

1 SB448
2 118409-1
3 By Senator Waggoner
4 RFD: Judiciary
5 First Read: 18-FEB-10

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8 SYNOPSIS: Under existing law, a mortgagee, judgment
9 creditor, or other creditor having a lien on real
10 estate lands sold for nonpayment of taxes may not
11 redeem the property in the name of the owner of the
12 property.

13 This bill would allow a mortgagee, judgment
14 creditor, or other creditor having a lien on real
15 estate lands sold for nonpayment of taxes to redeem
16 the property in the name of the owner of the
17 property.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Sections 40-10-120 and 40-10-122, Code of
24 Alabama 1975, as amended by Section 1 of Act 2009-508, 2009
25 Regular Session (Acts 2009, p. 937), relating to redemption of
26 lands sold for nonpayment of taxes, to provide that a
27 mortgagee, judgment creditor, or other creditor having a lien

1 on real estate lands sold for nonpayment of taxes may redeem
2 the property in the name of the owner of the property.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 40-10-120 and 40-10-122, Code of
5 Alabama 1975, are amended to read as follows:

6 "§40-10-120.

7 "(a) (1) Real estate which hereafter may be sold for
8 taxes and purchased by the state may be redeemed at any time
9 before the title passes out of the state or, if purchased by
10 any other purchaser, may be redeemed at any time within three
11 years from the date of the sale by the owner, his or her
12 heirs, or personal representatives, or by any mortgagee or
13 purchaser of such lands, or any part thereof, or by any person
14 having an interest therein, or in any part thereof, legal or
15 equitable, in severalty or as tenant in common, including a
16 judgment creditor or other creditor having a lien thereon, or
17 on any part thereof; and an infant or insane person entitled
18 to redeem at any time before the expiration of three years
19 from the sale may redeem at any time within one year after the
20 removal of the disability; and such redemption may be of any
21 part of the lands so sold, which includes the whole of the
22 interest of the redemptioner. If the mortgage or other
23 instrument creating a lien under which a party seeks to redeem
24 is duly recorded at the time of the tax sale, the party shall,
25 in addition to the time herein specified, have the right to
26 redeem the real estate sold, or any portion thereof covered by
27 his or her mortgage or lien, at any time within one year from

1 the date of written notice from the purchaser of his or her
2 purchase of the lands at tax sale served upon such party, and
3 notice served upon either the original mortgagees or
4 lienholders or their transferee of record, or their heirs,
5 personal representatives, or assigns shall be sufficient
6 notice.

7 "(2) Notwithstanding the provisions of subdivision
8 (1), a mortgagee, judgment creditor, or other creditor having
9 a lien on real estate lands sold for nonpayment of taxes may
10 redeem the property in the name of the owner of the property.

11 "(b) If any real property has been sold for taxes
12 and is subject to redemption from the sale as set forth in
13 subsection (a) and has also been sold in one or more
14 subsequent sales for taxes, then any party entitled to redeem
15 such sale for taxes may redeem such sale if the redemptioner
16 simultaneously redeems his or her sale and all subsequent
17 sales. In the event of a redemption of successive sales, the
18 redemption amount shall be ascertained by applying the
19 provisions of Sections 40-10-121 and 40-10-122. Redemption
20 amounts computed pursuant to Section 40-10-121 shall be paid
21 as stated therein. Redemption amounts computed pursuant to
22 Section 40-10-122 shall be paid as stated therein if the
23 purchaser had the right to redeem pursuant to subsection (a)
24 or was the owner of the then current tax certificate or tax
25 title. Otherwise, those funds shall be disposed of as set
26 forth in Section 40-10-28 and paid to such purchaser or his or
27 her assignee only as set forth in Section 40-10-28, with the

1 time limits for such application computed utilizing the sale
2 date when the purchaser's interest was sold for taxes.

3 "§40-10-122.

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

1 his or her services in the matter of redemption. This
2 application and payment may be executed by an on-line
3 transaction via the Internet or other on-line provision.

4 "(2) Notwithstanding the provisions of subdivision
5 (1) of this subsection, a mortgagee, judgment creditor, or
6 other creditor having a lien on real estate lands sold for
7 nonpayment of taxes may redeem the property in the name of the
8 owner of the property.

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

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

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

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

1 "(1) All insurance premiums paid or owed by the
2 purchaser for casualty loss coverage on the residential
3 structure with interest on the payments at 12 percent per
4 annum.

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

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

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

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

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.