

1 SB257  
2 190561-4  
3 By Senator Sanders  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 30-JAN-18

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 To amend Sections 40-10-75, 40-10-76, 40-10-77,  
12 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975; to  
13 provide that a party desiring to redeem property sold to the  
14 state for unpaid taxes pay interest of not more than eight  
15 percent only on the taxes due at the time of default.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 40-10-75, 40-10-76, 40-10-77,  
18 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, are  
19 amended to read as follows:

20 "§40-10-75.

21 "~~If, in~~ In any action brought related to taxes  
22 delinquent on or after January 1, 2018, the interest rate on  
23 any amounts awarded pursuant to this section shall be eight  
24 percent. In any other action brought for the possession of  
25 land sold for taxes, the title of the purchaser at the tax  
26 sale shall be defeated on account of any defect in the  
27 proceedings under which the sale is had, or on account of any

1 defect in or insufficiency of the process by which the owner  
2 of the land was brought before the probate court, as is  
3 provided, or in the service of the process, or by reason of  
4 the failure of the judge of probate on account of any  
5 negligence or refusal on his or her part to produce when  
6 called upon, sufficient evidence of the proper issuance and  
7 service of the notice or process, or by reason of any other  
8 defect or insufficiency in any of the proceedings for the  
9 condemnation and sale of the property, or of the certificate  
10 or deed to the purchaser or any two or more of the causes, the  
11 officer or officers on account of whose omission or error the  
12 defect or insufficiency or defects or insufficiencies shall  
13 have arisen, together with the sureties on the official bond,  
14 shall be liable to the purchaser whose title shall be thus  
15 defeated and to his or her assignees for the full sum of the  
16 purchase money paid by him or her at the tax sale for the  
17 property, the cost of the action in which the title failed,  
18 which the purchaser shall have incurred in attempting to  
19 maintain title under the tax sale, together with the interest  
20 upon each of these amounts, at the rate of ~~12~~ eight percent  
21 per annum, subject to the limitations set forth in Section  
22 40-10-122(a); provided that except as to the state, actions  
23 under this section shall be commenced within five years from  
24 the sale.

25 "§40-10-76.

26 "~~If, in an~~ In any action brought related to taxes  
27 delinquent on or after January 1, 2018, the interest rate on

1 any amounts awarded pursuant to this section shall be eight  
2 percent. In any other action brought against such purchaser or  
3 other person claiming under the purchaser to recover  
4 possession of lands sold for taxes, the defendant claims and  
5 defends under the tax title and the defense fails on the  
6 ground that such sale was invalid for any reason other than  
7 that the taxes were not due, and the plaintiff recovers, the  
8 court shall forthwith, on the motion of the defendant,  
9 ascertain the amount of taxes for which the lands were liable  
10 at the time of the sale and for the payment of which they were  
11 sold, with interest thereon from the day of sale, and the  
12 amount of such taxes on the lands, if any, as the defendant or  
13 the person under whom he or she claims has, since such sale,  
14 lawfully paid or assumed, in case of the state, with interest  
15 on both amounts to be computed at the rate of ~~12~~ eight percent  
16 per annum, subject to the limitations set forth in Section  
17 40-10-122(a); and the court shall thereupon render judgment  
18 against the plaintiff in favor of the defendant for the amount  
19 ascertained and the cost of the action, which judgment shall  
20 constitute a lien on the land sued for, the payment of which  
21 may be enforced as in other cases, and no writ of possession  
22 shall issue until such judgment has been satisfied, and the  
23 court may order the land sold or condemn it to the  
24 satisfaction of the debt.

25 "§40-10-77.

26 "~~If, in an~~ In any action brought related to taxes  
27 delinquent on or after January 1, 2018, the interest rate on

1 any amounts awarded pursuant to this section shall be eight  
2 percent. In any other action brought against such purchaser or  
3 other person claiming under the purchaser to recover  
4 possession of lands sold for taxes, the defendant claims and  
5 defends under the tax title and the defense fails on the  
6 ground that such sale was invalid for any reason other than  
7 that the taxes were not due, and the plaintiff recovers, the  
8 court shall forthwith, on the motion of the defendant,  
9 ascertain the amount of taxes for which the lands were liable  
10 at the time of the sale and for the payment of which they were  
11 sold, with interest thereon from the day of sale, and the  
12 amount of such taxes on the lands, if any, as the defendant or  
13 the person under whom he or she claims has, since such sale,  
14 lawfully paid or assumed, in case of the state, with interest  
15 thereon from the date of such payment, the interest on both  
16 amounts to be computed at the rate of ~~12~~ eight percent per  
17 annum, subject to the limitations set forth in Section  
18 40-10-122(a); and the court shall thereupon render judgment  
19 against the plaintiff in favor of the defendant for the amount  
20 ascertained and the cost of the action, which judgment shall  
21 constitute a lien on the land sued for, the payment of which  
22 may be enforced as in other cases, and no writ of possession  
23 shall issue until such judgment has been satisfied, and the  
24 court may order the land sold or condemn it to the  
25 satisfaction of the debt.

26 "§40-10-83.

1           ~~When~~ In any action brought related to taxes  
2           delinquent on or after January 1, 2018, the interest rate on  
3           any amounts awarded pursuant to this section shall be eight  
4           percent. In any other action, when the action is against the  
5           person for whom the taxes were assessed or the owner of the  
6           land at the time of the sale, his or her heir, devisee, vendee  
7           or mortgagee, the court shall, on motion of the defendant made  
8           at any time before the trial of the action, ascertain (i) the  
9           amount paid by the purchaser at the sale and of the taxes  
10          subsequently paid by the purchaser, together with ~~12~~ eight  
11          percent per annum thereon, subject to the limitations set  
12          forth in Section 40-10-122(a); (ii) with respect to property  
13          located within an urban renewal or urban redevelopment project  
14          area designated pursuant to Chapters 2 or 3 of Title 24, all  
15          insurance premiums paid or owed by the purchaser for casualty  
16          loss coverage on insurable structures and the value of all  
17          permanent improvements made by the purchaser determined in  
18          accordance with Section 40-10-122, together with ~~12~~ eight  
19          percent per annum thereon; (iii) with respect to any property  
20          which contains a residential structure at the time of the sale  
21          regardless of its location, all insurance premiums paid or  
22          owed by the purchaser for casualty loss coverage on the  
23          residential structure and the value of all preservation  
24          improvements made by the purchaser determined in accordance  
25          with Section 40-10-122, together with 12 percent per annum  
26          thereon, subject to the limitations set forth in Section  
27          40-10-122(a); and (iv) a reasonable attorney's fee for the

1 plaintiff's attorney for bringing the action. The court shall  
2 also determine the right, if any, of the defendant to recover  
3 any excess pursuant to Section 40-10-28 and shall apply a  
4 credit and direct the payment of the same as set forth in  
5 subsection (b) of Section 40-10-78. Upon such determination  
6 the court shall enter judgment for the amount so ascertained  
7 in favor of the plaintiff against the defendant, and the  
8 judgment shall be a lien on the land sued for. Upon the  
9 payment into court of the amount of the judgment and costs,  
10 the court shall enter judgment for the defendant for the land,  
11 and all title and interest in the land shall by such judgment  
12 be divested out of the owner of the tax deed.

13 "§40-10-121.

14 "(a) In order to obtain the redemption of land from  
15 tax sales where the same has been heretofore or hereafter sold  
16 to the state, the party desiring to make such redemption shall  
17 apply therefor as hereinafter provided and shall deposit with  
18 the judge of probate of the county in which the land is  
19 situated the amount of money for which the lands were sold,  
20 with interest thereon at the rate of ~~12~~ eight percent,  
21 together with the amount of all taxes found to be due on such  
22 land since the date of sale, as provided herein, with interest  
23 at the rate of 12 percent on the amount of the actual taxes  
24 due at the time of default and all costs and fees due to  
25 officers.

26 "(b) Upon application to the probate judge to redeem  
27 land where the same has been sold to the state for taxes,

1 which application shall be made on blank forms to be furnished  
2 by the Land Commissioner, the probate judge shall submit such  
3 application to the tax assessor of the county in which the  
4 land sought to be redeemed is located, and the assessor shall  
5 without delay enter on such application an assessment value  
6 for each of the years for which taxes are due, subsequent to  
7 the year for which such land was sold to the state for taxes,  
8 and such assessment value shall be such percentage as  
9 established by law of the fair and reasonable market value of  
10 such lands as of October 1 of the year or years subsequent to  
11 the year for which the land was sold for taxes.

12 "(c) Any party having a right to redeem said  
13 property, his agents, or attorney, shall have the right to  
14 file a written protest with the board of equalization,  
15 objecting to the valuation of said land as placed on said  
16 property by the tax assessor, setting forth his ground of  
17 objection to the assessed value of said property as fixed by  
18 said tax assessor, and the board of equalization shall,  
19 thereafter, fix a day for hearing said protest by giving to  
20 the tax assessor and party desiring to redeem, his agents, or  
21 attorney, at least 10 days' written notice of the day and  
22 place of hearing said petition, and upon the hearing of said  
23 cause, the board of equalization shall have the right to  
24 review the assessed value of said property as fixed by the tax  
25 assessor and shall fix and determine the assessed value for  
26 each of the years subsequent to the year for which such land  
27 was sold to the state for taxes, and the board of equalization



1 shall certify to the probate judge the assessed value of the  
2 land so fixed.

3 "(d) The redemptioner shall deposit with the probate  
4 judge the amount of money for which lands were sold for taxes,  
5 plus the amount due for subsequent years based on the  
6 assessment value as required to be fixed herein, and interest  
7 on the amount of actual taxes due at the time of default,  
8 costs, and fees as provided in this section.

9 "(e) If any balance remains due to the state upon  
10 any lien arising by reason of any installment redemption the  
11 payment of which is secured under the provisions of Section  
12 40-10-141, the redemptioner shall also deposit with the  
13 probate judge the amount of the balance due upon such lien,  
14 with interest to the date of redemption on the amount of the  
15 actual taxes due at the time of default.

16 "(f) If the lands sought to be redeemed, or any  
17 portion thereof, are situated in any municipality, the  
18 redemptioner shall also deposit with the probate judge the  
19 amount of any unpaid taxes assessed against the same by such  
20 municipality, and an amount equal to any municipal taxes  
21 thereon which, subsequent to the tax sale, were not assessed  
22 by reason of the fact that such land had been purchased by the  
23 State of Alabama, plus interest which would have accrued upon  
24 such municipal taxes from the time the same would have  
25 otherwise become delinquent, which amounts, with interest,  
26 shall be treated and distributed in the same manner as taxes  
27 and interest thereon.

1                   "§40-10-122.

2                   "(a) (1) In order to obtain the redemption of land  
3 from tax sales where the same has been sold to one other than  
4 the state, the party desiring to make such redemption shall  
5 deposit with the judge of probate of the county in which the  
6 land is situated the amount of money for which the lands were  
7 sold, with interest payable at the rate of 12 percent per  
8 annum from date of sale, and, on the portion of any excess bid  
9 that is less than or equal to 15 percent of the market value  
10 as established by the assessing official, together with the  
11 amount of all taxes which have been paid by the purchaser,  
12 which fact shall be ascertained by consulting the records in  
13 the office of the tax collector, or other tax collecting  
14 official, with interest on the payment at 12 percent per  
15 annum. If any taxes on said land have been assessed to the  
16 purchaser and have not been paid, and if the taxes are due  
17 which may be ascertained by consulting the tax collector or  
18 other tax collecting official of the county, the probate judge  
19 shall also require the party desiring to redeem the land to  
20 pay the tax collector or other tax collecting official the  
21 taxes due on the lands which have not been paid by the  
22 purchaser before he or she is entitled to redeem the same. In  
23 all redemptions of land from tax sales, the party securing the  
24 redemption shall pay all costs and fees as herein provided for  
25 due to officers and a fee of ~~\$.50~~ three dollars (\$3) to the  
26 judge of probate for his or her services in the matter of  
27 redemption. This application and payment may be executed by an

1 on-line transaction via the Internet or other on-line  
2 provision.

3 "(2) The reimbursement to the purchaser from the  
4 proposed redemptioner for allowable improvements and insurance  
5 premiums as provided in subsections (b) through (e) is not  
6 required before the redemption official completes the  
7 redemption process as provided in this subsection.

8 "(b) With respect to property located within an  
9 urban renewal or urban redevelopment project area designated  
10 pursuant to Chapters 2 or 3 of Title 24, the proposed  
11 redemptioner must pay to the purchaser or his or her  
12 transferee, in addition to any other requirements set forth in  
13 this section, the amounts set forth below:

14 "(1) All insurance premiums paid or owed by the  
15 purchaser for casualty loss coverage on insurable structures  
16 with interest on said payments at ~~12~~ eight percent per annum.

17 "(2) The value of all permanent improvements made on  
18 the property determined in accordance with this section with  
19 interest on said value at ~~12~~ eight percent per annum.

20 "(c) With respect to property which contains a  
21 residential structure at the time of the sale regardless of  
22 its location, the proposed redemptioner must pay to the  
23 purchaser or his or her transferee, in addition to any other  
24 requirements set forth in this section, the amounts set forth  
25 below:

26 "(1) All insurance premiums paid or owed by the  
27 purchaser for casualty loss coverage on the residential

1 structure with interest on the payments at 12 percent per  
2 annum.

3 "(2) The value of all preservation improvements made  
4 on the property determined in accordance with this section  
5 with interest on the value at 12 percent per annum.

6 "(d) As used herein, "permanent improvements" shall  
7 include, but not be limited to, all repairs, improvements, and  
8 equipment attached to the property as fixtures. As used  
9 herein, "preservation improvements" shall mean improvements  
10 made to preserve the property by properly keeping it in repair  
11 for its proper and reasonable use, having due regard for the  
12 kind and character of the property at the time of sale. The  
13 proposed redemptioner shall make written demand upon the  
14 purchaser of a statement of the value of all permanent or  
15 preservation improvements as applicable made on the property  
16 since the tax sale. In response to written demand made  
17 pursuant to this subsection, within 10 days from the receipt  
18 of such demand, the purchaser shall furnish the proposed  
19 redemptioner with the amount claimed as the value of such  
20 permanent or preservation improvements as applicable; and  
21 within 10 days after receipt of such response, the proposed  
22 redemptioner either shall accept the value so stated by the  
23 purchaser or, disagreeing therewith, shall appoint a referee  
24 to ascertain the value of such permanent or preservation  
25 improvements as applicable. The proposed redemptioner shall in  
26 writing (i) notify the purchaser of his or her disagreement as  
27 to the value; and (ii) inform the purchaser of the name of the

1 referee appointed by him or her. Within 10 days after the  
2 receipt of such notice, the purchaser shall appoint a referee  
3 to ascertain the value of the permanent or preservation  
4 improvements as applicable and advise the proposed  
5 redemptioner of the name of the appointee. Within 10 days  
6 after the purchaser has appointed his or her referee, the two  
7 referees shall meet and confer upon the award to be made by  
8 them. If they cannot agree, the referees shall at once appoint  
9 an umpire, and the award by a majority of such body shall be  
10 made within 10 days after the appointment of the umpire and  
11 shall be final between the parties.

12 "(e) If the proposed redemptioner fails or refuses  
13 to nominate a referee as provided in subsection (d), he or she  
14 must pay the value put upon the improvements by the purchaser.  
15 If the purchaser refuses or fails to appoint a referee, as  
16 provided in subsection (d), the purchaser shall forfeit his or  
17 her claim to compensation for such improvements. The failure  
18 of the referees or either of them to act or to appoint an  
19 umpire shall not operate to impair or forfeit the right of  
20 either the proposed redemptioner or the purchaser in the  
21 premises and in the event of failure without fault of the  
22 parties to affect an award, the appropriate court shall  
23 proceed to ascertain the true value of such permanent or  
24 preservation improvements as applicable and enforce the  
25 redemption accordingly."

1                   Section 2. This act shall become effective on  
2           October 1, 2019, for actions related to taxes delinquent on or  
3           after January 1, 2018.

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Senate

Read for the first time and referred to the Senate  
committee on Fiscal Responsibility and Economic  
Development..... 30-JAN-18

Read for the second time and placed on the calen-  
dar 1 amendment..... 08-FEB-18

Read for the third time and passed as amended .... 13-FEB-18

Yeas 17  
Nays 8

Patrick Harris,  
Secretary.