

1 SB362
2 166621-4
3 By Senator Pittman
4 RFD: County and Municipal Government
5 First Read: 09-APR-15

1 SB362

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
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 reduce interest due or paid on properties subject to tax sale
14 to seven and one-half percent.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§40-10-75.

20 ~~"If, in~~ In any action brought related to taxes
21 delinquent on or after January 1, 2016, the interest rate on
22 any amounts awarded pursuant to this section shall be 7.5
23 percent. In any other action brought for the possession of
24 land sold for taxes, the title of the purchaser at the tax
25 sale shall be defeated on account of any defect in the
26 proceedings under which the sale is had, or on account of any
27 defect in or insufficiency of the process by which the owner

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

24 "§40-10-76.

25 "If, in In any action brought related to taxes
26 delinquent on or after January 1, 2016, the interest rate on
27 any amounts awarded pursuant to this section shall be 7.5

1 percent. In any other action brought by the purchaser, or
2 other person claiming under the purchaser, to recover the
3 possession of lands sold for taxes, a recovery is defeated on
4 the ground that such sale was invalid for any reason other
5 than that the taxes were not due, the court shall forthwith,
6 on the motion of the plaintiff, ascertain the amount of taxes
7 for which the lands were liable at the time of the sale and
8 for the payment of which they were sold, with interest thereon
9 from the date of sale, and the amount of such taxes on the
10 lands, if any, as the plaintiff, or the person under whom he
11 claims, has, since such sale, lawfully paid or assumed by the
12 state after its purchase, with interest thereon from the date
13 of such payment, the interest on both amounts to be computed
14 at the rate of 12 percent per annum, subject to the
15 limitations set forth in Section 40-10-122(a); and the court
16 shall thereupon render judgment against the defendant in favor
17 of the plaintiff for the amount ascertained and the costs of
18 the action, which judgment shall constitute a lien on the
19 lands sued for, and payment thereof may be enforced as in
20 other cases.

21 "§40-10-77.

22 ~~"If, in an~~ In any action brought related to taxes
23 delinquent on or after January 1, 2016, the interest rate on
24 any amounts awarded pursuant to this section shall be 7.5
25 percent. In any other action brought against such purchaser or
26 other person claiming under the purchaser to recover
27 possession of lands sold for taxes, the defendant claims and

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

22 "§40-10-83.

23 ~~"When~~ In any action brought related to taxes
24 delinquent on or after January 1, 2016, the interest rate on
25 any amounts awarded pursuant to this section shall be 7.5
26 percent. In any other action, when the action is against the
27 person for whom the taxes were assessed or the owner of the

1 land at the time of the sale, his or her heir, devisee, vendee
2 or mortgagee, the court shall, on motion of the defendant made
3 at any time before the trial of the action, ascertain (i) the
4 amount paid by the purchaser at the sale and of the taxes
5 subsequently paid by the purchaser, together with 12 percent
6 per annum thereon, subject to the limitations set forth in
7 Section 40-10-122(a); (ii) with respect to property located
8 within an urban renewal or urban redevelopment project area
9 designated pursuant to Chapters 2 or 3 of Title 24, all
10 insurance premiums paid or owed by the purchaser for casualty
11 loss coverage on insurable structures and the value of all
12 permanent improvements made by the purchaser determined in
13 accordance with Section 40-10-122, together with 12 percent
14 per annum thereon; (iii) with respect to any property which
15 contains a residential structure at the time of the sale
16 regardless of its location, all insurance premiums paid or
17 owed by the purchaser for casualty loss coverage on the
18 residential structure and the value of all preservation
19 improvements made by the purchaser determined in accordance
20 with Section 40-10-122, together with 12 percent per annum
21 thereon, subject to the limitations set forth in Section
22 40-10-122(a); and (iv) a reasonable attorney's fee for the
23 plaintiff's attorney for bringing the action. The court shall
24 also determine the right, if any, of the defendant to recover
25 any excess pursuant to Section 40-10-28 and shall apply a
26 credit and direct the payment of the same as set forth in
27 subsection (b) of Section 40-10-78. Upon such determination

1 the court shall enter judgment for the amount so ascertained
2 in favor of the plaintiff against the defendant, and the
3 judgment shall be a lien on the land sued for. Upon the
4 payment into court of the amount of the judgment and costs,
5 the court shall enter judgment for the defendant for the land,
6 and all title and interest in the land shall by such judgment
7 be divested out of the owner of the tax deed.

8 "§40-10-121.

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

19 "(b) Upon application to the probate judge to redeem
20 land where the same has been sold to the state for taxes,
21 which application shall be made on blank forms to be furnished
22 by the Land Commissioner, the probate judge shall submit such
23 application to the tax assessor of the county in which the
24 land sought to be redeemed is located, and the assessor shall
25 without delay enter on such application an assessment value
26 for each of the years for which taxes are due, subsequent to
27 the year for which such land was sold to the state for taxes,

1 and such assessment value shall be such percentage as
2 established by law of the fair and reasonable market value of
3 such lands as of October 1 of the year or years subsequent to
4 the year for which the land was sold for taxes.

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

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

1 "(e) If any balance remains due to the state upon
2 any lien arising by reason of any installment redemption the
3 payment of which is secured under the provisions of Section
4 40-10-141, the redemptioner shall also deposit with the
5 probate judge the amount of the balance due upon such lien,
6 with interest to the date of redemption.

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

19 "(g) The interest rate of 12 percent, as prescribed
20 throughout this section, shall only apply to tax sales
21 occurring prior to January 1, 2016. For all tax sales
22 occurring on or after January 1, 2016, whenever an interest
23 rate of 12 percent is prescribed in this section, an interest
24 rate of 7.5 percent shall apply in lieu thereof."

25 "§40-10-122.

26 "(a) In order to obtain the redemption of land from
27 tax sales where the same has been sold to one other than the

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

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

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

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

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

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

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

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

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

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

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

24 "(f) The interest rate of 12 percent, as prescribed
25 throughout this section, shall only apply to tax sales
26 occurring prior to January 1, 2016. For all tax sales
27 occurring on or after January 1, 2016, whenever an interest

1 rate of 12 percent is prescribed in this section, an interest
2 rate of 7.5 percent shall apply in lieu thereof."

3 Section 2. This act shall become effective on
4 October 1, 2015, for actions related to taxes delinquent on or
5 after January 1, 2016.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on County and Municipal Government 09-APR-15
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7 Read for the second time and placed on the calen-
8 dar 1 amendment..... 16-APR-15
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10 Read for the third time and passed as amended 05-MAY-15

11 Yeas 27
12 Nays 0

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15 Patrick Harris
16 Secretary
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