

1 SB343  
2 199989-1  
3 By Senator Whatley  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 30-APR-19

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8 SYNOPSIS: Existing law provides for the rights and  
9 remedies of a purchaser of real estate at a tax  
10 sale and provides that an owner may redeem the real  
11 estate sold at the tax sale within three years from  
12 the date of the tax sale under certain conditions.  
13 Existing law also provides that there is no time  
14 limit for recovery of real estate by an owner who  
15 has retained possession of the real estate after  
16 the tax sale.

17 This bill would further clarify that the  
18 three-year time limit on actions for recovery would  
19 apply to owners not in possession of the real  
20 estate after the tax sale.

21 This bill would also provide that there is  
22 no time limit for a tax purchaser to bring an  
23 action to possess real estate bought at a tax sale  
24 if the real estate was not recovered pursuant to  
25 existing law.

26 This bill would also authorize the tax  
27 purchaser to retain a tax lien on the real estate

1 for all taxes, insurance, improvements, attorneys'  
2 fees, costs, and interest until the lien is  
3 satisfied under certain conditions.

4 Existing law also provides that an owner  
5 redeeming real estate sold at a tax sale would be  
6 subject to an interest rate of 12 percent before  
7 January 1, 2020, and on or after January 1, 2020,  
8 the interest rate would be eight percent.

9 This bill would keep the interest rate at 12  
10 percent on or after January 1, 2020.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 To amend Sections 40-10-82 and 40-10-120, Code of  
17 Alabama 1975, relating to real estate sold for the payment of  
18 taxes; to further provide for actions for recovery of the real  
19 estate by the owner and for actions by the tax purchaser for  
20 possession of the real estate; to authorize the tax purchaser  
21 to retain a tax lien on the real estate under certain  
22 conditions; and to repeal Act 2018-494, 2018 Regular Session,  
23 relating to the interest rate paid by an owner to redeem  
24 property sold at a tax sale.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 40-10-82 and 40-10-120, Code of  
27 Alabama 1975, are amended to read as follows:

1           "§40-10-82.

2           "(a) No action by an owner not in possession of real  
3 estate for the recovery of real estate sold for the payment of  
4 taxes shall lie unless the same is brought within three years  
5 from the date when the purchaser became entitled to demand a  
6 deed therefor; but if the owner of ~~such~~ the real estate ~~was,~~  
7 at the time of ~~such~~ the sale, was under the age of 19 years or  
8 insane, he or she, his or her heirs, or legal representatives  
9 shall be allowed one year after ~~such~~ the disability is removed  
10 to bring an action for the recovery thereof; but this section  
11 shall not apply to any action brought by the state, to cases  
12 in which the owner of the real estate sold had paid the taxes,  
13 for the payment of which ~~such~~ the real estate was sold prior  
14 to ~~such~~ the sale, or to cases in which the real estate sold  
15 ~~was not,~~ at the time of the assessment or of the sale, was not  
16 subject to taxation or subject to other applicable law. There  
17 shall be no time limit for recovery of real estate by an owner  
18 of land who has retained possession. If the owner of land  
19 seeking to redeem has retained possession, character of  
20 possession need not be actual and peaceful, but may be  
21 constructive and scrambling and, where there is no real  
22 occupancy of land, constructive possession follows title of  
23 the original owner and may only be cut off by adverse  
24 possession of the tax purchaser for three years after the  
25 purchaser is entitled to possession.

26           "(b) There shall be no time limit for the tax  
27 purchaser to maintain an action for possession to the real

1 estate that has not been recovered by the real estate owner as  
2 described in subsection (a).

3 "(c) The tax purchaser shall retain a tax lien on  
4 the real estate for all taxes, insurance, improvements,  
5 attorneys' fees, costs, and interest on the same until the  
6 lien is satisfied with payment by the real estate owner in an  
7 action to recover the real estate as described in subsection  
8 (a).

9 "§40-10-120.

10 "(a) Real estate which hereafter may be sold for  
11 taxes and purchased by the state may be redeemed at any time  
12 before the title passes out of the state or, if purchased by  
13 any other purchaser, may be redeemed at any time within three  
14 years from the date of the sale by the owner, his or her  
15 heirs, or personal representatives, or by any mortgagee or  
16 purchaser of ~~such~~ the lands, or any part thereof, or by any  
17 person having an interest therein, or in any part thereof,  
18 legal or equitable, in severalty or as tenant in common,  
19 including a judgment creditor or other creditor having a lien  
20 thereon, or on any part thereof; and an infant or insane  
21 person entitled to redeem at any time before the expiration of  
22 three years from the sale may redeem at any time within one  
23 year after the removal of the disability; and ~~such~~ the  
24 redemption may be of any part of the lands so sold, which  
25 includes the whole of the interest of the redemptioner. If the  
26 mortgage or other instrument creating a lien under which a  
27 party seeks to redeem is duly recorded at the time of the tax

1 sale, the party ~~shall~~, in addition to the time herein  
2 specified, shall have the right to redeem the real estate  
3 sold, or any portion thereof covered by his or her mortgage or  
4 lien, at any time within one year from the date of written  
5 notice from the purchaser of his or her purchase of the lands  
6 at tax sale served upon ~~such~~ the party, and notice served upon  
7 either the original mortgagees or lienholders or their  
8 transferee of record, or their heirs, personal  
9 representatives, or assigns shall be sufficient notice.

10 "(b) Nothing in this section shall limit the amount  
11 of time a tax purchaser has to maintain an action for  
12 possession to the real estate.

13 "(c) Until a tax purchaser maintains an action for  
14 possession to the real estate, the tax purchaser shall retain  
15 a lien on the real estate for all taxes, insurance,  
16 improvements, attorneys' fees, costs, and interest on the  
17 same. The lien may be satisfied with payment by the real  
18 estate owner in an action to recover the real estate as  
19 described in Section 40-10-82.

20 ~~"(b)~~ (d) If any real property has been sold for  
21 taxes and is subject to redemption from the sale as set forth  
22 in subsection (a) and has also been sold in one or more  
23 subsequent sales for taxes, then any party entitled to redeem  
24 ~~such~~ the sale for taxes may redeem ~~such~~ the sale if the  
25 redemptioner simultaneously redeems his or her sale and all  
26 subsequent sales. In the event of a redemption of successive  
27 sales, the redemption amount shall be ascertained by applying

1 the provisions of Sections 40-10-121 and 40-10-122. Redemption  
2 amounts computed pursuant to Section 40-10-121 shall be paid  
3 as stated therein. Redemption amounts computed pursuant to  
4 Section 40-10-122 shall be paid as stated therein if the  
5 purchaser had the right to redeem pursuant to subsection (a)  
6 or was the owner of the then current tax certificate or tax  
7 title. Otherwise, those funds shall be disposed of as set  
8 forth in Section 40-10-28 and paid to ~~such~~ the purchaser or  
9 his or her assignee only as set forth in Section 40-10-28,  
10 with the time limits for ~~such~~ the application computed  
11 utilizing the sale date when the purchaser's interest was sold  
12 for taxes."

13 Section 2. Act 2018-494, 2018 Regular Session,  
14 amending Sections 40-10-75, 40-10-76, 40-10-77, 40-10-83,  
15 40-10-121, and 40-10-122, effective January 1, 2020, to  
16 provide for an interest rate of not more than eight percent,  
17 is repealed.

18 Section 3. 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.