

SB256 ENGROSSED



1 SB256
2 4ULL633-2
3 By Senator Sessions (N & P)
4 RFD: Mobile County Legislation
5 First Read: 19-Mar-25



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A BILL
TO BE ENTITLED
AN ACT

Relating to Class 2 Municipalities; to amend Section 11-40-62, Code of Alabama 1975, to amend the definition of "municipal code liens"; and to amend Sections 40-10-198 and 40-10-199 of the Code of Alabama 1975, as those sections were last amended by Act 2024-324 of the 2024 Regular Session; to authorize a Class 2 municipality to enter property on which it holds a tax lien certificate to make repairs; to provide that the cost of repairs and alterations shall not be included in the price of redemption; and to provide for the sale by the tax collecting official of a tax lien certificate that remains unsold for a certain amount of time for the best price to a Class 2 municipality.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall only apply in Class 2 municipalities.

Section 2. Section 11-40-62 and Sections 40-10-198 and 40-10-199, as last amended by Act 2024-324 of the 2024 Regular Session, Code of Alabama 1975, are amended to read as follows:

"§11-40-62

As used in this article, the following words and



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phrases ~~shall~~ have the following meanings:

(1) INTERESTED PARTY. a. Includes the following parties:

a.1. The person who last appears as owner of the real property in the county office of the judge of probate's property records.

~~b.2.~~ The current mortgagee of record of the property or assignee of record of the mortgagee.

~~c.3.~~ The current holder of a beneficial interest in a deed of trust recorded against the real property.

~~d.4.~~ A tax certificate holder.

~~e.5.~~ A tax sale purchaser that holds a deed of purchase in accordance with Section 40-10-29.

~~f.6.~~ Any party having an interest in the real property, or in any part thereof, legal or equitable, in severalty or as tenant in common, whose identity and addresses are reasonably ascertainable from the records of the Class 2 municipality or records maintained in the county office of the judge of probate or as revealed by a full title search, consisting of 50 years or more.

b. The term ~~does~~ g. ~~An Interested Party shall not include:~~ (i) the holder of the benefit of an easement ~~which~~ that burdens the real property ~~;~~ (ii) the holder of the benefit or burden of a real covenant ~~which~~ that burdens the real property ~~;~~ or (iii) the holder of the benefit of a utility easement ~~which~~ that burdens the real property.

(2) MINIMUM BID PRICE. The price that equals the ~~Redemption Amount~~ redemption amount.



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(3) MUNICIPAL CODE LIEN. a. Any lien that has been levied against real property by a Class 2 municipality that is the result of the ~~non-payment~~nonpayment of any fine, penalty, abatement cost, or enforcement cost incurred by ~~at~~the Class 2 municipality related to the enforcement of state or local housing and building codes. ~~Such lien shall include~~The term includes only those liens ~~which~~that arise out of a failure to comply with any of the following provisions of the Code of Alabama 1975, or from the failure to comply with a Class 2 municipality's ordinance or resolution enacted pursuant to the authority granted in any of the following provisions of the Code of Alabama 1975: Sections 11-40-30 through 11-40-36; 11-47-117; 11-47-118; 11-47-130 through 11-47-131; 11-47-140; 11-53-1 through 11-53-4; 11-53B-1 through 11-53B-16; and 11-67-1 through 11-67-10.

~~A municipal code lien shall not include any lien that has previously been certified to the tax collector of the county for inclusion on the property tax bill associated with the real property, such as those liens certified under Section 11-67-8.~~

(4) MUNICIPAL CODE LIEN PAYOFF. The principal amount of a municipal code lien, interest accrued at the rate of seven and one-half percent per annum from the date the municipal code lien was filed in the office of the judge of the probate, any fees or costs incurred in the collection of such a lien under this article including, without limitations, the cost of title examinations and publication of notices, and any other penalties allowable under either state law or under an



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ordinance or resolution enacted by the Class 2 municipality.

(5) OWNER OCCUPIED. Real property that is lawfully occupied as a principal residence that is any of the following:

a. A homestead as described in Section 40-9-19.

b. Exempt from ad valorem taxation under Sections 40-9-19.1, 40-9-20, and 40-9-21.

c. Eligible for the designations listed in ~~paragraphs~~paragraph a. or b., but which has not yet been granted such designation and which is lawfully occupied by the family of a deceased individual.

(6) REDEMPTION AMOUNT. The sum of: (i)~~a.~~ the full amount of the municipal code lien payoff for each municipal code lien on which the Class 2 municipality is seeking to foreclose under this article~~;~~; and ~~b.~~(ii) any tax payoff that may be applicable to the property on which the Class 2 municipality is seeking to foreclose under this article.

~~(7)~~(8) TAXES. Those taxes assessed against real property by either the State of Alabama, the county in which the real property is situated, or the Class 2 municipality ~~that~~which are delinquent, as defined in Section 40-11-4 or ~~Section~~ 11-51-2, as of the date a proceeding under this article is commenced or at any time before final resolution of the same. The term,~~and shall also include~~includes any taxes assessed against real property ~~that~~which are unpaid from any previous year and any amounts required for redemption under Section 40-10-82, 40-10-120, or ~~Section~~ 11-51-23. As provided in Section 11-51-6, a lien for taxes shall be superior to all



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other liens, including municipal code liens.

~~(8)~~ (7) TAX CERTIFICATE HOLDER. Any of the following:

a. A tax sale purchaser that holds a certificate of purchase in accordance with Section 40-10-19.

b. The state, where it has accepted and recorded a certificate of purchase obtained at a tax sale in accordance with Section 40-10-20.

c. Any party to which a certificate of purchase obtained at a tax sale has been assigned in accordance with Section 40-10-21.

d. The purchaser or assignee of a tax lien certificate as described in Section 40-10-187.

(9) TAX PAYOFF. Any and all amounts necessary to satisfy any claims for delinquent taxes assessed against the real property on which the Class 2 municipality is seeking to ~~foreclose~~foreclose under this article. Those amounts shall include:

a. If the taxes associated with the property are delinquent as defined in Section 40-11-4 or ~~Section 11-51-2~~, but the property has not yet been sold for taxes, ~~then~~ the full amount of delinquent taxes, costs, fees, and charges due to the county tax collector in accordance with Section 40-5-8; and

b. If the property has been sold for taxes to the state, ~~then~~ those amounts required for redemption and described in Sections 40-10-83, 40-10-120, 40-10-121, and 40-10-122, except that when a Class 2 municipality is the prevailing bidder, the tax payoff amount shall be the lesser



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of these amounts or the amount as determined by Section 40-10-132(a)(2).

c. If the property has been sold for taxes to a party other than the state, ~~then~~ those amounts required for redemption and described in Sections 40-10-83, 40-10-120, 40-10-121, and 40-10-122.

d. If a tax lien has been sold by a county in accordance with the provisions of Section 40-10-182, ~~then~~ the amount required for redemption in accordance with Section 40-10-193."

"§40-10-198

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

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

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



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

(d) A Class 2 municipality that holds a tax lien certificate may enter and make repairs or alterations to any property within the Class 2 municipality for which it holds a tax lien certificate if the governing body determines that the repairs or alterations serve a public purpose. The cost of the repairs or alterations shall not be included in the price of redemption. If a demand for public auction is made and granted under Section 40-10-197, the reasonable cost of the repairs or alterations shall be determined by the court as part of the costs actually incurred by the holder of the tax lien certificates for the purpose of setting the minimum bid of the distribution of the proceeds."

"§40-10-199

(a) (1) Tax liens that are not sold at the tax lien auction conducted by the tax collecting official shall be separated in the tax lien auction list as prescribed by Section 40-10-183, and the lien shall continue pursuant to Section 40-1-3. The tax collecting official, at any time after the tax lien auction date, may sell at private sale an unsold tax lien for no less than all taxes, interest, penalties,



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costs, and fees, plus the amount to be paid to the holder of a tax lien certificate who has not exercised his or her first right to purchase as provided in Section 40-10-191. The purchaser at private sale shall be entitled to interest on the amount paid at a rate agreed to by the tax collecting official, not to exceed 12 percent. All private tax lien sales shall be entered in the record of tax lien auctions and sales, as provided in Section 40-10-188.

(2) a. Tax liens located within a Class 2 municipality that remain unsold in three successive auctions may be acquired by the municipality after the third tax lien auction for the best price offered without regard to the amount of taxes, penalties, and interest due. All such sales shall be entered in the record of tax lien auctions and sales, as provided in Section 40-10-188. If the property is thereafter redeemed or sold to a third party, or the municipality's tax lien certificate is sold, the municipality shall not be entitled to interest on the amount paid in a best price sale under this paragraph. Unless the property is lawfully occupied as a residence at the time of the sale of the tax lien certificate to the municipality, the municipality purchasing the tax lien under this section may file an action to foreclose the right to redeem and quiet title as set forth in Section 40-10-197 at any time after it becomes the holder of all of the sold, unexpired, outstanding tax lien certificates.

b. Notwithstanding the provisions of Section 40-10-197(b), the municipality purchasing tax liens under this subsection shall not be required to pay all due and owing



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taxes, interest, penalties, fees, and costs for any unsold tax liens prior to filing an action to foreclose the right to redeem and quiet title. A sale to the municipality for the best price offered in accordance with this subdivision is a valid tax lien certificate sale for purposes of Section 40-10-197(e)(1)(i).

c. Prior to filing an action to foreclose the right to redeem and quiet title, the municipality must comply with the prefiling notice requirements of Section 40-10-197(c) in all respects, except as modified in this paragraph. The municipality shall provide two prefiling notices. The first notice must be sent at least 60 days and not more than 180 days before filing a tax lien foreclosure action. The second notice must be sent at least 30 days after sending the first notice and not more than 30 days before filing the tax lien foreclosure action. The first sentence of the statement set forth in Section 40-10-197(c)(3) to be included in each notice shall be modified to reflect the applicable time frame required by this paragraph.

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

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



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253 Section 3. This act shall become effective on October
254 1, 2025.



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257 Senate

258 Read for the first time and referred19-Mar-25
259 to the Senate committee on Mobile
260 County Legislation

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262 Read for the second time and placed22-Apr-25
263 on the calendar:
264 0 amendments

265
266 Read for the third time and passed24-Apr-25
267 as amended
268 Yeas 29
269 Nays 0
270 Abstains 0

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273 Patrick Harris,
274 Secretary.
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