

1 HB371  
2 217485-3  
3 By Representative Ellis  
4 RFD: County and Municipal Government  
5 First Read: 16-FEB-22

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ENROLLED, An Act,

Relating to taxation; to amend Sections 40-10-180, 40-10-182, 40-10-183, 40-10-185, 40-10-186, 40-10-187, 40-10-188, 40-10-191, 40-10-193, 40-10-194, and 40-10-197, Code of Alabama 1975; to authorize and provide procedures for the use of an online public auction for the collection of delinquent property taxes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-10-180, 40-10-182, 40-10-183, 40-10-185, 40-10-186, 40-10-187, 40-10-188, 40-10-191, 40-10-193, 40-10-194, and 40-10-197, Code of Alabama 1975, are amended to read as follows:

"§40-10-180.

"(a) The Legislature declares that the purpose of this article is to provide counties with an alternative remedy for collecting delinquent property taxes by the sale of a tax lien.

"(b) The tax collecting official for each county shall have the sole authority to decide whether his or her county shall utilize the sale of a tax lien or the sale of property to collect delinquent property taxes and the method decided by the tax collecting official shall apply to all real property in that county for the year so decided.

1           "(c) The tax collecting official's decision to  
2 change the current remedy used for collecting delinquent  
3 property taxes shall be published on the tax collecting  
4 official's website or by advertising once a week for three  
5 consecutive weeks in a newspaper with general circulation in  
6 that particular county, all of which shall occur not later  
7 than October 1 when the property taxes become due and payable.

8           "§40-10-182.

9           "(a) All tax liens representing unpaid and  
10 delinquent taxes on real property shall be subject to a tax  
11 lien auction or a tax lien sale.

12           "(b) (1) ~~The~~ If the sale of a tax lien is chosen as  
13 the method to collect delinquent property taxes, the tax  
14 collecting official of any county shall conduct a public  
15 auction for the sale and transfer of delinquent tax liens. The  
16 tax collecting official shall notify the delinquent taxpayer  
17 of the auction and all charges pursuant to Section 40-10-183  
18 at least 30 days prior to the tax lien auction by first class  
19 mail and by any one of the following:

20           "a. Advertising for once a week for three  
21 consecutive weeks in a newspaper with general circulation in  
22 the county where the property is located.

23           "b. Advertising on an online website controlled by  
24 the tax collecting official and accessible from the tax  
25 collecting official's website.

1            "c. Posting at the courthouse of the county and if  
2 possible in a public place in the precinct where the property  
3 is located.

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

6            "(c) The tax collecting official may auction or sell  
7 tax liens representing delinquent taxes for any year taxes are  
8 delinquent and unpaid.

9            "§40-10-183.

10           ~~"Prior~~ At least 30 days prior to any tax lien  
11 auction, the tax collecting official shall prepare and  
12 maintain a list of all tax liens. The list shall be known as  
13 the tax lien auction list and shall contain all of the  
14 following:

15            "(1) The names of the several persons appearing in  
16 the latest tax roll as the respective owners of tax-delinquent  
17 properties.

18            "(2) A description of each property as it appears in  
19 the latest tax roll.

20            "(3) The year or years for which taxes are  
21 delinquent on each property.

22            "(4) The principal amount of the delinquent taxes  
23 and the amount of accrued and accruing interest thereon and  
24 penalties, fees, and administration costs pursuant to Section

1 ~~40-10-184(b) to the day of the proposed tax lien auction~~  
2 relating to each year of assessment.

3 "§40-10-185.

4 "When a tax lien is offered for auction or sale, it  
5 shall not be necessary to list, ~~auction, or sell~~ it as being  
6 against the property of any specific person. The auction or  
7 sale is not invalid by reason of the fact that the property  
8 was assessed in the name of a person other than the rightful  
9 owner or to a person unknown, if the description and the  
10 uniform parcel number of the real estate in the tax lien  
11 auction list is sufficient to identify it and the amount of  
12 taxes, interest, penalties, fees, and costs for which its tax  
13 lien is to be auctioned or sold.

14 "§40-10-186.

15 "(a) The purchase price for a tax lien shall be the  
16 amount of delinquent taxes plus any interest, penalties, fees,  
17 and costs accrued as of the date of the auction or sale.

18 "(b) The purchase price for a tax lien shall be paid  
19 in a form acceptable to the tax collecting official ~~in cash or~~  
20 ~~immediately available certified funds~~ not later than one hour  
21 before close of business on the date of the auction or sale  
22 or, if the auction is online, not later than the close of  
23 business two days following the date of the auction.

24 "(c) The purchase price for a tax lien received by  
25 the tax collecting official shall be credited to the tax

1 collecting official for purposes of calculating commissions,  
2 if any, on taxes collected by the tax collecting official  
3 pursuant to Section 40-5-4.

4 "§40-10-187.

5 "(a) The tax collecting official, upon receipt of  
6 the purchase price, shall make, execute, and deliver a tax  
7 lien certificate to each purchaser at a tax lien sale or  
8 auction or to each assignee thereafter and shall collect from  
9 the purchaser or assignee a fee of five dollars (\$5) for each  
10 tax lien certificate. The tax lien certificate shall be in a  
11 form provided by the Department of Revenue and shall also  
12 include a certificate of redemption form as provided in  
13 Section 40-10-194.

14 "(b) A tax lien certificate shall evidence the  
15 auction or sale or assignment to the holder of the tax lien  
16 certificate of the delinquent and unpaid taxes, penalties,  
17 interest, fees, and costs set forth therein and represented by  
18 the tax lien.

19 "(c) A tax lien certificate shall bear the interest  
20 rate per annum as bid on by the purchaser at the tax lien  
21 auction or as agreed upon by the purchaser at the tax lien  
22 sale, until the tax lien certificate is redeemed as provided  
23 pursuant to Section 40-10-193 or Section 40-10-197.

24 "(d) The tax lien certificate shall do all of the  
25 following:

1           "(1) Describe the real property on which a tax lien  
2 is auctioned or sold as it is described in the tax lien  
3 auction list.

4           "(2) Specify the date on which the tax lien was  
5 auctioned or sold to the original purchaser.

6           "(3) Specify the year of assessment to which the tax  
7 lien relates and the amount for which the tax lien was  
8 auctioned or sold to the original purchaser.

9           "(4) Recite the amount of all taxes, penalties,  
10 interest, fees, and costs due on the property, which relate to  
11 the year of assessment described in subdivision (3), as of the  
12 date specified in subdivision (2).

13           "(5) Recite ~~that the certificate bears interest at~~  
14 the rate per annum bid on by the purchaser at the tax lien  
15 auction or agreed upon at the tax lien sale on the amount  
16 described in subdivision (4) from the date specified in  
17 subdivision (2).

18           "(e) The purchaser of a tax lien certificate may  
19 transfer and assign the certificate to any person, and the  
20 transferee of a tax lien certificate may subsequently transfer  
21 the certificate to any other person. The transferor of a tax  
22 lien certificate shall endorse the certificate and shall swear  
23 to the endorsement before a notary public or other officer  
24 empowered to administer oaths. The transferee shall present  
25 the endorsed tax lien certificate to the tax collecting

1 official who prepared and executed the certificate, or his or  
2 her successor, who, for a fee of five dollars (\$5), shall  
3 acknowledge the transfer on the certificate and shall make  
4 note of the transfer on the record of tax lien auctions and  
5 sales kept as provided in Section 40-10-188. An assignment and  
6 transfer as provided in this subsection shall vest in the  
7 assignee all the right and title of the original purchaser.

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

13 "(g) Within ~~10~~ 30 days of a completed tax lien  
14 auction or sale, the tax collecting official shall send notice  
15 to the property owner for whom the property was assessed  
16 informing the property owner that the tax lien has been  
17 auctioned or sold. The notice shall include the date of  
18 auction or sale and the name ~~and address~~ of the purchaser and  
19 shall be made by first class mail to the address listed in the  
20 assessment.

21 "§40-10-188.

22 "The tax collecting official shall make a correct  
23 record of all auctions and sales of tax liens in a durable  
24 book or an electronic file, which shall be known as the record

1 of tax lien auctions and sales, containing all of the  
2 following:

3 "(1) The date of auction or sale.

4 "(2) A description of each parcel and uniform parcel  
5 number on which a tax lien was auctioned or sold.

6 "(3) The year of assessment to which the tax lien  
7 relates.

8 "(4) The name and address of the property owner for  
9 whom the property was assessed, if known.

10 "(5) The name and address of the original purchaser  
11 of the tax lien.

12 "(6) The total amount of taxes, interest, penalties,  
13 fees, and costs due on the tax lien, which relate to the year  
14 of assessment, as described in Section 40-10-187, as of the  
15 date of the auction or sale of the tax lien to the original  
16 purchaser.

17 "(7) The interest rate bid on by the purchaser at  
18 the tax lien auction or as agreed by the purchaser at the tax  
19 lien sale.

20 "(8) The amount of any subsequent taxes, penalties,  
21 interest, fees, and costs paid by the original purchaser, or  
22 assignee, of the tax lien certificate as provided in Section  
23 40-10-191 and the year of assessment to which the payment  
24 relates.

1           "(9) The name and address of the assignee, if any,  
2 and the date of assignment of the tax lien certificate.

3           "(10) Any security interest of which the tax  
4 collecting official has been notified pursuant to Section  
5 40-10-187(f).

6           "~~(10)~~ (11) The name and address of the person  
7 redeeming and the date of redemption.

8           "~~(11)~~ (12) The total amount paid for redemption.

9           "§40-10-191.

10           "(a) The holder of a tax lien certificate shall have  
11 the first right to purchase the tax lien relating to a  
12 subsequent delinquency on the property described in the tax  
13 lien certificate of the holder. A holder of the certificate  
14 shall exercise this right between five and 30 days prior to  
15 the tax lien auction date, and the purchase by the holder  
16 shall be effective as of the date of the tax lien auction as  
17 if the holder has been the winning bidder. A holder of the  
18 certificate who exercises this right, upon payment of the  
19 purchase price, shall be issued a certificate of purchase in  
20 accordance with Section 40-10-187 and is entitled to the same  
21 interest rate as shown on the previous tax lien certificate.  
22 The owner of the property shall be notified within 30 days of  
23 the completion of the first right of purchase in accordance  
24 with Section 40-10-187(g). The owner of the property may pay

1 the current year taxes due once the property owner redeems all  
2 outstanding tax liens on the property.

3 "(b) In the event that a mortgagee is or becomes the  
4 holder of a tax lien certificate, the mortgagee may add all  
5 costs, fees, interest, penalties, and taxes regarding the tax  
6 sale to the principal of the loan.

7 "(c) A holder of a tax lien certificate may abandon  
8 the certificate at any time upon notification given to the tax  
9 collecting official and the surrender of the tax lien  
10 certificate. Abandonment of a tax lien certificate  
11 relinquishes all rights of recovery of any monies or expenses.

12 "§40-10-193.

13 "(a) (1) Tax liens auctioned or sold may be redeemed  
14 by any of the following:

15 "a. The owner, including a partial owner under  
16 Section 40-10-195, or his or her heirs or personal  
17 representative.

18 "b. Any mortgagee or purchaser of the property or  
19 any portion of the property.

20 "c. Any other person listed under subsection (a) of  
21 Section 40-10-120, if the property had been sold for taxes.

22 "(2) Property may be redeemed under subdivision (1)  
23 by payment to the tax collecting official of the amount  
24 specified on the tax lien certificate as the total amount of  
25 delinquent tax, interest, penalties, fees excluding lost

1 certificate fees provided in Section 40-10-190, and costs paid  
2 to purchase the tax lien, plus interest at the rate specified  
3 in the tax lien certificate, plus any due and owing taxes,  
4 interest, penalties, fees, and costs due. The tax collecting  
5 official shall provide a separate receipt for any current  
6 taxes, interest, penalties, fees, or costs paid.

7 "(b) Statutory fees paid by the holder of the tax  
8 lien certificate in connection with the tax lien certificate  
9 shall be added to the amount payable on redemption and shall  
10 also bear interest at the rate of interest specified in the  
11 tax lien certificate.

12 "§40-10-194.

13 "(a) The tax collecting official shall, upon  
14 application to redeem a tax lien, and upon being satisfied  
15 that the person applying has the right to redeem the tax lien,  
16 and upon payment of the amount due, issue to the person a  
17 certificate of redemption appended to a copy of the  
18 certificate of tax lien, giving the date of redemption, the  
19 amount paid, and by whom redeemed, and shall make the proper  
20 entries in the record of tax lien auctions or sales in his or  
21 her office. Upon issuance of the certificate of redemption,  
22 the redemption is complete and perfected, the tax lien is  
23 satisfied, and the certificate of tax lien is void and of no  
24 effect other than to support a request for payment of  
25 redemption money pursuant to Section 40-10-196.

1           "(b) For each certificate of redemption, the tax  
2 collecting official shall collect from the person to whom the  
3 certificate of redemption is issued a fee of ten dollars  
4 (\$10).

5           "(c) The holder of a certificate of redemption may  
6 record the certificate with the recording officer of the  
7 county.

8           "§40-10-197.

9           "(a) At any time not less than three years after the  
10 auction or sale of a tax lien but not ~~later~~ more than 10 years  
11 after the auction or sale, if the tax ~~lien is~~ lien has not  
12 been redeemed, ~~the~~ a holder of all of the sold tax lien  
13 ~~certificate~~ certificates for a parcel of property may bring in  
14 the circuit court of the county in which the property is  
15 located an action to foreclose the right to redeem and quiet  
16 title to the property in the name of the holder of the tax  
17 lien certificate. If any applicable law or court order  
18 prohibits bringing an action to foreclose the right to redeem  
19 and quiet title to the property, the limitation provided in  
20 this section shall be extended 12 months following the  
21 termination of the prohibition.

22           "(b) (1) At least 30 days before filing a tax lien  
23 foreclosure action under this article, but not more than 180  
24 days before the action is commenced, the holder of the tax  
25 lien ~~certificate~~ certificates shall send notice of intent to

1 file the foreclosure action by certified mail to all of the  
2 following:

3 "a. The property owner of record, according to the  
4 property tax records of the county in which the property is  
5 located, at the owner's address shown in the records and at  
6 the street address of the property if different.

7 "b. All holders of outstanding mortgages, judgment  
8 liens, or other liens on the property as recorded in the  
9 probate office of the county in which the property is located.

10 "c. The tax collecting official of the county in  
11 which the property is located.

12 "(2) The notice shall include the property owner's  
13 name, the uniform parcel number, the legal description of the  
14 property, the name and address of the holder of the tax lien  
15 certificate, and a statement that the holder proposes to file  
16 a tax lien foreclosure action ~~between~~ as soon as 30 and but  
17 not later than 180 days after the date of mailing of the  
18 notice. If the holder fails to send the notice required by  
19 this subsection, the court shall dismiss any tax lien  
20 foreclosure action filed under this article.

21 "(c) The holder shall name as parties defendant to  
22 the tax lien foreclosure action all persons entitled to redeem  
23 under this article. Upon filing the tax lien foreclosure  
24 action, the holder shall ~~file~~ record a notice as provided by  
25 Section 35-4-131.

1           "(d) (1) In a tax lien foreclosure action, if the  
2 court finds that the tax lien auction or sale is valid, that  
3 proper notice has been given, that the holder is the holder of  
4 all of the sold tax certificates on the property, and that the  
5 ~~tax lien has~~ liens have not been redeemed, the court shall  
6 enter judgment foreclosing the right of the defendant or  
7 defendants to redeem and shall direct the circuit clerk to  
8 execute and deliver to the party in whose favor judgment is  
9 entered a deed conveying the interests of the defendants in  
10 the property described in the tax lien ~~certificate~~  
11 certificates.

12           "(2) After entry of judgment, a party whose rights  
13 to redeem the tax ~~lien~~ liens are foreclosed has no further  
14 legal or equitable right, title, or interest in the property  
15 subject to the right of appeal and stay of execution as in  
16 other civil actions.

17           "(e) The foreclosure of the right to redeem does not  
18 extinguish any easement or right-of-way on or appurtenant to  
19 the property or rights of any public utility or governmental  
20 entity in the property, ~~nor does it affect the rights of~~  
21 ~~holders of prior tax lien certificates.~~

22           "(f) (1) The clerk's deed executed in accordance with  
23 subsection (d) shall include all of the following information:

24           "a. The date of the judgment.

25           "b. The number and style of the case.

1            "c. The name of the plaintiff, who shall be ~~known~~  
2 stated as the grantee.

3            "d. The legal description of the property.

4            "e. The uniform parcel number of the property.

5            "f. The date of the conveyance.

6            "(2) The original deed shall be delivered to the  
7 plaintiff for recording in the probate records in the county  
8 in which the property is located.

9            "(g) Any person who is entitled to redeem under this  
10 article may redeem at any time before judgment is entered,  
11 notwithstanding that an action to foreclose has been  
12 commenced, by paying into the circuit court the redemption  
13 amount that would have been paid to the tax collecting  
14 official under Section 40-10-193 plus any other amounts  
15 determined by the court under this section. If the person who  
16 redeems has been served personally or by publication in the  
17 action, or if the person became an owner after the action  
18 began and redeems after a notice is recorded pursuant to  
19 subsection (c), ~~judgment shall be entered in favor of the~~  
20 ~~plaintiff against the person for~~ the redeeming party shall  
21 also pay into the court with the redemption amount the costs  
22 incurred by the plaintiff in the action, including reasonable  
23 attorney fees actually incurred, to be determined by the  
24 court. The court shall then order the tax lien certificates  
25 cancelled and the tax liens void, the redemption amount be

1 paid to the tax collecting official, and the costs and  
2 attorney fees be paid to the plaintiff.

3           "(h) If a tax lien that was purchased pursuant to  
4 this article is not redeemed and the holder of the tax lien  
5 certificate fails to commence a tax lien foreclosure action on  
6 or before 10 years from the date of the tax lien certificate,  
7 the tax lien certificate shall expire and the lien shall  
8 become void.

9           "(i) If a judicial proceeding prohibits bringing a  
10 tax lien foreclosure action, the time of expiration under this  
11 section shall be extended by 12 months following the  
12 completion of the judicial proceeding."

13           Section 2. Section 40-10-201 is added to the Code of  
14 Alabama 1975, to read as follows:

15           §40-10-201.

16           A tax collecting official may conduct a tax lien  
17 auction and sale online or in person in accordance with  
18 procedures established by the tax collecting official.

19           Section 3. This act shall become effective  
20 immediately following its passage and approval by the  
21 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 01-MAR-22.

Jeff Woodard  
Clerk

Senate

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17-MAR-22

Passed