

HB335 ENROLLED



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



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1 Enrolled, An Act,

2 Relating to tax lien auctions and sales; to amend
3 Sections 40-10-182, 40-10-183, 40-10-184, 40-10-186,
4 40-10-187, 40-10-191, 40-10-193, 40-10-198, 40-10-199, and
5 40-10-200, Code of Alabama 1975; and to add Section 40-10-202
6 to the Code of Alabama 1975; to further provide for times a
7 public auction may be held; to further provide for fees; to
8 provide for the purchase price of a tax lien if a holder of a
9 tax lien certificate fails to purchase a subsequent tax lien;
10 to provide for the transfer of the tax lien and rights of the
11 purchaser; to further provide for who may redeem a tax lien
12 that has been auctioned or sold; to further provide for a
13 title report for use in a foreclosure and quiet title action;
14 to prohibit a holder of a tax lien certificate from entering
15 upon or possessing any property until a deed is received; to
16 prevent a holder of a tax lien certificate from being
17 criminally or civilly liable for violations in certain
18 circumstances; and to provide that certain books and records
19 are prima facie evidence in certain circumstances.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 40-10-182, 40-10-183, 40-10-184,
22 40-10-186, 40-10-187, 40-10-191, 40-10-193, 40-10-198,
23 40-10-199, and 40-10-200, Code of Alabama 1975, are amended to
24 read as follows:

25 "§40-10-182

26 (a) All tax liens representing unpaid and delinquent
27 taxes on real property shall be subject to a tax lien auction
28 or a tax lien sale.



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

38 a. Advertising ~~for~~ once a week for three consecutive
39 weeks in a newspaper with general circulation in the county
40 where the property is located.

41 b. Advertising on an online website controlled by the
42 tax collecting official and accessible from the tax collecting
43 official's website.

44 c. Posting at the courthouse of the county and if
45 possible in a public place in the precinct where the property
46 is located.

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

49 (c) The tax collecting official may auction or sell tax
50 liens representing delinquent taxes for any year taxes are
51 delinquent and unpaid."

52 "§40-10-183

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



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57 (1) The names of the several persons appearing in the
58 latest tax roll as the respective owners of tax-delinquent
59 properties.

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

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

64 (4) The principal amount of the delinquent taxes and
65 the amount of accrued and accruing interest thereon and
66 penalties, fees, and administration costs pursuant to Section
67 40-10-184(b) relating to each year of assessment."

68 "§40-10-184

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

79 (b) (1) A tax lien shall be sold at auction pursuant to
80 this article to the person who: (i) pays all taxes due,
81 including unpaid taxes for previous years, interest,
82 penalties, fees, and costs due on the property, including an
83 origination cost of twenty dollars (\$20) as of the date of
84 auction and a twenty dollar (\$20) auction (ii) pays an



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85 administrative fee, and who, in addition, of forty-five
86 dollars (\$45), effective upon the preparation of the tax lien
87 auction list, plus the amount to be paid to the holder of a
88 tax lien certificate who has not exercised his or her first
89 right to purchase as provided in Section 40-10-191; and (iii)
90 bids the lowest interest rate on the amount required to be
91 paid to redeem the property from the sale.

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

95 (3) If the interest rate bid for the property reaches
96 0.00 percent and more than one bidder remains, an in-person
97 auction ends in a tie and the winner cannot be determined, the
98 tax collecting official shall draw lots to determine the
99 winning bidder for the property. If an online auction ends in
100 a tie and the winner cannot be determined, the tie shall be
101 resolved by a random number generator.

102 (c) The sale of a tax lien does not extinguish any deed
103 restriction, deed covenant, or easement on or appurtenant to
104 the parcel. A tax lien offered for auction or sale shall be
105 identified by a uniform parcel number and a legal
106 description."

107 "§40-10-186

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

112 (b) The purchase price for a tax lien shall be paid in



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113 a form acceptable to the tax collecting official not later
114 than one hour before close of business on the date of the
115 auction or sale or, if the auction is online, not later than
116 the close of business two days following the date of the
117 auction.

118 (c) The purchase price for a tax lien received by the
119 tax collecting official shall be credited to the tax
120 collecting official for purposes of calculating commissions,
121 if any, on taxes collected by the tax collecting official
122 pursuant to Section 40-5-4."

123 "§40-10-187

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

133 (b) A tax lien certificate shall evidence the auction
134 or sale or assignment to the holder of the tax lien
135 certificate of the delinquent and unpaid taxes, penalties,
136 interest, fees, and costs set forth therein and represented by
137 the tax lien.

138 (c) A tax lien certificate shall bear the interest rate
139 per annum as bid on by the purchaser at the tax lien auction
140 or as agreed upon by the purchaser at the tax lien sale, until



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141 the tax lien certificate is redeemed as provided pursuant to
142 Section 40-10-193 or Section 40-10-197.

143 (d) The tax lien certificate shall do all of the
144 following:

145 (1) Describe the real property on which a tax lien is
146 auctioned or sold as it is described in the tax lien auction
147 list.

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

150 (3) Specify the year of assessment to which the tax
151 lien relates and the amount for which the tax lien was
152 auctioned or sold to the original purchaser.

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

157 (5) Recite the rate per annum bid on by the purchaser
158 at the tax lien auction or agreed upon at the tax lien sale on
159 the amount described in subdivision (4) from the date
160 specified in subdivision (2).

161 (e) The purchaser of a tax lien certificate may
162 transfer and assign the certificate to any person, and the
163 transferee of a tax lien certificate may subsequently transfer
164 the certificate to any other person. The transferor of a tax
165 lien certificate shall endorse the certificate and shall swear
166 to the endorsement before a notary public or other officer
167 empowered to administer oaths. The transferee shall present
168 the endorsed tax lien certificate to the tax collecting



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

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

181 (g) Within 30 days of a completed tax lien auction or
182 sale, the tax collecting official shall send notice to the
183 property owner for whom the property was assessed informing
184 the property owner that the tax lien has been auctioned or
185 sold. The notice shall include the date of auction or sale and
186 the name of the purchaser and shall be made by first class
187 mail to the address listed in the assessment."

188 "§40-10-191

189 (a) The holder of a tax lien certificate shall have the
190 first right to purchase the tax lien relating to a subsequent
191 delinquency on the property described in the tax lien
192 certificate of the holder. A holder of the certificate shall
193 exercise this right between five and 30 days prior to the tax
194 lien auction date, and the purchase by the holder shall be
195 effective as of the date of the tax lien auction as if the
196 holder has been the winning bidder. A holder of the



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197 certificate who exercises this right, upon payment of the
198 purchase price, shall be issued a certificate of purchase in
199 accordance with Section 40-10-187 and is entitled to the same
200 interest rate as shown on the previous tax lien certificate.
201 The owner of the property shall be notified within 30 days of
202 the completion of the first right of purchase, in accordance
203 with Section 40-10-187(g). ~~The owner of the property may pay~~
204 ~~the current year taxes due once the property owner redeems all~~
205 ~~outstanding tax liens on the property.~~

206 (b) (1) If the holder of a tax lien certificate fails to
207 exercise the first right to purchase a subsequent tax lien, an
208 amount equal to the redemption price of the tax lien shall be
209 added to the purchase price at the subsequent tax lien sale or
210 auction and the tax lien certificate shall be transferred to
211 the purchaser of the subsequent tax lien.

212 (2) A transfer of the tax lien certificate as provided
213 in this subsection shall vest in the transferee all the rights
214 and title of the previous holder of the tax lien certificate;
215 the previous tax lien certificate shall be canceled; and a new
216 tax lien certificate shall be issued to the purchaser.

217 (3) The amount paid from the transfer shall be
218 distributed to the previous holder of the tax lien
219 certificate, along with a notice of cancellation of the
220 previous tax lien certificate, within 30 days of the receipt
221 of the purchase price.

222 ~~(b)~~ (c) In the event that a mortgagee is or becomes the
223 holder of a tax lien certificate, the mortgagee may add all
224 costs, fees, interest, penalties, and taxes regarding the tax



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225 sale to the principal of the loan.

226 ~~(e)~~ (d) A holder of a tax lien certificate may abandon
227 the certificate at any time upon notification given to the tax
228 collecting official and the surrender of the tax lien
229 certificate. Abandonment of a tax lien certificate
230 relinquishes all rights of recovery of any monies or
231 expenses."

232 "§40-10-193

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

235 a. The owner, including a partial owner under Section
236 40-10-195, or his or her heirs or personal ~~representative~~
237 representatives.

238 b. Any mortgagee or purchaser of the property or any
239 portion of the property.

240 c. ~~Any other person listed under subsection (a) of~~
241 ~~Section 40-10-120, if the property had been sold for taxes.~~ Any
242 person having an interest in the property or any portion of
243 the property, legal or equitable, in severalty or as tenant in
244 common, including a judgment creditor or other creditor having
245 a lien on the property or any portion of the property.

246 (2) Property may be redeemed under subdivision (1) by
247 payment to the tax collecting official of the amount specified
248 on the tax lien certificate as the total amount of delinquent
249 tax, interest, penalties, fees excluding lost certificate fees
250 provided in Section 40-10-190, and costs paid to purchase the
251 tax lien and to obtain a title report for use in a foreclosure
252 and quiet title action under Section 40-10-197, plus interest



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253 at the rate specified in the tax lien certificate, plus any
254 due and owing taxes, interest, penalties, fees, and costs due.
255 The tax collecting official shall provide a separate receipt
256 for any current taxes, interest, penalties, fees, or costs
257 paid.

258 (b) Statutory fees paid by the holder of the tax lien
259 certificate in connection with the tax lien certificate shall
260 be added to the amount payable on redemption and shall also
261 bear interest at the rate of interest specified in the tax
262 lien certificate."

263 "§40-10-198

264 (a) Each holder of a tax lien certificate shall be
265 entitled to the same rights and remedies with respect to the
266 collection of the amounts due on ~~such~~the tax lien certificate
267 as are available to the tax collecting official with respect
268 to the collection of delinquent taxes, including, but not
269 limited to, the right to institute garnishment proceedings
270 against the taxpayer for the payment of taxes.

271 (b) The holder of a tax lien certificate shall not be
272 entitled to charge the taxpayer for the release or
273 satisfaction of the tax lien any amount more than what would
274 otherwise have been available to the tax collecting official
275 with respect to the collection of the delinquent tax.

276 (c) The holder of a tax lien certificate shall not have
277 the right to enter upon or otherwise possess any property upon
278 which he or she holds a tax lien until he or she receives a
279 deed from the circuit clerk pursuant to a court action under
280 this article. Prior to receiving a clerk's deed, the holder of



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281 a tax lien certificate shall not make any repairs or
282 alterations to the property or require the property owner to
283 pay mesne profits or rents as part of any redemption amount.
284 The holder of a tax lien certificate shall not be held
285 criminally or civilly liable for any code violation on the
286 property occurring prior to obtaining a clerk's deed unless
287 the holder of the tax lien certificate has otherwise violated
288 this subsection."

289 "§40-10-199

290 (a) Tax liens that are not sold at the tax lien auction
291 conducted by the tax collecting official shall be separated in
292 the tax lien auction list as prescribed by Section 40-10-183
293 and ~~the county shall retain the lien~~ shall continue pursuant
294 to Section 40-1-3. The tax collecting official, ~~within 45 days~~
295 at any time after the tax lien auction date, may sell at
296 private sale an unsold tax lien for no less than all taxes,
297 interest, penalties, costs, and fees, plus the amount to be
298 paid to the holder of a tax lien certificate who has not
299 exercised his or her first right to purchase as provided in
300 Section 40-10-191. The purchaser at private sale shall be
301 entitled to interest on the amount paid at a rate agreed to by
302 the tax collecting official, not to exceed 12 percent. All
303 private tax lien sales shall be entered in the record of tax
304 lien auctions and sales, as provided in Section 40-10-188.

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

308 (c) Any tax lien that does not sell at auction shall be



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309 reported to the county commission when seeking approval of
310 errors in assessments, litigations, or insolvents as the tax
311 collecting official ~~will~~ shall be allowed credit for taxes due
312 to this state upon final settlement with the state
313 Comptroller."

314 "§40-10-200

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

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

326 (b) A violation of this section ~~shall be~~ is a Class C
327 misdemeanor and the sureties on his or her official bond shall
328 be liable for a penalty not to exceed five hundred dollars
329 (\$500) and to be fixed by the circuit judge with jurisdiction
330 in the county. The penalty shall be remitted to the general
331 fund of the county."

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

334 §40-10-202

335 Unless otherwise provided, in the trial of any issue
336 involving the auction, sale, or redemption of a tax lien



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337 certificate, an action for public auction, or a foreclosure
338 and quiet title action filed under this article, the originals
339 or certified copies of the books and records belonging to the
340 office of the tax assessing official, tax collecting official,
341 or board of equalization required to be kept by law shall be
342 prima facie evidence of the facts included in the books or
343 records.

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

347 Section 4. This act shall become effective on June 1,
348 2024.



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Speaker of the House of Representatives

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 16-Apr-24, as amended.

John Treadwell
Clerk

Senate

30-Apr-24

Passed