

1 HB534
2 199258-1
3 By Representatives McMillan and Greer
4 RFD: State Government
5 First Read: 30-APR-19

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8 SYNOPSIS: Pursuant to Act 2018-494 (2018 Regular
9 Session), effective January 1, 2020, in an action
10 brought for the possession of land sold for
11 delinquent taxes, the interest rate on amounts
12 awarded is set at a certain amount.

13 This bill would further provide for the
14 interest rate on those amounts and would further
15 provide for the procedure for redeeming land sold
16 to the state for delinquent taxes and the procedure
17 for redeeming land sold to a party other than the
18 state for delinquent taxes.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to the sale of land for taxes; to amend
25 Sections 40-10-75, 40-10-76, 40-10-77, 40-10-83, 40-10-121,
26 and 40-10-122, Code of Alabama 1975, as last amended by Act
27 2018-494, 2018 Regular Session, effective January 1, 2020, to

1 further provide for the interest rate for property sold for
2 taxes and to further provide for the procedure for the
3 redemption of the land.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 40-10-75, 40-10-76, 40-10-77,
6 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, as
7 last amended by Act 2018-494, 2018 Regular Session, effective
8 January 1, 2020, are amended to read as follows:

9 "§40-10-75.

10 ~~"In any action brought related to taxes delinquent~~
11 ~~on or after January 1, 2020, the interest rate on any amounts~~
12 ~~awarded pursuant to this section shall be eight percent. In~~
13 ~~any other~~ If, in any action brought for the possession of land
14 ~~sold for taxes delinquent before January 1, 2020, the title of~~
15 ~~the purchaser at the tax sale shall be defeated on account of~~
16 ~~any defect in the proceedings under which the sale is had, or~~
17 ~~on account of any defect in or insufficiency of the process by~~
18 ~~which the owner of the land was brought before the probate~~
19 ~~court, as is provided, or in the service of the process, or by~~
20 ~~reason of the failure of the judge of probate on account of~~
21 ~~any negligence or refusal on his or her part to produce when~~
22 ~~called upon, sufficient evidence of the proper issuance and~~
23 ~~service of the notice or process, or by reason of any other~~
24 ~~defect or insufficiency in any of the proceedings for the~~
25 ~~condemnation and sale of the property, or of the certificate~~
26 ~~or deed to the purchaser or any two or more of the causes, the~~
27 ~~officer or officers on account of whose omission or error the~~

1 defect or insufficiency or defects or insufficiencies shall
2 have arisen, together with the sureties on the official bond,
3 shall be liable to the purchaser whose title shall be thus
4 defeated and to his or her assignees for the full sum of the
5 purchase money paid by him or her at the tax sale for the
6 property, the cost of the action in which the title failed,
7 which the purchaser shall have incurred in attempting to
8 maintain title under the tax sale, together with the
9 applicable interest upon each of these amounts, ~~at the rate of~~
10 ~~eight percent per annum,~~ subject to the limitations set forth
11 in Section 40-10-122(a); provided that except as to the state,
12 actions under this section shall be commenced within five
13 years from the sale. If the action involves a sale for taxes
14 delinquent on or after January 1, 2020, interest shall be at
15 the rate provided for redemptions in Section 40-10-121(a) or
16 Section 40-10-122(a), whichever is applicable.

17 "§40-10-76.

18 ~~"In any action brought related to taxes delinquent~~
19 ~~on or after January 1, 2020, the interest rate on any amounts~~
20 ~~awarded pursuant to this section shall be eight percent. In~~
21 ~~any other~~ If, in any action brought by the purchaser, or other
22 person claiming under the purchaser, to recover the possession
23 of lands sold for taxes ~~delinquent before January 1, 2020,~~ a
24 recovery is defeated on the ground that such sale was invalid
25 for any reason other than that the taxes were not due, the
26 court shall forthwith, on the motion of the plaintiff,
27 ascertain the amount of taxes for which the lands were liable

1 at the time of the sale and for the payment of which they were
2 sold, with interest thereon from the date of sale, and the
3 amount of such taxes on the lands, if any, as the plaintiff,
4 or the person under whom ~~he~~ the plaintiff claims, has, since
5 such sale, lawfully paid or assumed by the state after its
6 purchase, with interest thereon from the date of such payment,
7 the interest on both amounts to be computed at the applicable
8 ~~rate of eight percent per annum~~, subject to the limitations
9 set forth in Section 40-10-122(a); and the court shall
10 thereupon render judgment against the defendant in favor of
11 the plaintiff for the amount ascertained and the costs of the
12 action, which judgment shall constitute a lien on the lands
13 sued for, and payment thereof may be enforced as in other
14 cases. If the action involves a sale for taxes delinquent on
15 or after January 1, 2020, interest shall be at the rate
16 provided for redemptions in Section 40-10-121(a) or Section
17 40-10-122(a), whichever is applicable.

18 "§40-10-77.

19 ~~"In any action brought related to taxes delinquent~~
20 ~~on or after January 1, 2020, the interest rate on any amounts~~
21 ~~awarded pursuant to this section shall be eight percent. In~~
22 ~~any other~~ If, in any action brought against such the purchaser
23 or other person claiming under the purchaser to recover
24 possession of lands sold for taxes delinquent before January
25 1, 2020, the defendant claims and defends under the tax title
26 and the defense fails on the ground that such sale was invalid
27 for any reason other than that the taxes were not due, and the

1 plaintiff recovers, the court shall forthwith, on the motion
2 of the defendant, ascertain the amount of taxes for which the
3 lands were liable at the time of the sale and for the payment
4 of which they were sold, with interest thereon from the day of
5 sale, and the amount of such taxes on the lands, if any, as
6 the defendant or the person under whom he or she claims has,
7 since such sale, lawfully paid or assumed, in case of the
8 state, with interest thereon from the date of such payment,
9 the interest on both amounts to be computed at the applicable
10 ~~rate of eight percent per annum~~, subject to the limitations
11 set forth in Section 40-10-122(a); and the court shall
12 thereupon render judgment against the plaintiff in favor of
13 the defendant for the amount ascertained and the cost of the
14 action, which judgment shall constitute a lien on the land
15 sued for, the payment of which may be enforced as in other
16 cases, and no writ of possession shall issue until such
17 judgment has been satisfied, and the court may order the land
18 sold or condemn it to the satisfaction of the debt. If the
19 action involves a sale for taxes delinquent on or after
20 January 1, 2020, interest shall be at the rate provided for
21 redemptions in Section 40-10-121(a) or Section 40-10-122(a),
22 whichever is applicable.

23 "§40-10-83.

24 ~~"In any action brought related to taxes delinquent~~
25 ~~on or after January 1, 2020, the interest rate on any amounts~~
26 ~~awarded pursuant to this section shall be eight percent. In~~
27 ~~any other action for possession or to perfect title, when the~~

1 ~~action is~~ against the person for whom the taxes were assessed
2 or the owner of the land at the time of the sale for taxes
3 delinquent before January 1, 2020, his or her heir, devisee,
4 vendee, or mortgagee, the court shall, on motion of the
5 defendant made at any time before the trial of the action,
6 ascertain (i) the amount paid by the purchaser at the sale and
7 of the taxes subsequently paid by the purchaser, together with
8 ~~eight percent per annum~~ the applicable interest rate thereon,
9 subject to the limitations set forth in Section 40-10-122(a);
10 (ii) ~~with respect to property located within an urban renewal~~
11 ~~or urban redevelopment project area designated pursuant to~~
12 ~~Chapters 2 or 3 of Title 24, all insurance premiums paid or~~
13 ~~owed by the purchaser for casualty loss coverage on insurable~~
14 ~~structures and the value of all permanent improvements made by~~
15 ~~the purchaser~~ all amounts determined in accordance with
16 Section 40-10-122, together with ~~eight percent per annum~~ the
17 applicable interest rate thereon; and (iii) ~~with respect to~~
18 ~~any property which contains a residential structure at the~~
19 ~~time of the sale regardless of its location, all insurance~~
20 ~~premiums paid or owed by the purchaser for casualty loss~~
21 ~~coverage on the residential structure and the value of all~~
22 ~~preservation improvements made by the purchaser determined in~~
23 ~~accordance with Section 40-10-122, together with eight percent~~
24 ~~per annum thereon, subject to the limitations set forth in~~
25 ~~Section 40-10-122(a); and (iv) a reasonable attorney's fee for~~
26 ~~the plaintiff's attorney for bringing the action.~~ If the
27 action involves a sale for taxes delinquent on or after

1 January 1, 2020, interest on the amounts described in (i) and
2 (ii) shall be at the rate provided for redemptions in Section
3 40-10-121(a) or Section 40-10-122(a), whichever is applicable.

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

16 "§40-10-121.

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

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

15 "(c) Any party having a right to redeem said
16 property, his or her agents, or attorney, ~~shall have the right~~
17 ~~to~~ may file a written protest with the board of equalization,
18 objecting to the valuation of said land as placed on said
19 property by the tax assessor or other tax assessing official,
20 setting forth his or her ground of objection to the assessed
21 value of said property as fixed by said tax assessor or other
22 tax assessing official, and the board of equalization shall ~~7~~
23 ~~thereafter~~, fix a day for hearing said protest by giving to
24 the tax assessor or other tax assessing official and party
25 desiring to redeem, his or her agents, or attorney, at least
26 10 days' written notice of the day and place of hearing said
27 petition, and upon the hearing of said cause, the board of

1 equalization ~~shall have the right to~~ may review the assessed
2 value of said property as fixed by the tax assessor or other
3 tax assessing official and shall fix and determine the
4 assessed value for each of the years subsequent to the year
5 for which such land was sold to the state for taxes, and the
6 board of equalization shall certify to the probate judge the
7 assessed value of the land so fixed.

8 "(d) The redemptioner shall deposit with the probate
9 judge the amount of money for which lands were sold for taxes,
10 plus the amount due for subsequent years based on the
11 assessment value as required to be fixed herein, and interest,
12 costs, and fees as provided in this section.

13 "(e) If any balance remains due to the state upon
14 any lien arising by reason of any installment redemption the
15 payment of which is secured under the provisions of Section
16 40-10-141, the redemptioner shall also deposit with the
17 probate judge the amount of the balance due upon such lien,
18 with interest to the date of redemption.

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

1 otherwise become delinquent, which amounts, with interest,
2 shall be treated and distributed in the same manner as taxes
3 and interest thereon.

4 "§40-10-122.

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

1 due to officers and a fee of \$.50 to the judge of probate for
2 his or her services in the matter of redemption. This
3 application and payment may be executed by an on-line
4 transaction via the Internet or other on-line provision.

5 ~~"(2) The reimbursement to the purchaser from the
6 proposed redemptioner for allowable improvements and insurance
7 premiums as provided in subsections (b) through (e) is not
8 required for the proposed redemptioner to take possession of
9 the property; provided however, that the proposed redemptioner
10 shall reimburse the purchaser for such costs prior to January
11 1 of the subsequent tax year in order to complete the
12 redemption process as provided in this subsection. Failure of
13 the proposed redemptioner to reimburse the purchaser for such
14 costs prior to January 1 of the subsequent tax year shall
15 forfeit the right of the proposed redemptioner in the
16 property.~~

17 "(b) If the purchaser or his or her transferee
18 incurs any costs under subsection (c), the purchaser or his or
19 her transferee shall file a written notice within 72 hours
20 with the tax collecting official that costs for insurance or
21 preservation expenditures, or both, have been incurred or
22 shall waive any recovery of the costs. This notice shall
23 include the name and address of the purchaser or his or her
24 transferee and the uniform parcel identification number of the
25 property. The purchaser or his or her transferee shall only be
26 required to file one notice and is not required to file a
27 further notice of costs incurred at a later date. The tax

1 collecting official shall return a copy of the notice to the
2 purchaser or his or her transferee stamped "Filed" with the
3 date of filing, and shall maintain a copy of the notice and
4 duly record the filing of the notice in the tax records for
5 the property. If the notice is not filed, a party desiring to
6 redeem shall deposit the amount under subsection (a) directly
7 with the tax collecting official and effect redemption. The
8 tax collecting official, within 30 days of the redemption,
9 shall send written notice of the redemption to the purchaser
10 or his or her transferee at the address listed for the
11 purchaser or his or her transferee on the tax assessment rolls
12 for the property.

13 ~~"(b) (c) With respect to property located within an~~
14 ~~urban renewal or urban redevelopment project area designated~~
15 ~~pursuant to Chapters 2 or 3 of Title 24, If redemption is~~
16 ~~sought under subsection (a) and the purchaser or his or her~~
17 ~~transferee presents the probate court with a copy of a stamped~~
18 ~~filed notice of insurance cost or preservation expenditures,~~
19 ~~or both, showing that the notice was timely filed under~~
20 ~~subsection (b), then the ~~proposed~~ redemptioner ~~must~~ shall pay~~
21 ~~to the purchaser or his or her transferee, in addition to any~~
22 ~~other requirements set forth in ~~this section~~ subsection (a),~~
23 ~~the amounts set forth below:~~

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

1 ~~"(2) The value of all permanent improvements fair~~
2 ~~market cost of all reasonable preservation expenditures made~~
3 ~~on the property determined in accordance with this section~~
4 ~~with interest on ~~the value~~ the expenditures at eight 12~~
5 ~~percent per annum.~~

6 ~~"(c) With respect to property which contains a~~
7 ~~residential structure at the time of the sale regardless of~~
8 ~~its location, the proposed redemptioner must pay to the~~
9 ~~purchaser or his or her transferee, in addition to any other~~
10 ~~requirements set forth in this section, the amounts set forth~~
11 ~~below:~~

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

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

19 ~~"(d) As used herein, "permanent improvements" shall~~
20 ~~include, but not be limited to, all repairs, improvements, and~~
21 ~~equipment attached to the property as fixtures. As used~~
22 ~~herein, "preservation improvements" shall mean improvements~~
23 ~~made to preserve the property by properly keeping it in repair~~
24 ~~for its proper and reasonable use, having due regard for the~~
25 ~~kind and character of the property at the time of sale. The~~
26 ~~proposed redemptioner shall make written demand upon the~~
27 ~~purchaser of a statement of the value of all permanent or~~

1 ~~preservation improvements as applicable made on the property~~
2 ~~since the tax sale. In response to written demand made~~
3 ~~pursuant to this subsection, within 10 days from the receipt~~
4 ~~of such demand, the purchaser shall furnish the proposed~~
5 ~~redemptioneer with the amount claimed as the value of such~~
6 ~~permanent or preservation improvements as applicable; and~~
7 ~~within 10 days after receipt of such response, the proposed~~
8 ~~redemptioneer either shall accept the value so stated by the~~
9 ~~purchaser or, disagreeing therewith, shall appoint a referee~~
10 ~~to ascertain the value of such permanent or preservation~~
11 ~~improvements as applicable. The proposed redemptioneer shall in~~
12 ~~writing (i) notify the purchaser of his or her disagreement as~~
13 ~~to the value; and (ii) inform the purchaser of the name of the~~
14 ~~referee appointed by him or her. Within 10 days after the~~
15 ~~receipt of such notice, the purchaser shall appoint a referee~~
16 ~~to ascertain the value of the permanent or preservation~~
17 ~~improvements as applicable and advise the proposed~~
18 ~~redemptioneer of the name of the appointee. Within 10 days~~
19 ~~after the purchaser has appointed his or her referee, the two~~
20 ~~referees shall meet and confer upon the award to be made by~~
21 ~~them. If they cannot agree, the referees shall at once appoint~~
22 ~~an umpire, and the award by a majority of such body shall be~~
23 ~~made within 10 days after the appointment of the umpire and~~
24 ~~shall be final between the parties.~~

25 "(d) As used in this section, preservation
26 expenditures means expenditures made to maintain and preserve
27 the property by properly keeping it maintained and in repair

1 for its proper and reasonable use, having due regard of the
2 kind and character of the property at the time of sale.

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

17 "(e) To determine the total redemption amount when
18 notice of insurance or preservation expenditures, or both, has
19 been timely filed under subsection (b), the redemptioner shall
20 make written demand upon the purchaser for a statement of the
21 redemption amount claimed, including a list of all insurance
22 premiums and preservation expenditures, as applicable, made on
23 the property since the tax sale. The written demand shall be
24 sent to the address listed for the purchaser on the tax
25 assessment rolls for the property. The demand shall include
26 both of the following:

1 "(1) A demand for an itemized statement of all
2 insurance premiums paid and all preservation expenditures, as
3 is applicable, incurred for or made on the property since the
4 tax sale, including the date of and amount claimed for each
5 premium and expenditure.

6 "(2) The redemptioner's correct name and mailing
7 address.

8 "(f) In response to a written demand made under
9 subsection (e), within 14 calendar days from the receipt of
10 the demand, the purchaser shall provide to the redemptioner a
11 response in writing stating the redemption amount claimed for
12 the insurance premium paid and preservation expenditures, as
13 applicable. The written response shall be sent to the
14 redemptioner at the address provided by the redemptioner. The
15 response shall include both of the following:

16 "(1) An itemized statement of all insurance premiums
17 paid and preservation expenditures, as is applicable, incurred
18 for or made on the property since the tax sale, including the
19 date of and amount claimed for each premium and expenditure.

20 "(2) The correct name and mailing address of the
21 purchaser.

22 "(g) Within 14 calendar days after the
23 redemptioner's receipt of the response under subsection (f),
24 the redemptioner shall either accept the total amount stated
25 by the purchaser or, if in disagreement with the amount, state
26 the total amount that the redemptioner contends is proper to

1 pay for redemption and offer to pay that amount for
2 redemption.

3 "(h) At any time after the redemptioner receives a
4 response to the offer made to the purchaser, or after 14 days
5 have elapsed since the offer was made if no response to the
6 offer is received, the redemptioner may file a petition in the
7 probate court for ascertainment of the proper amount payable
8 to the purchaser to redeem and for an order of redemption.
9 Within 30 days of filing the petition, the redemptioner shall
10 pay to the court the amount of money due under Section
11 40-10-122(a) less any excess bid. Upon failure to pay the
12 amount to the court, the probate court, upon motion made and
13 after a hearing, shall dismiss the petition to redeem with
14 prejudice.

15 "(i) Upon the filing of a petition in the probate
16 court, the probate court shall hold an evidentiary hearing,
17 ascertain and order the proper amount payable for the
18 redemption in accordance with this section, and enforce the
19 redemption order.

20 "(j) The redemptioner and the purchaser, at any
21 time, may agree to mediate or arbitrate any or all issues and
22 disputes that arise between them, and any such mediation or
23 arbitration shall be governed by the rules and terms agreed to
24 by the parties. The mediation or arbitration does not preclude
25 the right of either party to proceed under this section or any
26 other available procedure for redemption or other related

1 relief unless the parties agree to such in a writing signed by
2 both parties.

3 "(k) Within 30 days of the order of the probate
4 court, a party may appeal the order for a trial de novo in the
5 circuit court of the county. The party shall file a written
6 notice of the appeal in the probate court and serve a copy on
7 the opposing party or, if represented by an attorney, on the
8 opposing party's attorney."

9 Section 2. This act shall become effective January
10 1, 2020, following its passage and approval by the Governor,
11 or its otherwise becoming law.