, or of the
24 certificate or deed to the purchaser or any two or more of the
25 causes, the officer or officers on account of whose omission
26 or error the defect or insufficiency or defects or
27 insufficiencies shall have arisen, together with the sureties

1 on the official bond, shall be liable to the purchaser whose
2 title shall be thus defeated and to his or her assignees for
3 the full sum of the purchase money paid by him or her at the
4 tax sale for the property, the cost of the action in which the
5 title failed, which the purchaser shall have incurred in
6 attempting to maintain title under the tax sale, together with
7 the interest upon each of these amounts, at the rate of ~~12~~
8 eight percent per annum, subject to the limitations set forth
9 in Section 40-10-122(a); provided that except as to the state,
10 actions under this section shall be commenced within five
11 years from the sale.

12 "§40-10-76.

13 If, in In any action brought related to taxes
14 delinquent on or after January 1, 2019, the interest rate on
15 any amounts awarded pursuant to this section shall be eight
16 percent. In any other any action brought by the purchaser, or
17 other person claiming under the purchaser, to recover the
18 possession of lands sold for taxes delinquent before January
19 1, 2019, a recovery is defeated on the ground that such sale
20 was invalid for any reason other than that the taxes were not
21 due, the court shall forthwith, on the motion of the
22 plaintiff, ascertain the amount of taxes for which the lands
23 were liable at the time of the sale and for the payment of
24 which they were sold, with interest thereon from the date of
25 sale, and the amount of such taxes on the lands, if any, as
26 the plaintiff, or the person under whom he claims, has, since
27 such sale, lawfully paid or assumed by the state after its

1 purchase, with interest thereon from the date of such payment,
2 the interest on both amounts to be computed at the rate of ~~12~~
3 eight percent per annum, subject to the limitations set forth
4 in Section 40-10-122(a); and the court shall thereupon render
5 judgment against the defendant in favor of the plaintiff for
6 the amount ascertained and the costs of the action, which
7 judgment shall constitute a lien on the lands sued for, and
8 payment thereof may be enforced as in other cases.

9 "§40-10-77.

10 "~~If, in an~~ In any action brought related to taxes
11 delinquent on or after January 1, 2019, the interest rate on
12 any amounts awarded pursuant to this section shall be eight
13 percent. In any other action brought against such purchaser or
14 other person claiming under the purchaser to recover
15 possession of lands sold for taxes delinquent before January
16 1, 2019, the defendant claims and defends under the tax title
17 and the defense fails on the ground that such sale was invalid
18 for any reason other than that the taxes were not due, and the
19 plaintiff recovers, the court shall forthwith, on the motion
20 of the defendant, ascertain the amount of taxes for which the
21 lands were liable at the time of the sale and for the payment
22 of which they were sold, with interest thereon from the day of
23 sale, and the amount of such taxes on the lands, if any, as
24 the defendant or the person under whom he or she claims has,
25 since such sale, lawfully paid or assumed, in case of the
26 state, with interest thereon from the date of such payment,
27 the interest on both amounts to be computed at the rate of ~~12~~

1 eight percent per annum, subject to the limitations set forth
2 in Section 40-10-122(a); and the court shall thereupon render
3 judgment against the plaintiff in favor of the defendant for
4 the amount ascertained and the cost of the action, which
5 judgment shall constitute a lien on the land sued for, the
6 payment of which may be enforced as in other cases, and no
7 writ of possession shall issue until such judgment has been
8 satisfied, and the court may order the land sold or condemn it
9 to the satisfaction of the debt.

10 "§40-10-83.

11 ~~When~~ In any action brought related to taxes
12 delinquent on or after January 1, 2019, the interest rate on
13 any amounts awarded pursuant to this section shall be eight
14 percent. In any other action, when the action is against the
15 person for whom the taxes were assessed or the owner of the
16 land at the time of the sale for taxes delinquent before
17 January 1, 2019, his or her heir, devisee, vendee or
18 mortgagee, the court shall, on motion of the defendant made at
19 any time before the trial of the action, ascertain (i) the
20 amount paid by the purchaser at the sale and of the taxes
21 subsequently paid by the purchaser, together with ~~12~~ eight
22 percent per annum thereon, subject to the limitations set
23 forth in Section 40-10-122(a); (ii) with respect to property
24 located within an urban renewal or urban redevelopment project
25 area designated pursuant to Chapters 2 or 3 of Title 24, all
26 insurance premiums paid or owed by the purchaser for casualty
27 loss coverage on insurable structures and the value of all

1 permanent improvements made by the purchaser determined in
2 accordance with Section 40-10-122, together with ~~12~~ eight
3 percent per annum thereon; (iii) with respect to any property
4 which contains a residential structure at the time of the sale
5 regardless of its location, all insurance premiums paid or
6 owed by the purchaser for casualty loss coverage on the
7 residential structure and the value of all preservation
8 improvements made by the purchaser determined in accordance
9 with Section 40-10-122, together with ~~12~~ eight percent per
10 annum thereon, subject to the limitations set forth in Section
11 40-10-122(a); and (iv) a reasonable attorney's fee for the
12 plaintiff's attorney for bringing the action. The court shall
13 also determine the right, if any, of the defendant to recover
14 any excess pursuant to Section 40-10-28 and shall apply a
15 credit and direct the payment of the same as set forth in
16 subsection (b) of Section 40-10-78. Upon such determination
17 the court shall enter judgment for the amount so ascertained
18 in favor of the plaintiff against the defendant, and the
19 judgment shall be a lien on the land sued for. Upon the
20 payment into court of the amount of the judgment and costs,
21 the court shall enter judgment for the defendant for the land,
22 and all title and interest in the land shall by such judgment
23 be divested out of the owner of the tax deed.

24 "§40-10-121.

25 "(a) In order to obtain the redemption of land from
26 tax sales where the same has been heretofore or hereafter sold
27 to the state, the party desiring to make such redemption shall

1 apply therefor as hereinafter provided and shall deposit with
2 the judge of probate of the county in which the land is
3 situated the amount of money for which the lands were sold,
4 with interest thereon at the rate of ~~12~~ eight percent,
5 together with the amount of all taxes found to be due on such
6 land since the date of sale, as provided herein, with interest
7 at the rate of ~~12~~ eight percent and all costs and fees due to
8 officers.

9 "(b) Upon application to the probate judge to redeem
10 land where the same has been sold to the state for taxes,
11 which application shall be made on blank forms to be furnished
12 by the Land Commissioner, the probate judge shall submit such
13 application to the tax assessor of the county in which the
14 land sought to be redeemed is located, and the assessor shall
15 without delay enter on such application an assessment value
16 for each of the years for which taxes are due, subsequent to
17 the year for which such land was sold to the state for taxes,
18 and such assessment value shall be such percentage as
19 established by law of the fair and reasonable market value of
20 such lands as of October 1 of the year or years subsequent to
21 the year for which the land was sold for taxes.

22 "(c) Any party having a right to redeem said
23 property, his agents, or attorney, shall have the right to
24 file a written protest with the board of equalization,
25 objecting to the valuation of said land as placed on said
26 property by the tax assessor, setting forth his ground of
27 objection to the assessed value of said property as fixed by

1 said tax assessor, and the board of equalization shall,
2 thereafter, fix a day for hearing said protest by giving to
3 the tax assessor and party desiring to redeem, his agents, or
4 attorney, at least 10 days' written notice of the day and
5 place of hearing said petition, and upon the hearing of said
6 cause, the board of equalization shall have the right to
7 review the assessed value of said property as fixed by the tax
8 assessor and shall fix and determine the assessed value for
9 each of the years subsequent to the year for which such land
10 was sold to the state for taxes, and the board of equalization
11 shall certify to the probate judge the assessed value of the
12 land so fixed.

13 "(d) The redemptioner shall deposit with the probate
14 judge the amount of money for which lands were sold for taxes,
15 plus the amount due for subsequent years based on the
16 assessment value as required to be fixed herein, and interest
17 costs, and fees as provided in this section.

18 "(e) If any balance remains due to the state upon
19 any lien arising by reason of any installment redemption the
20 payment of which is secured under the provisions of Section
21 40-10-141, the redemptioner shall also deposit with the
22 probate judge the amount of the balance due upon such lien,
23 with interest to the date of redemption.

24 "(f) If the lands sought to be redeemed, or any
25 portion thereof, are situated in any municipality, the
26 redemptioner shall also deposit with the probate judge the
27 amount of any unpaid taxes assessed against the same by such

1 municipality, and an amount equal to any municipal taxes
2 thereon which, subsequent to the tax sale, were not assessed
3 by reason of the fact that such land had been purchased by the
4 State of Alabama, plus interest which would have accrued upon
5 such municipal taxes from the time the same would have
6 otherwise become delinquent, which amounts, with interest,
7 shall be treated and distributed in the same manner as taxes
8 and interest thereon.

9 "§40-10-122.

10 "(a) (1) In order to obtain the redemption of land
11 from tax sales where the same has been sold to one other than
12 the state, the party desiring to make such redemption shall
13 deposit with the judge of probate of the county in which the
14 land is situated the amount of money for which the lands were
15 sold, with interest payable at the rate of ~~12~~ eight percent
16 per annum from date of sale, and, on the portion of any excess
17 bid that is less than or equal to 15 percent of the market
18 value as established by the assessing official, together with
19 the amount of all taxes which have been paid by the purchaser,
20 which fact shall be ascertained by consulting the records in
21 the office of the tax collector, or other tax collecting
22 official, with interest on the payment at ~~12~~ eight percent per
23 annum. If any taxes on said land have been assessed to the
24 purchaser and have not been paid, and if the taxes are due
25 which may be ascertained by consulting the tax collector or
26 other tax collecting official of the county, the probate judge
27 shall also require the party desiring to redeem the land to

1 pay the tax collector or other tax collecting official the
2 taxes due on the lands which have not been paid by the
3 purchaser before he or she is entitled to redeem the same. In
4 all redemptions of land from tax sales, the party securing the
5 redemption shall pay all costs and fees as herein provided for
6 due to officers and a fee of ~~\$.50~~ three dollars (\$3) to the
7 judge of probate for his or her services in the matter of
8 redemption. This application and payment may be executed by an
9 on-line transaction via the Internet or other on-line
10 provision.

11 "(2) The reimbursement to the purchaser from the
12 proposed redemptioner for allowable improvements and insurance
13 premiums as provided in subsections (b) through (e) is not
14 required for the proposed redemptioner to take possession of
15 the property; provided however, that the proposed redemptioner
16 shall reimburse the purchaser for such costs prior to January
17 1 of the subsequent tax year in order to complete the
18 redemption process as provided in this subsection. Failure of
19 the proposed redemptioner to reimburse the purchaser for such
20 costs prior to January 1 of the subsequent tax year shall
21 forfeit the right of the proposed redemptioner in the
22 property.

23 "(b) With respect to property located within an
24 urban renewal or urban redevelopment project area designated
25 pursuant to Chapters 2 or 3 of Title 24, the proposed
26 redemptioner must pay to the purchaser or his or her

1 transferee, in addition to any other requirements set forth in
2 this section, the amounts set forth below:

3 "(1) All insurance premiums paid or owed by the
4 purchaser for casualty loss coverage on insurable structures
5 with interest on said payments at ~~12~~ eight percent per annum.

6 "(2) The value of all permanent improvements made on
7 the property determined in accordance with this section with
8 interest on said value at ~~12~~ eight percent per annum.

9 "(c) With respect to property which contains a
10 residential structure at the time of the sale regardless of
11 its location, the proposed redemptioner must pay to the
12 purchaser or his or her transferee, in addition to any other
13 requirements set forth in this section, the amounts set forth
14 below:

15 "(1) All insurance premiums paid or owed by the
16 purchaser for casualty loss coverage on the residential
17 structure with interest on the payments at ~~12~~ eight percent
18 per annum.

19 "(2) The value of all preservation improvements made
20 on the property determined in accordance with this section
21 with interest on the value at ~~12~~ eight percent per annum.

22 "(d) As used herein, "permanent improvements" shall
23 include, but not be limited to, all repairs, improvements, and
24 equipment attached to the property as fixtures. As used
25 herein, "preservation improvements" shall mean improvements
26 made to preserve the property by properly keeping it in repair
27 for its proper and reasonable use, having due regard for the

1 kind and character of the property at the time of sale. The
2 proposed redemptioner shall make written demand upon the
3 purchaser of a statement of the value of all permanent or
4 preservation improvements as applicable made on the property
5 since the tax sale. In response to written demand made
6 pursuant to this subsection, within 10 days from the receipt
7 of such demand, the purchaser shall furnish the proposed
8 redemptioner with the amount claimed as the value of such
9 permanent or preservation improvements as applicable; and
10 within 10 days after receipt of such response, the proposed
11 redemptioner either shall accept the value so stated by the
12 purchaser or, disagreeing therewith, shall appoint a referee
13 to ascertain the value of such permanent or preservation
14 improvements as applicable. The proposed redemptioner shall in
15 writing (i) notify the purchaser of his or her disagreement as
16 to the value; and (ii) inform the purchaser of the name of the
17 referee appointed by him or her. Within 10 days after the
18 receipt of such notice, the purchaser shall appoint a referee
19 to ascertain the value of the permanent or preservation
20 improvements as applicable and advise the proposed
21 redemptioner of the name of the appointee. Within 10 days
22 after the purchaser has appointed his or her referee, the two
23 referees shall meet and confer upon the award to be made by
24 them. If they cannot agree, the referees shall at once appoint
25 an umpire, and the award by a majority of such body shall be
26 made within 10 days after the appointment of the umpire and
27 shall be final between the parties.

1 "(e) If the proposed redemptioner fails or refuses
2 to nominate a referee as provided in subsection (d), he or she
3 must pay the value put upon the improvements by the purchaser.
4 If the purchaser refuses or fails to appoint a referee, as
5 provided in subsection (d), the purchaser shall forfeit his or
6 her claim to compensation for such improvements. The failure
7 of the referees or either of them to act or to appoint an
8 umpire shall not operate to impair or forfeit the right of
9 either the proposed redemptioner or the purchaser in the
10 premises and in the event of failure without fault of the
11 parties to affect an award, the appropriate court shall
12 proceed to ascertain the true value of such permanent or
13 preservation improvements as applicable and enforce the
14 redemption accordingly."

15 Section 2. This act shall become effective on
16 October 1, 2020, for actions related to taxes delinquent on or
17 after January 1, 2019.