

1 HB354  
2 192134-4  
3 By Representatives Ellis, Faust, Drake, Jackson, Weaver,  
4 Wilcox, Williams (JW), Tuggle, Sessions, Davis, McMillan,  
5 Shiver, Baker and England  
6 RFD: County and Municipal Government  
7 First Read: 01-FEB-18

1  
2 ENROLLED, An Act,

3           Relating to tax lien sales; to amend Sections  
4 40-10-180, 40-10-181, 40-10-182, 40-10-183, 40-10-184,  
5 40-10-185, 40-10-186, 40-10-187, 40-10-188, 40-10-189,  
6 40-10-190, 40-10-191, 40-10-192, 40-10-193, 40-10-194,  
7 40-10-195, 40-10-196, 40-10-197, and 40-10-198, Code of  
8 Alabama 1975; to add Sections 40-10-199 and 40-10-200 to the  
9 Code of Alabama 1975; to provide an auction process for the  
10 sale of tax liens; to provide for counties to issue tax lien  
11 certificates for certain fees on the lands which have been  
12 sold at certain sales to individuals; to prescribe the  
13 significance of and authority associated with a tax lien  
14 certificate; to provide for payment of taxes on lands  
15 purchased at tax lien sales by holders of tax lien  
16 certificates; to provide for distribution of monies received  
17 from tax lien sales and to provide for certain redemption  
18 procedures including a procedure to allow the holder of a tax  
19 lien certificate to foreclose redemption rights after a period  
20 of time; and in connection therewith would have as its purpose  
21 or effect the requirement of a new or increased expenditure of  
22 local funds within the meaning of Amendment 621 of the  
23 Constitution of Alabama of 1901, now appearing as Section  
24 111.05 of the Official Recompilation of the Constitution of  
25 Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 40-10-180, 40-10-181, 40-10-182,  
3 40-10-183, 40-10-184, 40-10-185, 40-10-186, 40-10-187,  
4 40-10-188, 40-10-189, 40-10-190, 40-10-191, 40-10-192,  
5 40-10-193, 40-10-194, 40-10-195, 40-10-196, 40-10-197, and  
6 40-10-198, Code of Alabama 1975, are amended to read as  
7 follows:

8 "§40-10-180.

9 ~~"The Legislature finds all of the following:~~

10 ~~"(1) It is estimated that Alabama counties, which~~  
11 ~~collect tax for themselves and other governmental entities~~  
12 ~~within their counties, have several million dollars~~  
13 ~~outstanding as accounts receivable from unpaid secured roll~~  
14 ~~real property tax obligations. These obligations owed to~~  
15 ~~Alabama counties have largely been under-performing assets~~  
16 ~~that could be converted to cash and provide counties and other~~  
17 ~~governmental entities with much needed revenues.~~

18 ~~"(2) Many counties and other governmental entities~~  
19 ~~have had to reduce essential services and curtail some~~  
20 ~~functions that have historically been performed by government.~~  
21 ~~Public protection agencies in many of these counties and other~~  
22 ~~governmental entities have had law enforcement positions~~  
23 ~~reduced or eliminated.~~

24 ~~"(3)(a) The Legislature declares that the purpose of~~  
25 ~~Act 95-408 this article is to provide counties with an~~

1 alternative remedy for collecting delinquent property taxes by  
2 the sale of a tax lien ~~the option of selling their outstanding~~  
3 ~~secured roll real property tax accounts receivable and thereby~~  
4 ~~realize immediate cash in order to meet the ongoing services~~  
5 ~~required by counties and the other governmental entities for~~  
6 ~~which the counties collect tax. Upon such a sale, the~~  
7 ~~purchaser of the receivables obtains the right to collect all~~  
8 ~~outstanding delinquent taxes, penalties, interest, and costs~~  
9 ~~with respect thereto.~~

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

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

23 "§40-10-181.

24 "For purposes of Act 95-408, this article, the  
25 following terms shall have the following meanings: "tax lien"

1           "(1) TAX COLLECTING OFFICIAL. The elected or  
2 appointed person responsible for collecting ad valorem taxes  
3 in a county.

4           "(2) TAX LIEN. ~~means the~~ The perpetual first  
5 priority lien provided by Section 40-1-3 against any parcel of  
6 real property representing taxes assessed and levied against  
7 the property, together with interest, penalties, fees, and  
8 costs applicable by law to the taxes.

9           "(3) TAX LIEN AUCTION. The public sale of all tax  
10 liens advertised under Section 40-10-182 and held no earlier  
11 than March 1 or later than June 15 of the current ad valorem  
12 tax year where the awarding of the tax lien certificate is  
13 based on the lowest interest rate bid on a tax lien.

14           "(4) TAX LIEN SALE. The sale of an unsold tax lien  
15 by private sale between a tax collecting official and the  
16 purchaser of a tax lien under Section 40-10-199.

17           "(5) UNIFORM PARCEL NUMBER. The unique parcel  
18 identification number assigned to the parcel of property for  
19 ad valorem tax purposes based on the tax lien date of the  
20 current tax year.

21           "§40-10-182.

22           "(a) All tax liens representing unpaid and  
23 delinquent taxes on real property shall be subject to a tax  
24 lien auction or a tax lien sale ~~as provided in Act 95-408.~~

1           "(b) (1) The tax collector collecting official of any  
2 county shall conduct a public auction ~~may adopt a procedure~~  
3 for the sale and transfer of delinquent tax liens. ~~by the tax~~  
4 ~~collector, subject to Act 95-408. Tax liens may be sold~~  
5 ~~individually or in any lot or block to any person and pursuant~~  
6 ~~to any procedure deemed appropriate by the tax collector. Any~~  
7 ~~procedure for the~~ The sale of tax liens adopted pursuant to  
8 ~~this section shall provide for notice to~~ tax collecting  
9 official shall notify the delinquent taxpayer of the sale  
10 auction at least 30 days prior to the tax lien auction by  
11 first class mail and by any one of the following:

12           "a. Advertising for once a week for three  
13 consecutive weeks in a newspaper with general circulation in  
14 the county where the property is located.

15           "b. Advertising on an online website controlled by  
16 the tax collecting official and accessible from the tax  
17 collecting official's website.

18           "c. Posting at the courthouse of the county and if  
19 possible in a public place in the precinct where the property  
20 is located.

21           "(2) The notices shall declare the time and location  
22 of the auction. ~~in a manner and at a time deemed appropriate~~  
23 ~~by the tax collector.~~

24           "(c) The tax ~~collector~~ collecting official may  
25 auction or sell tax liens representing delinquent taxes for

1 any ~~prior~~ year taxes are delinquent and unpaid of assessment,  
2 ~~provided that any single tax lien to be sold shall relate to~~  
3 ~~only one year of assessment and shall not be aggregated with~~  
4 ~~any other tax lien for another year on the same parcel.~~

5 ~~"(d) Except as otherwise provided in Act 95-408, a~~  
6 ~~tax lien sale with respect to any delinquent property shall be~~  
7 ~~in lieu of all other remedies provided by law for the~~  
8 ~~collection of delinquent taxes for the relevant year of~~  
9 ~~assessment by the county or the tax collector.~~

10 "§40-10-183.

11 "Prior to any tax lien ~~sale~~ auction, the tax  
12 ~~collector~~ collecting official shall prepare and maintain a  
13 list of all tax liens. The list shall be known as the tax lien  
14 ~~sale~~ auction list and shall contain all of the 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 costs to the day of the proposed tax lien  
25 ~~sale~~ auction relating to each year of assessment.

1           "§40-10-184.

2           "~~(a) Tax lien sales shall be conducted by the tax~~  
3 ~~collector on the dates and times directed by the tax~~  
4 ~~collector.~~ On the day and time designated for a tax lien ~~sale~~  
5 auction, the tax ~~collector~~ collecting official shall proceed  
6 to ~~sell auction~~, pursuant to the procedure adopted by him or  
7 ~~her~~, all tax liens described in the tax lien ~~sale~~ auction list  
8 compiled as provided in Section 40-10-183, except those for  
9 which the taxes, penalties, interest, fees, and costs thereon  
10 have been paid or deferred. Any ~~delinquent property for which~~  
11 ~~a tax lien remains~~ unsold after a tax lien ~~sale~~ auction shall  
12 be ~~subject to any other remedies provided by law for the~~  
13 ~~collection of the delinquent taxes~~ retained by the county for  
14 future auction or sale as provided in this article.

15           "~~(b) Where two or more lots or parcels are assessed~~  
16 ~~as one parcel, the tax liens on them may be sold as a single~~  
17 ~~tax lien on one parcel~~ A tax lien shall be sold at auction  
18 pursuant to this article to the person who pays all taxes,  
19 interest, penalties, fees, and costs due on the property,  
20 including an origination cost of twenty dollars (\$20) as of  
21 the date of auction and a twenty dollar (\$20) auction fee, and  
22 who, in addition, bids the lowest interest rate on the amount  
23 required to be paid to redeem the property from the sale. The  
24 beginning interest rate bid shall not exceed a rate of 12  
25 percent and additional bids may be made at a rate less than



1 the immediately preceding bid. If the interest rate bid for  
2 the property reaches 0.00 percent and more than one bidder  
3 remains, the tax collecting official shall draw lots to  
4 determine the winning bidder for the property.

5 ~~"(c) The sale of a tax lien does not extinguish any~~  
6 ~~deed restriction, deed covenant, or easement on or appurtenant~~  
7 ~~to the parcel. The sale of a tax lien does not extinguish any~~  
8 ~~deed restriction, deed covenant, or easement on or appurtenant~~  
9 ~~to the parcel. A tax lien offered for auction or sale shall be~~  
10 ~~identified by a Uniform Parcel Number and a legal description.~~

11 "§40-10-185.

12 "When a tax lien is offered for auction or sale, it  
13 shall not be necessary to list, auction, or sell it as being  
14 against the property of any specific person. The auction or  
15 sale is not invalid by reason of the fact that the property  
16 was assessed in the name of a person other than the rightful  
17 owner or to a person unknown, if the description and the  
18 Uniform Parcel Number of the real estate in the tax lien ~~sale~~  
19 auction list is sufficient to identify it and ~~includes~~ the  
20 amount of taxes, interest, penalties, fees, and costs for  
21 which its tax lien is to be auctioned or sold.

22 "§40-10-186.

23 "(a) The purchase price for a tax lien shall be the  
24 amount of delinquent taxes plus any interest, penalties, fees,

1 and costs ~~incurred by the tax collector~~ accrued as of the date  
2 of the auction or sale.

3 "(b) The purchase price for a tax lien shall be paid  
4 to the tax ~~collector~~ collecting official in cash or  
5 immediately available certified funds not later than one hour  
6 before close of business on the date of the auction or sale.

7 "(c) The purchase price for a tax lien received by  
8 the tax ~~collector~~ collecting official shall be credited to the  
9 tax ~~collector~~ collecting official for purposes of calculating  
10 commissions, if any, on taxes collected by the tax ~~collector~~  
11 collecting official pursuant to Section 40-5-4.

12 "§40-10-187.

13 "(a) The tax ~~collector~~ collecting official shall  
14 make, execute, and deliver a tax lien certificate to each  
15 purchaser at ~~the~~ a tax lien sale or auction or to each  
16 assignee thereafter and shall collect from the purchaser or  
17 assignee a fee of ~~one dollar (\$1)~~ five dollars (\$5) for each  
18 tax lien certificate. The tax lien certificate shall be in a  
19 form provided by the Department of Revenue and shall also  
20 include a certificate of redemption form as provided in  
21 Section 40-10-194.

22 "(b) A tax lien certificate shall evidence the  
23 auction or sale or assignment to the holder of the tax lien  
24 certificate of the delinquent and unpaid taxes, penalties,  
25 interest, fees, and costs set forth therein and represented by

1 the tax lien, ~~and the right to receive amounts in respect~~  
2 ~~thereof as provided in Act 95-408.~~

3 "(c) A tax lien certificate shall bear the interest  
4 ~~at the rate of 12 percent per annum~~ as bid on by the purchaser  
5 at the tax lien auction or as agreed upon by the purchaser at  
6 the tax lien sale, ~~on the amount of all taxes, penalties,~~  
7 ~~interest, and costs due on the property from the date of the~~  
8 ~~sale of the tax lien to the original purchaser~~ until the tax  
9 lien certificate is redeemed as provided pursuant to Section  
10 40-10-193 ~~by law, or the property is sold pursuant to a decree~~  
11 ~~for sale of real estate required by Section 40-10-11.~~

12 "(d) The tax lien certificate shall do all of the  
13 following:

14 "~~(i) describe~~ (1) Describe the real property on  
15 which a tax lien is auctioned or sold as it is described in  
16 the tax lien ~~sale~~ auction list~~.~~.

17 "~~(ii) specify~~ (2) Specify the date on which the tax  
18 lien was auctioned or sold to the original purchaser~~.~~.

19 "~~(iii) specify~~ (3) Specify the year of assessment to  
20 which the tax lien relates and the amount for which the tax  
21 lien was auctioned or sold to the original purchaser~~.~~.

22 "~~(iv) recite~~ (4) Recite the amount of all taxes,  
23 penalties, interest, fees, and costs due on the property,  
24 which relate to the year of assessment described in ~~(iii)~~

1 ~~above~~ subdivision (3), as of the date specified in ~~(ii) above~~  
2 subdivision (2), ~~and.~~

3 "~~(v) recite~~ (5) Recite that the certificate bears  
4 interest at the rate per annum bid on by the purchaser at the  
5 tax lien auction of 12 percent per annum or agreed upon at the  
6 tax lien sale on the amount described in ~~(iv) above~~  
7 subdivision (4) from the date specified in ~~(ii) above~~  
8 subdivision (2).

9 "(e) The purchaser of a tax lien certificate may  
10 transfer and assign the certificate to any person, and the  
11 transferee of a tax lien certificate may subsequently transfer  
12 the certificate to any other person. The transferor of a tax  
13 lien certificate shall endorse the certificate and shall swear  
14 to the endorsement before a notary public or other officer  
15 empowered to administer oaths. The transferee shall present  
16 the endorsed tax lien certificate to the tax ~~collector~~  
17 collecting official who prepared and ~~sold~~ executed the  
18 certificate, or his or her successor, who, for a fee of ~~one~~  
19 ~~dollar (\$1)~~ five dollars (\$5), shall acknowledge the transfer  
20 on the certificate and shall make note of the transfer on the  
21 record of tax lien auctions and sales kept as provided in  
22 Section 40-10-188. An assignment and transfer as provided in  
23 this subsection shall vest in the assignee all the right and  
24 title of the original purchaser.

1           "(f) A security interest in a tax lien certificate  
2 may be created and perfected in the manner provided for  
3 general intangibles under Title 7.

4           "(g) Within 10 days of a completed tax lien auction  
5 or sale, the tax collecting official shall send notice to the  
6 property owner for whom the property was assessed informing  
7 the property owner that the tax lien has been auctioned or  
8 sold. The notice shall include the date of auction or sale and  
9 the name and address of the purchaser and shall be made by  
10 first class mail to the address listed in the assessment.

11           "§40-10-188.

12           "The tax ~~collector~~ collecting official shall make a  
13 correct record of all auctions and sales of tax liens ~~pursuant~~  
14 ~~to Act 95-408~~ in a durable book or an electronic file, which  
15 shall be known as the record of tax lien auctions and sales,  
16 containing all of the following:

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

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

20           "(3) The year of assessment to which the tax lien  
21 relates.

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

24           "(5) The name and address of the original purchaser  
25 of the tax lien.

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

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

9           "~~(7)~~ (8) The amount of any subsequent taxes,  
10 penalties, interest, fees, and costs paid by the original  
11 purchaser, or assignee, of the tax lien certificate as  
12 provided in Section 40-10-191 and the year of assessment to  
13 which the payment relates.

14           "~~(8)~~ (9) The name and address of the assignee, if  
15 any, and the date of assignment of the tax lien certificate.

16           "~~(9)~~ (10) The name and address of the person  
17 redeeming and the date of redemption.

18           "~~(10)~~ (11) The total amount paid for redemption.

19           "~~(11) The date of any decree of sale pursuant to~~  
20 ~~Section 40-10-11 with respect to the property.~~

21           "§40-10-189.

22           "~~For purposes of Act 95-408, The~~ "holder of the tax  
23 lien certificate" means the original purchaser of a tax lien  
24 or any assignee thereof as described in the record of tax lien

1 auctions and sales kept by the tax ~~collector~~ collecting  
2 official pursuant to Section 40-10-188.

3 "§40-10-190.

4 "When a tax lien certificate is lost or destroyed,  
5 the holder of the tax lien certificate may file a notarized  
6 affidavit with the tax ~~collector~~ collecting official attesting  
7 to the loss of the certificate. Upon presentation of the  
8 notarized affidavit, the tax ~~collector~~ collecting official,  
9 ~~shall~~ on payment of a fee of ~~ten~~ fifty dollars ~~(\$10)~~ (\$50),  
10 shall issue to the holder thereof an exact duplicate of the  
11 tax lien certificate.

12 "§40-10-191.

13 "(a) The holder of ~~an outstanding~~ a tax lien  
14 certificate shall have the first right to purchase the tax  
15 lien relating to a subsequent delinquency on the property  
16 described in the tax lien certificate of the holder, ~~by~~  
17 ~~notifying the tax collector within the time allowed by the~~  
18 ~~procedures established by the tax collector pursuant to Act~~  
19 ~~95-408. A holder of the certificate who exercises this right~~  
20 shall be entitled to the same interest rate as shown on the  
21 previous tax lien certificate. The owner of the property may  
22 pay the current year taxes due once the property owner redeems  
23 all outstanding tax liens on the property.

24 "(b) ~~If the holder fails to acquire the subsequent~~  
25 ~~tax lien within the time period specified in subsection (a),~~

1 ~~the tax collector shall be free to pursue any other remedy~~  
2 ~~provided by law for the collection of the delinquent tax. In~~  
3 the event that a mortgagee is or becomes the holder of a tax  
4 lien certificate, the mortgagee may add all costs, fees,  
5 interest, penalties, and taxes regarding the tax sale to the  
6 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 "§40-10-192.

13 "All monies collected or received by the tax  
14 ~~collector~~ collecting official as proceeds of a tax ~~sale~~ lien  
15 auction or sale pursuant to Act 95-408 shall be distributed in  
16 the same manner and proportions as the tax ~~collector~~  
17 collecting official is required by law to distribute other  
18 monies collected by him or her in satisfaction of ad valorem  
19 taxes. All penalties, costs, and fees collected by the tax  
20 collecting official shall be paid to the general fund of the  
21 county.

22 "§40-10-193.

23 "(a) (1) Tax liens auctioned or sold under Act 95-408  
24 may be redeemed by any of the following:



1           ~~"a. the~~ The owner, including a partial owner under  
 2 Section 40-10-195, or his or her agent, assignee, or attorney,  
 3 heirs or personal representative.

4           "b. Any mortgagee or purchaser of the property or  
 5 any portion of the property.

6           ~~"c. or by any~~ Any other person listed under  
 7 subsection (a) of Section 40-10-120, Code of Alabama 1975, if  
 8 the property had been sold for taxes. having a legal or  
 9 equitable claim in the underlying property, at any time prior  
 10 to entry of a decree of sale in an action authorized by  
 11 Section 40-10-11

12           "(2) Property may be redeemed under subdivision (1)  
 13 by payment to the tax collector collecting official of the  
 14 amount specified on the tax lien certificate as the total  
 15 amount of delinquent tax, interest, penalty, penalties, fees,  
 16 and costs due on the delinquent property paid to purchase the  
 17 tax lien, plus interest at the rate specified in the tax lien  
 18 certificate, plus any due and owing taxes, interest,  
 19 penalties, fees, and costs due. The tax collecting official  
 20 shall provide a separate receipt for any current taxes,  
 21 interest, penalties, fees, or costs paid.

22           "(b) Statutory fees paid by the holder of the tax  
 23 lien certificate in connection with the tax lien certificate  
 24 shall be added to the amount payable on redemption and shall

1 also bear interest at the rate of interest specified in the  
2 tax lien certificate.

3 "§40-10-194.

4 "(a) The tax ~~collector~~ collecting official shall,  
5 upon application to redeem a tax lien ~~sold under Act 95-408~~,  
6 and upon being satisfied that the person applying has the  
7 right to redeem the tax lien, and upon payment of the amount  
8 due, issue to the person a certificate of redemption appended  
9 to a copy of the certificate of tax lien describing the parcel  
10 on which the tax lien is redeemed, giving the date of  
11 redemption, the amount paid, and by whom redeemed, and shall  
12 make the proper entries in the record of tax lien auctions or  
13 sales in his or her office.

14 "(b) For each certificate of redemption, the tax  
15 ~~collector~~ collecting official shall collect from the person to  
16 whom the certificate of redemption is issued a fee of ten  
17 dollars (\$10) ~~equal to the redemption fee charged for~~  
18 ~~redemption of property sold to the state.~~

19 "(c) The holder of a certificate of redemption may  
20 record the certificate with the recording officer of the  
21 county."

22 "§40-10-195.

23 "A person owning an interest less than the whole in  
24 real property may redeem a tax lien pursuant to Section  
25 40-10-193 ~~against his or her interest, if the interest can be~~

1 ~~ascertained by legal description provided to the tax~~  
2 ~~collector, by paying the proportionate part of the whole~~  
3 ~~amount due, and shall receive a certificate of redemption for~~  
4 ~~his or her interest in the manner provided by Act 95-408.~~

5 "§40-10-196.

6 "Within 10 days of issuance of any certificate of  
7 redemption, the tax ~~collector~~ collecting official shall mail a  
8 copy of the certificate of redemption to the holder of the tax  
9 lien certificate related thereto at the address specified in  
10 the record of tax lien auctions and sales kept as provided in  
11 Section 40-10-188. On demand of ~~any person entitled to~~  
12 ~~redemption money held by the tax collector~~ the holder of the  
13 tax lien certificate, the tax ~~collector~~ collecting official  
14 shall pay the redemption money to the ~~person~~ holder upon  
15 surrender of the original tax lien certificate ~~for the~~  
16 ~~redeemed tax lien. If only a portion of the tax lien on the~~  
17 ~~property described in the tax lien certificate has been~~  
18 ~~redeemed, the tax collector shall endorse on the tax lien~~  
19 ~~certificate the portion redeemed and the amount of money paid~~  
20 ~~to the holder of the tax lien certificate, and shall take a~~  
21 ~~receipt therefor.~~

22 "§40-10-197.

23 ~~"Each holder of a tax lien certificate, desiring to~~  
24 ~~have the probate court order the sale of property for the~~  
25 ~~payment of taxes, shall provide written notice to the tax~~

1 ~~collector on or before February 1 which contains the following~~  
 2 ~~information: (i) A description of the parcel to which the tax~~  
 3 ~~lien certificate relates; (ii) the year of assessment to which~~  
 4 ~~the tax lien certificate relates; (iii) the name and address~~  
 5 ~~of the holder of the tax lien certificate; and (iv) a~~  
 6 ~~statement by the holder of the tax lien certificate that he or~~  
 7 ~~she is unable to collect the delinquent taxes described in his~~  
 8 ~~or her tax lien certificate without a sale of the property and~~  
 9 ~~requesting that the tax collector list the property in the~~  
 10 ~~book of lands prepared pursuant to Section 40-10-2, and~~  
 11 ~~delivered to the judge of probate pursuant to Section 40-10-3.~~

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

24 "(b) (1) At least 30 days before filing a tax lien  
 25 foreclosure action under this article, but not more than 180

1 days before the action is commenced, the holder of the tax  
2 lien certificate shall send notice of intent to file the  
3 foreclosure action by certified mail to all of the following:

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

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

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

13 "(2) The notice shall include the property owner's  
14 name, the Uniform Parcel Number, the legal description of the  
15 property, the name and address of the holder of the tax lien  
16 certificate, and a statement that the holder proposes to file  
17 a tax lien foreclosure action between 30 and 180 days after  
18 the date of mailing of the notice. If the holder fails to  
19 send the notice required by this subsection, the court shall  
20 dismiss any tax lien foreclosure action filed under this  
21 article.

22 "(c) The holder shall name as parties defendant to  
23 the tax lien foreclosure action all persons entitled to redeem  
24 under this article. Upon filing the tax lien foreclosure

1 action, the holder shall file a notice as provided by Section  
2 35-4-131.

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

12 "(2) After entry of judgment, a party whose rights  
13 to redeem the tax lien are foreclosed has no further legal or  
14 equitable right, title, or interest in the property subject to  
15 the right of appeal and stay of execution as in other civil  
16 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 as  
2 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. If the person who redeems has been served  
13 personally or by publication in the action, or if the person  
14 became an owner after the action began and redeems after a  
15 notice is recorded pursuant to subsection (c), judgment shall  
16 be entered in favor of the plaintiff against the person for  
17 the costs incurred by the plaintiff in the action, including  
18 reasonable attorney fees actually incurred, to be determined  
19 by the court.

20           "(h) If a tax lien that was purchased pursuant to  
21 this article is not redeemed and the holder of the tax lien  
22 certificate fails to commence a tax lien foreclosure action on  
23 or before 10 years from the date of the tax lien certificate,  
24 the tax lien certificate shall expire and the lien shall  
25 become void.

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

5           "§40-10-198.

6           "(a) Each holder of a tax lien certificate shall be  
7 entitled to the same rights and remedies with respect to the  
8 collection of the amounts due on such tax lien certificate as  
9 are available to the tax ~~collector~~ collecting official with  
10 respect to the collection of delinquent taxes, including, but  
11 not limited to, the right to institute garnishment proceedings  
12 against the taxpayer for the payment of taxes.~~;~~ ~~furthermore,~~  
13 ~~the~~

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

20           Section 2. Sections 40-10-199 and 40-10-200 are  
21 added to the Code of Alabama 1975, to read as follows:

22           §40-10-199.

23           (a) Tax liens that are not sold at the tax lien  
24 auction conducted by the tax collecting official shall be  
25 separated in the tax lien auction list as prescribed by



1 Section 40-10-183 and the county shall retain the lien  
2 pursuant to Section 40-1-3. The tax collecting official,  
3 within 45 days after the tax lien auction date, may sell at  
4 private sale an unsold tax lien for no less than all taxes,  
5 interest, penalties, costs, and fees. The purchaser at private  
6 sale shall be entitled to interest on the amount paid at a  
7 rate agreed to by the tax collecting official, not to exceed  
8 12 percent. All private tax lien sales shall be entered in the  
9 record of tax lien auctions and sales, as provided in Section  
10 40-10-188.

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

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

19 §40-10-200.

20 (a) (1) Except as provided in subdivision (2), no tax  
21 assessor, tax collecting official, commissioner of revenue,  
22 officer of the court with jurisdiction, or any employee of any  
23 of those offices shall knowingly have a direct or indirect  
24 financial interest in the purchase of any tax lien sold for  
25 delinquent taxes.

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

4           (b) A violation of this section shall be a Class C  
5 misdemeanor and the sureties on his or her official bond shall  
6 be liable for a penalty not to exceed five hundred dollars  
7 (\$500) and to be fixed by the circuit judge with jurisdiction  
8 in the county. The penalty shall be remitted to the general  
9 fund of the county.

10           Section 3. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18           Section 4. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the 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 08-MAR-18, as amended.

Jeff Woodard  
Clerk

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Senate

28-MAR-18

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Passed