

1 HB371  
2 217485-2  
3 By Representative Ellis  
4 RFD: County and Municipal Government  
5 First Read: 16-FEB-22

SYNOPSIS: Existing law provides for the sale of tax liens for unpaid taxes through public auction.

This bill would clarify that the tax collecting official of a county may conduct public tax lien auctions through an online method.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to taxation; to amend Sections 40-10-180, 40-10-182, 40-10-183, 40-10-185, 40-10-186, 40-10-187, 40-10-188, 40-10-191, 40-10-193, 40-10-194, and 40-10-197, Code of Alabama 1975; to authorize and provide procedures for the use of an online public auction for the collection of delinquent property taxes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-10-180, 40-10-182, 40-10-183, 40-10-185, 40-10-186, 40-10-187, 40-10-188, 40-10-191,

1 40-10-193, 40-10-194, and 40-10-197, Code of Alabama 1975, are  
2 amended to read as follows:

3 "§40-10-180.

4 "(a) The Legislature declares that the purpose of  
5 this article is to provide counties with an alternative remedy  
6 for collecting delinquent property taxes by the sale of a tax  
7 lien.

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

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

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.

25 "(b) (1) ~~The~~ If the sale of a tax lien is chosen as  
26 the method to collect delinquent property taxes, the tax  
27 collecting official of any county shall conduct a public

1 auction for the sale and transfer of delinquent tax liens. The  
2 tax collecting official shall notify the delinquent taxpayer  
3 of the auction and all charges pursuant to Section 40-10-183  
4 at least 30 days prior to the tax lien auction by first class  
5 mail and by any one of the following:

6 "a. Advertising for once a week for three  
7 consecutive weeks in a newspaper with general circulation in  
8 the county where the property is located.

9 "b. Advertising on an online website controlled by  
10 the tax collecting official and accessible from the tax  
11 collecting official's website.

12 "c. Posting at the courthouse of the county and if  
13 possible in a public place in the precinct where the property  
14 is located.

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

17 "(c) The tax collecting official may auction or sell  
18 tax liens representing delinquent taxes for any year taxes are  
19 delinquent and unpaid.

20 "§40-10-183.

21 "~~Prior~~ At least 30 days prior to any tax lien  
22 auction, the tax collecting official shall prepare and  
23 maintain a list of all tax liens. The list shall be known as  
24 the tax lien auction list and shall contain all of the  
25 following:

1           "(1) The names of the several persons appearing in  
2 the latest tax roll as the respective owners of tax-delinquent  
3 properties.

4           "(2) A description of each property as it appears in  
5 the latest tax roll.

6           "(3) The year or years for which taxes are  
7 delinquent on each property.

8           "(4) The principal amount of the delinquent taxes  
9 and the amount of accrued and accruing interest thereon and  
10 penalties, fees, and administration costs pursuant to Section  
11 40-10-184(b) ~~to the day of the proposed tax lien auction~~  
12 relating to each year of assessment.

13           "§40-10-185.

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

24           "§40-10-186.

25           "(a) The purchase price for a tax lien shall be the  
26 amount of delinquent taxes plus any interest, penalties, fees,  
27 and costs accrued as of the date of the auction or sale.

1           "(b) The purchase price for a tax lien shall be paid  
2 in a form acceptable to the tax collecting official ~~in cash or~~  
3 ~~immediately available certified funds~~ not later than one hour  
4 before close of business on the date of the auction or sale  
5 or, if the auction is online, not later than the close of  
6 business two days following the date of the auction.

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

12           "§40-10-187.

13           "(a) The tax collecting official, upon receipt of  
14 the purchase price, shall make, execute, and deliver a tax  
15 lien certificate to each purchaser at a tax lien sale or  
16 auction or to each assignee thereafter and shall collect from  
17 the purchaser or assignee a fee of 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  
26 the tax lien.

1           "(c) A tax lien certificate shall bear the interest  
2 rate per annum as bid on by the purchaser at the tax lien  
3 auction or as agreed upon by the purchaser at the tax lien  
4 sale, until the tax lien certificate is redeemed as provided  
5 pursuant to Section 40-10-193 or Section 40-10-197.

6           "(d) The tax lien certificate shall do all of the  
7 following:

8           "(1) Describe the real property on which a tax lien  
9 is auctioned or sold as it is described in the tax lien  
10 auction list.

11           "(2) Specify the date on which the tax lien was  
12 auctioned or sold to the original purchaser.

13           "(3) Specify the year of assessment to which the tax  
14 lien relates and the amount for which the tax lien was  
15 auctioned or sold to the original purchaser.

16           "(4) Recite the amount of all taxes, penalties,  
17 interest, fees, and costs due on the property, which relate to  
18 the year of assessment described in subdivision (3), as of the  
19 date specified in subdivision (2).

20           "(5) Recite ~~that the certificate bears interest at~~  
21 the rate per annum bid on by the purchaser at the tax lien  
22 auction or agreed upon at the tax lien sale on the amount  
23 described in subdivision (4) from the date specified in  
24 subdivision (2).

25           "(e) The purchaser of a tax lien certificate may  
26 transfer and assign the certificate to any person, and the  
27 transferee of a tax lien certificate may subsequently transfer

1 the certificate to any other person. The transferor of a tax  
2 lien certificate shall endorse the certificate and shall swear  
3 to the endorsement before a notary public or other officer  
4 empowered to administer oaths. The transferee shall present  
5 the endorsed tax lien certificate to the tax collecting  
6 official who prepared and executed the certificate, or his or  
7 her successor, who, for a fee of five dollars (\$5), shall  
8 acknowledge the transfer on the certificate and shall make  
9 note of the transfer on the record of tax lien auctions and  
10 sales kept as provided in Section 40-10-188. An assignment and  
11 transfer as provided in this subsection shall vest in the  
12 assignee all the right and title of the original purchaser.

13 "(f) A security interest in a tax lien certificate  
14 may be created and perfected in the manner provided for  
15 general intangibles under Title 7. Notice of the security  
16 interest shall be given to the tax collecting official  
17 pursuant to Section 7-9A-406 and as otherwise required by law.

18 "(g) Within ~~10~~ 30 days of a completed tax lien  
19 auction or sale, the tax collecting official shall send notice  
20 to the property owner for whom the property was assessed  
21 informing the property owner that the tax lien has been  
22 auctioned or sold. The notice shall include the date of  
23 auction or sale and the name ~~and address~~ of the purchaser and  
24 shall be made by first class mail to the address listed in the  
25 assessment.

26 "§40-10-188.



1           "The tax collecting official shall make a correct  
2 record of all auctions and sales of tax liens in a durable  
3 book or an electronic file, which shall be known as the record  
4 of tax lien auctions and sales, containing all of the  
5 following:

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

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

9           "(3) The year of assessment to which the tax lien  
10 relates.

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

13           "(5) The name and address of the original purchaser  
14 of the tax lien.

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

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

23           "(8) The amount of any subsequent taxes, penalties,  
24 interest, fees, and costs paid by the original purchaser, or  
25 assignee, of the tax lien certificate as provided in Section  
26 40-10-191 and the year of assessment to which the payment  
27 relates.

1           "(9) The name and address of the assignee, if any,  
2 and the date of assignment of the tax lien certificate.

3           "(10) Any security interest of which the tax  
4 collecting official has been notified pursuant to Section  
5 40-10-187(f).

6           "~~(10)~~ (11) The name and address of the person  
7 redeeming and the date of redemption.

8           "~~(11)~~ (12) The total amount paid for redemption.

9           "§40-10-191.

10           "(a) The holder of a tax lien certificate shall have  
11 the first right to purchase the tax lien relating to a  
12 subsequent delinquency on the property described in the tax  
13 lien certificate of the holder. A holder of the certificate  
14 shall exercise this right between five and 30 days prior to  
15 the tax lien auction date, and the purchase by the holder  
16 shall be effective as of the date of the tax lien auction as  
17 if the holder has been the winning bidder. A holder of the  
18 certificate who exercises this right, upon payment of the  
19 purchase price, shall be issued a certificate of purchase in  
20 accordance with Section 40-10-187 and is entitled to the same  
21 interest rate as shown on the previous tax lien certificate.  
22 The owner of the property shall be notified within 30 days of  
23 the completion of the first right of purchase in accordance  
24 with Section 40-10-187(g). The owner of the property may pay  
25 the current year taxes due once the property owner redeems all  
26 outstanding tax liens on the property.

1           "(b) In the event that a mortgagee is or becomes the  
2 holder of a tax lien certificate, the mortgagee may add all  
3 costs, fees, interest, penalties, and taxes regarding the tax  
4 sale to the principal of the loan.

5           "(c) A holder of a tax lien certificate may abandon  
6 the certificate at any time upon notification given to the tax  
7 collecting official and the surrender of the tax lien  
8 certificate. Abandonment of a tax lien certificate  
9 relinquishes all rights of recovery of any monies or expenses.

10           "§40-10-193.

11           "(a) (1) Tax liens auctioned or sold may be redeemed  
12 by any of the following:

13           "a. The owner, including a partial owner under  
14 Section 40-10-195, or his or her heirs or personal  
15 representative.

16           "b. Any mortgagee or purchaser of the property or  
17 any portion of the property.

18           "c. Any other person listed under subsection (a) of  
19 Section 40-10-120, if the property had been sold for taxes.

20           "(2) Property may be redeemed under subdivision (1)  
21 by payment to the tax collecting official of the amount  
22 specified on the tax lien certificate as the total amount of  
23 delinquent tax, interest, penalties, fees excluding lost  
24 certificate fees provided in Section 40-10-190, and costs paid  
25 to purchase the tax lien, plus interest at the rate specified  
26 in the tax lien certificate, plus any due and owing taxes,  
27 interest, penalties, fees, and costs due. The tax collecting

1 official shall provide a separate receipt for any current  
2 taxes, interest, penalties, fees, or costs paid.

3 "(b) Statutory fees paid by the holder of the tax  
4 lien certificate in connection with the tax lien certificate  
5 shall be added to the amount payable on redemption and shall  
6 also bear interest at the rate of interest specified in the  
7 tax lien certificate.

8 "§40-10-194.

9 "(a) The tax collecting official shall, upon  
10 application to redeem a tax lien, and upon being satisfied  
11 that the person applying has the right to redeem the tax lien,  
12 and upon payment of the amount due, issue to the person a  
13 certificate of redemption appended to a copy of the  
14 certificate of tax lien, giving the date of redemption, the  
15 amount paid, and by whom redeemed, and shall make the proper  
16 entries in the record of tax lien auctions or sales in his or  
17 her office. Upon issuance of the certificate of redemption,  
18 the redemption is complete and perfected, the tax lien is  
19 satisfied, and the certificate of tax lien is void and of no  
20 effect other than to support a request for payment of  
21 redemption money pursuant to Section 40-10-196.

22 "(b) For each certificate of redemption, the tax  
23 collecting official shall collect from the person to whom the  
24 certificate of redemption is issued a fee of ten dollars  
25 (\$10).

1           "(c) The holder of a certificate of redemption may  
2 record the certificate with the recording officer of the  
3 county.

4           "§40-10-197.

5           "(a) At any time not less than three years after the  
6 auction or sale of a tax lien but not ~~later~~ more than 10 years  
7 after the auction or sale, if the tax ~~lien is~~ lien has not  
8 been redeemed, ~~the~~ a holder of all of the sold tax lien  
9 certificate certificates for a parcel of property may bring in  
10 the circuit court of the county in which the property is  
11 located an action to foreclose the right to redeem and quiet  
12 title to the property in the name of the holder of the tax  
13 lien certificate. If any applicable law or court order  
14 prohibits bringing an action to foreclose the right to redeem  
15 and quiet title to the property, the limitation provided in  
16 this section shall be extended 12 months following the  
17 termination of the prohibition.

18           "(b) (1) At least 30 days before filing a tax lien  
19 foreclosure action under this article, but not more than 180  
20 days before the action is commenced, the holder of the tax  
21 lien ~~certificate~~ certificates shall send notice of intent to  
22 file the foreclosure action by certified mail to all of the  
23 following:

24           "a. The property owner of record, according to the  
25 property tax records of the county in which the property is  
26 located, at the owner's address shown in the records and at  
27 the street address of the property if different.

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

4            "c. The tax collecting official of the county in  
5            which the property is located.

6            "(2) The notice shall include the property owner's  
7            name, the uniform parcel number, the legal description of the  
8            property, the name and address of the holder of the tax lien  
9            certificate, and a statement that the holder proposes to file  
10           a tax lien foreclosure action ~~between~~ as soon as 30 and but  
11           not later than 180 days after the date of mailing of the  
12           notice. If the holder fails to send the notice required by  
13           this subsection, the court shall dismiss any tax lien  
14           foreclosure action filed under this article.

15           "(c) The holder shall name as parties defendant to  
16           the tax lien foreclosure action all persons entitled to redeem  
17           under this article. Upon filing the tax lien foreclosure  
18           action, the holder shall ~~file~~ record a notice as provided by  
19           Section 35-4-131.

20           "(d) (1) In a tax lien foreclosure action, if the  
21           court finds that the tax lien auction or sale is valid, that  
22           proper notice has been given, that the holder is the holder of  
23           all of the sold tax certificates on the property, and that the  
24           ~~tax lien has~~ liens have not been redeemed, the court shall  
25           enter judgment foreclosing the right of the defendant or  
26           defendants to redeem and shall direct the circuit clerk to  
27           execute and deliver to the party in whose favor judgment is

1 entered a deed conveying the interests of the defendants in  
2 the property described in the tax lien ~~certificate~~  
3 certificates.

4 "(2) After entry of judgment, a party whose rights  
5 to redeem the tax ~~lien~~ liens are foreclosed has no further  
6 legal or equitable right, title, or interest in the property  
7 subject to the right of appeal and stay of execution as in  
8 other civil actions.

9 "(e) The foreclosure of the right to redeem does not  
10 extinguish any easement or right-of-way on or appurtenant to  
11 the property or rights of any public utility or governmental  
12 entity in the property, ~~nor does it affect the rights of~~  
13 ~~holders of prior tax lien certificates.~~

14 "(f) (1) The clerk's deed executed in accordance with  
15 subsection (d) shall include all of the following information:

16 "a. The date of the judgment.

17 "b. The number and style of the case.

18 "c. The name of the plaintiff, who shall be ~~known~~  
19 stated as the grantee.

20 "d. The legal description of the property.

21 "e. The uniform parcel number of the property.

22 "f. The date of the conveyance.

23 "(2) The original deed shall be delivered to the  
24 plaintiff for recording in the probate records in the county  
25 in which the property is located.

26 "(g) Any person who is entitled to redeem under this  
27 article may redeem at any time before judgment is entered,

1 notwithstanding that an action to foreclose has been  
2 commenced, by paying into the circuit court the redemption  
3 amount that would have been paid to the tax collecting  
4 official under Section 40-10-193 plus any other amounts  
5 determined by the court under this section. If the person who  
6 redeems has been served personally or by publication in the  
7 action, or if the person became an owner after the action  
8 began and redeems after a notice is recorded pursuant to  
9 subsection (c), ~~judgment shall be entered in favor of the~~  
10 ~~plaintiff against the person for~~ the redeeming party shall  
11 also pay into the court with the redemption amount the costs  
12 incurred by the plaintiff in the action, including reasonable  
13 attorney fees actually incurred, to be determined by the  
14 court. The court shall then order the tax lien certificates  
15 cancelled and the tax liens void, the redemption amount be  
16 paid to the tax collecting official, and the costs and  
17 attorney fees be paid to the plaintiff.

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

24 "(i) If a judicial proceeding prohibits bringing a  
25 tax lien foreclosure action, the time of expiration under this  
26 section shall be extended by 12 months following the  
27 completion of the judicial proceeding."



1                   Section 2. Section 40-10-201 is added to the Code of  
2 Alabama 1975, to read as follows:

3                   §40-10-201.

4                   A tax collecting official may conduct a tax lien  
5 auction and sale online or in person in accordance with  
6 procedures established by the tax collecting official.

7                   Section 3. This act shall become effective  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law.