

HB335 INTRODUCED



1 HB335
2 PD7XGEE-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 19-Mar-24



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SYNOPSIS:

Under existing law, all tax liens representing unpaid and delinquent taxes on real property are subject to a tax lien auction or a tax lien sale.

This bill would require a public auction to take place between 8:30 a.m. and 4:00 p.m.

Under existing law, a person who purchases a tax lien at auction is subject to three separate fees.

This bill would consolidate the three separate fees into one fee, with the total amount remaining consistent.

Under existing law, the holder of a tax lien certificate has the first right to purchase a tax lien relating to a subsequent delinquency.

This bill would provide that if a holder of a tax lien certificate fails to exercise the first right to purchase, the cost of the redemption price of the tax lien shall be added to the purchase price at the tax lien sale or auction and would provide for the transfer of the tax lien certificate and included rights.

This bill would further provide for who may redeem a tax lien that has been auctioned or sold.

This bill would prohibit a holder of a tax lien certificate from entering upon or possessing any



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29 property until a deed is received from the circuit
30 clerk.

31 This bill would prevent a holder of a tax lien
32 certificate from being criminally or civilly liable for
33 violations in certain circumstances.

34 This bill would also establish that certain
35 books and records are prima facie evidence of an
36 auction, sale, or redemption of a tax lien certificate.

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to tax lien auctions and sales; to amend
46 Sections 40-10-182, 40-10-183, 40-10-184, 40-10-186,
47 40-10-187, 40-10-191, 40-10-193, 40-10-198, 40-10-199, and
48 40-10-200, Code of Alabama 1975; and to add Section 40-10-202
49 to the Code of Alabama 1975; to further provide for times a
50 public auction may be held; to further provide for fees; to
51 provide for the purchase price of a tax lien if a holder of a
52 tax lien certificate fails to purchase a subsequent tax lien;
53 to provide for the transfer of the tax lien and rights of the
54 purchaser; to further provide for who may redeem a tax lien
55 that has been auctioned or sold; to further provide for a
56 title report for use in a foreclosure and quiet title action;



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57 to prohibit a holder of a tax lien certificate from entering
58 upon or possessing any property until a deed is received; to
59 prevent a holder of a tax lien certificate from being
60 criminally or civilly liable for violations in certain
61 circumstances; and to provide that certain books and records
62 are prima facie evidence in certain circumstances.

63 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

64 Section 1. Sections 40-10-182, 40-10-183, 40-10-184,
65 40-10-186, 40-10-187, 40-10-191, 40-10-193, 40-10-198,
66 40-10-199, and 40-10-200, Code of Alabama 1975, are amended to
67 read as follows:

68 "§40-10-182

69 (a) All tax liens representing unpaid and delinquent
70 taxes on real property shall be subject to a tax lien auction
71 or a tax lien sale.

72 (b) (1) If the sale of a tax lien is chosen as the
73 method to collect delinquent property taxes, the tax
74 collecting official of any county shall conduct a public
75 auction for the sale and transfer of delinquent tax liens
76 between the hours of 8:30 a.m. and 4:00 p.m. on the auction
77 date. The tax collecting official shall notify the delinquent
78 taxpayer of the auction and all charges pursuant to Section
79 40-10-183 at least 30 days prior to the tax lien auction by
80 first class mail and by any one of the following:

81 a. Advertising ~~for~~ once a week for three consecutive
82 weeks in a newspaper with general circulation in the county
83 where the property is located.

84 b. Advertising on an online website controlled by the



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85 tax collecting official and accessible from the tax collecting
86 official's website.

87 c. Posting at the courthouse of the county and if
88 possible in a public place in the precinct where the property
89 is located.

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

92 (c) The tax collecting official may auction or sell tax
93 liens representing delinquent taxes for any year taxes are
94 delinquent and unpaid."

95 "§40-10-183

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

100 (1) The names of the several persons appearing in the
101 latest tax roll as the respective owners of tax-delinquent
102 properties.

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

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

107 (4) The principal amount of the delinquent taxes and
108 the amount of accrued and accruing interest thereon and
109 penalties, fees, and administration costs pursuant to Section
110 40-10-184(b) relating to each year of assessment."

111 "§40-10-184

112 (a) On the day and time designated for a tax lien



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113 auction, the tax collecting official shall proceed to auction
114 all tax liens described in the tax lien auction list compiled
115 as provided in Section 40-10-183, except those for which the
116 taxes, penalties, interest, fees, and costs ~~thereon~~ have been
117 paid. Any tax lien unsold after a tax lien auction shall ~~be~~
118 ~~retained by the county~~ continue pursuant to Section 40-1-3 for
119 future auction or sale as provided in this article. Interest
120 shall continue to accrue on unsold tax liens at the rate
121 imposed on delinquent real property taxes.

122 (b) (1) A tax lien shall be sold at auction pursuant to
123 this article to the person who: (i) pays all taxes due,
124 including unpaid taxes for previous years, interest,
125 penalties, fees, and costs due on the property, ~~including an~~
126 ~~origination cost of twenty dollars (\$20) as of the date of~~
127 ~~auction and a twenty dollar (\$20) auction~~ (ii) pays an
128 administrative fee, ~~and who, in addition,~~ of forty-five
129 dollars (\$45), effective upon the preparation of the tax lien
130 auction list, plus the amount to be paid to the holder of a
131 tax lien certificate who has not exercised his or her first
132 right to purchase as provided in Section 40-10-191; and (iii)
133 bids the lowest interest rate on the amount required to be
134 paid to redeem the property from the sale.

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

138 (3) If ~~the interest rate bid for the property reaches~~
139 ~~0.00 percent and more than one bidder remains,~~ an in-person
140 auction ends in a tie and the winner cannot be determined, the



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141 tax collecting official shall draw lots to determine the
142 winning bidder ~~for the property~~. If an online auction ends in
143 a tie and the winner cannot be determined, the tie shall be
144 resolved by a random number generator.

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

150 "§40-10-186

151 (a) The purchase price for a tax lien shall be the
152 amount ~~of delinquent taxes plus any interest, penalties, fees,~~
153 ~~and costs accrued as of the date of the auction or sale~~ as
154 required in Section 40-10-184.

155 (b) The purchase price for a tax lien shall be paid in
156 a form acceptable to the tax collecting official not later
157 than one hour before close of business on the date of the
158 auction or sale or, if the auction is online, not later than
159 the close of business two days following the date of the
160 auction.

161 (c) The purchase price for a tax lien received by the
162 tax collecting official shall be credited to the tax
163 collecting official for purposes of calculating commissions,
164 if any, on taxes collected by the tax collecting official
165 pursuant to Section 40-5-4."

166 "§40-10-187

167 (a) The tax collecting official, upon receipt of the
168 purchase price, shall make, execute, and deliver a tax lien



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169 certificate to each purchaser ~~at a tax lien sale or auction or~~
170 ~~to each assignee thereafter and shall collect from the~~
171 ~~purchaser or assignee a fee of five dollars (\$5) for each tax~~
172 ~~lien certificate~~. The tax lien certificate shall be in a form
173 provided by the Department of Revenue and shall also include a
174 certificate of redemption form as provided in Section
175 40-10-194.

176 (b) A tax lien certificate shall evidence the auction
177 or sale or assignment to the holder of the tax lien
178 certificate of the delinquent and unpaid taxes, penalties,
179 interest, fees, and costs set forth therein and represented by
180 the tax lien.

181 (c) A tax lien certificate shall bear the interest rate
182 per annum as bid on by the purchaser at the tax lien auction
183 or as agreed upon by the purchaser at the tax lien sale, until
184 the tax lien certificate is redeemed as provided pursuant to
185 Section 40-10-193 or Section 40-10-197.

186 (d) The tax lien certificate shall do all of the
187 following:

188 (1) Describe the real property on which a tax lien is
189 auctioned or sold as it is described in the tax lien auction
190 list.

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

193 (3) Specify the year of assessment to which the tax
194 lien relates and the amount for which the tax lien was
195 auctioned or sold to the original purchaser.

196 (4) Recite the amount of all taxes, penalties,



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197 interest, fees, and costs due on the property, which relate to
198 the year of assessment described in subdivision (3), as of the
199 date specified in subdivision (2).

200 (5) Recite the rate per annum bid on by the purchaser
201 at the tax lien auction or agreed upon at the tax lien sale on
202 the amount described in subdivision (4) from the date
203 specified in subdivision (2).

204 (e) The purchaser of a tax lien certificate may
205 transfer and assign the certificate to any person, and the
206 transferee of a tax lien certificate may subsequently transfer
207 the certificate to any other person. The transferor of a tax
208 lien certificate shall endorse the certificate and shall swear
209 to the endorsement before a notary public or other officer
210 empowered to administer oaths. The transferee shall present
211 the endorsed tax lien certificate to the tax collecting
212 official who prepared and executed the certificate, or his or
213 her successor, who, for a fee of five dollars (\$5), shall
214 acknowledge the transfer on the certificate and shall make
215 note of the transfer on the record of tax lien auctions and
216 sales kept as provided in Section 40-10-188. An assignment and
217 transfer as provided in this subsection shall vest in the
218 assignee all the right and title of the original purchaser.

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

224 (g) Within 30 days of a completed tax lien auction or



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225 sale, the tax collecting official shall send notice to the
226 property owner for whom the property was assessed informing
227 the property owner that the tax lien has been auctioned or
228 sold. The notice shall include the date of auction or sale and
229 the name of the purchaser and shall be made by first class
230 mail to the address listed in the assessment."

231 "§40-10-191

232 (a) The holder of a tax lien certificate shall have the
233 first right to purchase the tax lien relating to a subsequent
234 delinquency on the property described in the tax lien
235 certificate of the holder. A holder of the certificate shall
236 exercise this right between five and 30 days prior to the tax
237 lien auction date, and the purchase by the holder shall be
238 effective as of the date of the tax lien auction as if the
239 holder has been the winning bidder. A holder of the
240 certificate who exercises this right, upon payment of the
241 purchase price, shall be issued a certificate of purchase in
242 accordance with Section 40-10-187 and is entitled to the same
243 interest rate as shown on the previous tax lien certificate.
244 The owner of the property shall be notified within 30 days of
245 the completion of the first right of purchase, in accordance
246 with Section 40-10-187(g). ~~The owner of the property may pay~~
247 ~~the current year taxes due once the property owner redeems all~~
248 ~~outstanding tax liens on the property.~~

249 (b) (1) If the holder of a tax lien certificate fails to
250 exercise the first right to purchase a subsequent tax lien, an
251 amount equal to the redemption price of the tax lien shall be
252 added to the purchase price at the subsequent tax lien sale or



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253 auction and the tax lien certificate shall be transferred to
254 the purchaser of the subsequent tax lien.

255 (2) A transfer of the tax lien certificate as provided
256 in this subsection shall vest in the transferee all the rights
257 and title of the previous holder of the tax lien certificate;
258 the previous tax lien certificate shall be canceled; and a new
259 tax lien certificate shall be issued to the purchaser.

260 (3) The amount paid from the transfer shall be
261 distributed to the previous holder of the tax lien
262 certificate, along with a notice of cancellation of the
263 previous tax lien certificate, within 30 days of the receipt
264 of the purchase price.

265 ~~(b)~~ (c) In the event that a mortgagee is or becomes the
266 holder of a tax lien certificate, the mortgagee may add all
267 costs, fees, interest, penalties, and taxes regarding the tax
268 sale to the principal of the loan.

269 ~~(e)~~ (d) A holder of a tax lien certificate may abandon
270 the certificate at any time upon notification given to the tax
271 collecting official and the surrender of the tax lien
272 certificate. Abandonment of a tax lien certificate
273 relinquishes all rights of recovery of any monies or
274 expenses."

275 "§40-10-193

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

278 a. The owner, including a partial owner under Section
279 40-10-195, or his or her heirs or personal ~~representative~~
280 representatives.



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281 b. Any mortgagee or purchaser of the property or any
282 portion of the property.

283 c. ~~Any other person listed under subsection (a) of~~
284 ~~Section 40-10-120, if the property had been sold for taxes.~~Any
285 person having an interest in the property or any portion of
286 the property, legal or equitable, in severalty or as tenant in
287 common, including a judgment creditor or other creditor having
288 a lien on the property or any portion of the property.

289 (2) Property may be redeemed under subdivision (1) by
290 payment to the tax collecting official of the amount specified
291 on the tax lien certificate as the total amount of delinquent
292 tax, interest, penalties, fees excluding lost certificate fees
293 provided in Section 40-10-190, and costs paid to purchase the
294 tax lien and to obtain a title report for use in a foreclosure
295 and quiet title action under Section 40-10-197, plus interest
296 at the rate specified in the tax lien certificate, plus any
297 due and owing taxes, interest, penalties, fees, and costs due.
298 The tax collecting official shall provide a separate receipt
299 for any current taxes, interest, penalties, fees, or costs
300 paid.

301 (b) Statutory fees paid by the holder of the tax lien
302 certificate in connection with the tax lien certificate shall
303 be added to the amount payable on redemption and shall also
304 bear interest at the rate of interest specified in the tax
305 lien certificate."

306 "§40-10-198

307 (a) Each holder of a tax lien certificate shall be
308 entitled to the same rights and remedies with respect to the



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309 collection of the amounts due on ~~such~~the tax lien certificate
310 as are available to the tax collecting official with respect
311 to the collection of delinquent taxes, including, but not
312 limited to, the right to institute garnishment proceedings
313 against the taxpayer for the payment of taxes.

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

319 (c) The holder of a tax lien certificate shall not have
320 the right to enter upon or otherwise possess any property upon
321 which he or she holds a tax lien until he or she receives a
322 deed from the circuit clerk pursuant to a court action under
323 this article. Prior to receiving a clerk's deed, the holder of
324 a tax lien certificate shall not make any repairs or
325 alterations to the property or require the property owner to
326 pay mesne profits or rents as part of any redemption amount.
327 The holder of a tax lien certificate shall not be held
328 criminally or civilly liable for any code violation on the
329 property occurring prior to obtaining a clerk's deed."

330 "§40-10-199

331 (a) Tax liens that are not sold at the tax lien auction
332 conducted by the tax collecting official shall be separated in
333 the tax lien auction list as prescribed by Section 40-10-183
334 and ~~the county shall retain~~ the lien shall continue pursuant
335 to Section 40-1-3. The tax collecting official, ~~within 45 days~~
336 at any time after the tax lien auction date, may sell at



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337 private sale an unsold tax lien for no less than all taxes,
338 interest, penalties, costs, and fees, plus the amount to be
339 paid to the holder of a tax lien certificate who has not
340 exercised his or her first right to purchase as provided in
341 Section 40-10-191. The purchaser at private sale shall be
342 entitled to interest on the amount paid at a rate agreed to by
343 the tax collecting official, not to exceed 12 percent. All
344 private tax lien sales shall be entered in the record of tax
345 lien auctions and sales, as provided in Section 40-10-188.

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

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

355 "§40-10-200

356 (a) (1) Except as provided in subdivision (2), ~~no~~ a tax
357 ~~assessor,~~ assessing or tax collecting official, commissioner of
358 revenue, ~~officer~~ judge or clerk of the court with jurisdiction
359 over actions filed under this article, or any employee of any
360 of those offices shall not knowingly have a direct or indirect
361 financial interest in the purchase of any tax lien sold for
362 delinquent taxes within their jurisdiction. A sale made in
363 violation of this subsection is void.

364 (2) This section does not apply to an attorney



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365 representing a party in the purchase of a tax lien sold for
366 delinquent taxes or an employee of the attorney.

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

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

375 §40-10-202

376 Unless otherwise provided, in the trial of any issue
377 involving the auction, sale, or redemption of a tax lien
378 certificate, an action for public auction, or a foreclosure
379 and quiet title action filed under this article, the originals
380 or certified copies of the books and records belonging to the
381 office of the tax assessing official, tax collecting official,
382 or board of equalization required to be kept by law shall be
383 prima facie evidence of the facts included in the books or
384 records.

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

388 Section 4. This act shall become effective on June 1,
389 2024.