

SB256 INTRODUCED



1 SB256
2 89MNHFH-1
3 By Senator Sessions (N & P)
4 RFD: Mobile County Legislation
5 First Read: 19-Mar-25



4 SYNOPSIS:

5 Under existing law, a "municipal code lien" does
6 not include a lien previously certified to the tax
7 collector for the county for inclusion on the tax bill
8 associated with real property for costs such as weed
9 liens.

10 Under existing law, Class 2 municipalities do
11 not currently have a separate provision in the law that
12 addresses the determination of a prevailing bidder,
13 during a tax auction, when the Class 2 municipality is
14 a bidder and the bid result ends in a tie.

15 Also under existing law, a holder of a tax lien
16 certificate is not authorized to enter a property for
17 which it holds a tax lien to make repairs.

18 This bill would provide for amending the
19 definition of "municipal code liens" to allow a Class 2
20 municipality to include certain weed liens on the tax
21 bill if the total amount of the lien, excluding
22 penalties and interest, is more than 50 percent of the
23 fair market value of the property as determined by the
24 Mobile Revenue Commissioner.

25 This bill would provide for a Class 2
26 municipality to be deemed the prevailing party in an
27 on-line or in-person auction where the municipality
28 bids on the property and the bid results in a tie.



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29 This bill would also authorize a Class 2
30 municipality to enter property upon which it has a tax
31 lien to make repairs and would clarify that the
32 issuance of a tax lien certificate does not extinguish
33 its lien for the cost of repairs.

34 The bill would further provide that a tax
35 collecting official may sell a tax lien certificate
36 that remains unsold for at least three years for the
37 best price offered by a Class 2 municipality, a
38 designated nonprofit entity, or governmental entity.

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40
41 A BILL
42 TO BE ENTITLED
43 AN ACT

44
45 Relating to Class 2 Municipalities; to amend Section
46 11-40-62, Code of Alabama 1975, to provide for amending the
47 definition of "Municipal Code Liens"; and to amend Section
48 40-10-184, 40-10-198, and 40-10-199 of the Code of Alabama
49 1975, as those sections were last amended by Act 2024-324 of
50 the 2024 Regular Session, relating to tax lien certificates
51 and tax lien holders; to authorize a determination in favor of
52 the Class 2 municipality bidder as the prevailing bidder
53 during a tax auction occurring in a Class 2 municipality that
54 ends in a tie; to authorize a Class 2 municipality to enter
55 property on which it holds a tax lien certificate to make
56 repairs; to clarify that the Class 2 municipality holds a lien



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for the cost of its repair that is not extinguished by a tax lien certificate; and to provide for the sale by the tax collecting official of a tax lien certificate that remains unsold for a period of time for the best price to certain entities.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. Sections 11-40-62, 40-10-184, 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 are amended to read as follows:

"§11-40-62

As used in this article, the following words and 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,



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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.

(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 of any fine, penalty, abatement cost, or enforcement cost incurred by ~~a~~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



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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.~~
b. Weed liens in a Class 2 municipality which have been certified to the Mobile County Revenue Commissioner under Section 11-67-8 for inclusion on the property's tax bill are not municipal code liens unless the total amount of all weed liens, excluding penalties and interest, is more than 50 percent of the fair market value of the property as determined by the Mobile County Revenue Commissioner.

(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 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



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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) 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 other liens, including municipal code liens.

(8) 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



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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 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 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



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197 40-10-193."

198 "§40-10-184

199 (a) On the day and time designated for a tax lien
200 auction, the tax collecting official shall proceed to auction
201 all tax liens described in the tax lien auction list compiled
202 as provided in Section 40-10-183, except those for which the
203 taxes, penalties, interest, fees, and costs have been paid.
204 Any tax lien unsold after a tax lien auction shall continue
205 pursuant to Section 40-1-3 for future auction or sale as
206 provided in this article. Interest shall continue to accrue on
207 unsold tax liens at the rate imposed on delinquent real
208 property taxes.

209 (b) (1) A tax lien shall be sold at auction pursuant to
210 this article to the person who: (i) pays all taxes due,
211 including unpaid taxes for previous years, interest,
212 penalties, fees, and costs due on the property; (ii) pays an
213 administrative fee of forty-five dollars (\$45), effective upon
214 the preparation of the tax lien auction list, plus the amount
215 to be paid to the holder of a tax lien certificate who has not
216 exercised his or her first right to purchase as provided in
217 Section 40-10-191; and (iii) bids the lowest interest rate on
218 the amount required to be paid to redeem the property from the
219 sale.

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

223 (3) If an in-person auction ends in a tie and the
224 winner cannot be determined, the tax collecting official shall



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draw lots to determine the winning bidder. If an online auction ends in a tie and the winner cannot be determined, the tie shall be resolved by a random number generator.

(4) In a Class 2 municipality, if the municipality bids on a property located in its jurisdiction at an in-person tax auction or an online action and the winner cannot be determined because the auction ends in a tie, the tie shall be resolved in favor of the Class 2 municipality.

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

"§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



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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 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) (1) A Class 2 municipality that holds a tax lien certificate may enter or otherwise possess and make repairs or alterations to any property within the Class 2 municipality for which it holds a tax lien certificate, but it shall not require the property owner to pay mesne profits or rents as part of any redemption amount.

(2) The purchase of a tax lien certificate on property located within a Class 2 municipality shall not impair the authority of its governing body to either: (i) order the demolition or repair of a building found to be unsafe to the extent of being a public nuisance; or (ii) to assess its costs under Subtitle 2, Chapter 53B of Title 11. The assessment shall constitute a lien on the property, superior to all other liens except for taxes and existing mortgages, and shall not be extinguished by the issuance of a tax lien certificate, tax certificate, or tax deed."

"§40-10-199



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(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, 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) The tax collecting official in a Class 2 municipality may sell tax lien certificates for properties located in a Class 2 municipality that remain unsold for at least three years following the date of the property's first tax sale or auction to the Class 2 municipality or to a nonprofit or governmental entity the municipality may designate, for the best price offered without regard to the amount of taxes and interest due.

(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



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309 errors in assessments, ~~litigations~~litigation, or insolvents as
310 the tax collecting official shall be allowed credit for taxes
311 due to this state upon final settlement with the state
312 Comptroller."

313 Section 3. This act shall become effective on October
314 1, 2025.