

1 HB158  
2 154642-1  
3 By Representative Long  
4 RFD: Commerce and Small Business  
5 First Read: 14-JAN-14

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8 SYNOPSIS: Under existing law, a person has one year to  
9 redeem real property that is sold for nonpayment of  
10 taxes, that is foreclosed on, or that is sold  
11 pursuant to the execution on a judgment of a court.

12 This bill would reduce the redemption period  
13 of such real property to 60 days and would provide  
14 for prospective application for sales pursuant to a  
15 foreclosure or court judgement.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 Relating to redemption of real property for  
22 nonpayment of taxes and real property foreclosed on under a  
23 mortgage or sold by virtue of a judgment, to reduce the  
24 redemption period; to amend Sections 6-5-248, 6-5-252,  
25 8-1-172, 40-10-73, 40-10-74, and 40-10-120 of the Code of  
26 Alabama 1975; and to provide for partial prospective  
27 operation.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 6-5-248, 6-5-252, 8-1-172,  
3 40-10-73, 40-10-74, and 40-10-120 of the Code of Alabama 1975,  
4 are amended to read as follows:

5 "§6-5-248.

6 "(a) Where real estate, or any interest therein, is  
7 sold the same may be redeemed by:

8 "(1) Any debtor, including any surety or guarantor.

9 "(2) Any mortgagor, even if ~~such~~ the mortgagor is  
10 not personally liable for payment of a debt.

11 "(3) Any junior mortgagee, or its transferee.

12 "(4) Judgment creditor, or its transferee.

13 "(5) Any transferee of the interests of the debtor  
14 or mortgagor, either before or after the sale. A transfer of  
15 any kind made by the debtor or mortgagor will accomplish a  
16 transfer of the interests of that party.

17 "(6) The respective spouses of all debtors,  
18 mortgagors, or transferees of any interest of the debtor or  
19 mortgagor, who are spouses on the day of the execution,  
20 judgment, or foreclosure sale.

21 "(7) Children, heirs, or devisees of any debtor or  
22 mortgagor.

23 "(b) All persons named or enumerated in subdivisions  
24 (a) (1) through (a) (7) may exercise the right of redemption  
25 granted by this article within ~~one year~~ 60 days from the date  
26 of the sale.

1           "(c) When any judgment creditor or junior mortgagee  
2 or any transferee of a judgment creditor or a junior mortgagee  
3 redeems under this article, all recorded judgments, recorded  
4 mortgages and recorded liens having a higher recorded priority  
5 in existence at the time of the sale are revived against the  
6 real estate redeemed and against the redeeming party and such  
7 shall become lawful charges pursuant to Section 6-5-253(a)(4)  
8 to be paid off at redemption.

9           "Once any lienholder, recorded judgment creditor, or  
10 junior mortgagee is paid the amount of ~~such~~ the person's debt  
11 and any accrued interest and other contractual charges, ~~such~~  
12 the person has no further right to redeem.

13           "Any lienholder, recorded judgment creditor, or  
14 junior mortgagee with a lower recorded priority may redeem  
15 from those having a higher recorded priority who have  
16 redeemed.

17           "(d) When any debtor, mortgagor, their transferees,  
18 their respective spouses, children, heirs, or devisees redeem,  
19 all recorded judgments, recorded mortgages, and recorded liens  
20 in existence at the time of the sale, are revived against the  
21 real estate redeemed and against the redeeming party and  
22 further redemption by some party other than the mortgagor or  
23 debtor under this article is precluded.

24           "(e) When any debtor or mortgagor conveys his  
25 interest in property subject to a mortgage prior to sale  
26 wherein they are released from liability for the debt, his  
27 right of redemption under this article is terminated. In the

1 same manner, the right of redemption granted under this  
2 article to the spouses, children, heirs, or devisees of  
3 debtors or mortgagors terminates when the debtors or  
4 mortgagors have conveyed their interests in the property and  
5 are released from liability for the debt.

6 "However, where debtors or mortgagors have conveyed  
7 their interests in the property but remain liable on the debt  
8 and are debtors at the date of the foreclosure sale, the  
9 debtors and mortgagors retain their right of redemption under  
10 this article and in the same manner, their spouses, children,  
11 heirs or devisees continue to be entitled to the right of  
12 redemption under this article.

13 "(f) A redemption made by any person under this  
14 article, other than the debtors or mortgagors, and their  
15 respective spouses, children, heirs, or devisees, shall  
16 preclude any further redemption by ~~such~~ the person.

17 "(g) Subject to subsection (e), a mortgagor and  
18 debtor have priority over any other redeeming party and a  
19 mortgagor has priority over a debtor.

20 "§6-5-252.

21 "Anyone desiring and entitled to redeem may make  
22 written demand of the purchaser or his or her transferees for  
23 a statement in writing of the debt and all lawful charges  
24 claimed by him or her, and ~~such~~ the purchaser or their  
25 transferees shall, within 10 days after ~~such~~ the written  
26 demand, furnish ~~such~~ the person making the demand with a  
27 written, itemized statement of all lawful charges claimed by

1 him or her. The redeeming party must then tender all lawful  
2 charges to the purchaser or his or her transferee. If the  
3 purchaser or his or her transferee fails to furnish a written,  
4 itemized statement of all lawful charges within 10 days after  
5 demand, he or she shall forfeit all claims or right to  
6 compensation for improvements, and the party so entitled to  
7 redeem may, on the expiration of the 10 days, file his or her  
8 complaint without a tender to enforce his or her rights under  
9 this article and file a lis pendens with the probate court.

10 "Tender or suit ~~must~~ shall be made or filed within  
11 ~~one year~~ the time period for redemption provided in Section  
12 6-5-248 from the date of foreclosure.

13 "§8-1-172.

14 "(a) When any person shall in good faith take a  
15 mortgage on real estate from an insane person without notice  
16 of ~~such~~ the insanity, ~~such~~ the mortgage deed shall not be  
17 void; but ~~such~~ the insane person may redeem the property so  
18 mortgaged at any time prior to a foreclosure by paying to the  
19 mortgagee the amount actually received by the insane person at  
20 the time of executing the mortgage, or any balance due  
21 thereon, with interest thereon to the date of redemption.

22 "(b) If the mortgage shall have been foreclosed,  
23 ~~such~~ the insane person may redeem from the vendee at ~~such~~ the  
24 foreclosure sale, or those claiming under ~~him~~ the vendee, at  
25 any time within ~~one year thereafter~~ the time period for  
26 redemption provided in Section 6-5-248 from the date of the  
27 foreclosure sale, by paying to ~~such~~ the vendee, or those

1 claiming under ~~him~~ the vendee, the amount which the vendee at  
2 the mortgage foreclosure sale actually paid at ~~such~~ the sale  
3 for the property, with interest thereon at the rate of eight  
4 percent per annum to the date of redemption, together with all  
5 lawful charges as provided for ~~the redemption of property~~  
6 ~~under Section 6-5-235~~ by law.

7 "§40-10-73.

8 "When the lands are bid in for the state at tax  
9 sales, the state shall be entitled to possession of said lands  
10 immediately upon execution of the certificate of sale by the  
11 judge of probate. If possession is not surrendered within six  
12 months from the date of sale after demand therefor is made by  
13 the Land Commissioner in behalf of the state, or if the  
14 certificate has been assigned by the assignee, then the Land  
15 Commissioner in the name of the state or the assignee of the  
16 state, if the certificate has been assigned, may maintain an  
17 action in ejectment or a statutory real action in the nature  
18 of ejectment or other proper remedy for the recovery of the  
19 possession of the lands purchased at such sales and shall be  
20 entitled to hold the possession thereof on recovery, subject,  
21 however, to all rights of redemption provided for in this  
22 title. If the mortgage or other instrument creating a lien  
23 under which a party seeks to redeem is duly recorded at the  
24 time of said tax sale, the said party shall, in addition to  
25 the time in this title specified, have the right to redeem  
26 said real estate sold, or any portion thereof covered by his  
27 mortgage or lien, at any time within ~~one year~~ 60 days from the

1 date of written notice from the purchaser of his purchase of  
2 said lands at tax sale, served upon such party, and notice  
3 served upon either the original mortgagees or lienholders or  
4 their transferee of record, or their heirs, personal  
5 representatives, or assigns shall be sufficient notice. Such  
6 notice shall be given by certified or registered mail, return  
7 receipt demanded, addressed to the last known address of the  
8 mortgagee or lienholder. Nothing in this title shall affect  
9 the rights of minors or insane persons to redeem as provided  
10 for in this title, or operate to convey or affect the rights,  
11 title or interest of any reversioner or remainderman.

12 "§40-10-74.

13 "Any purchaser of lands at a tax sale other than the  
14 state or anyone claiming under him shall be entitled to  
15 possession of said lands immediately upon receipt of  
16 certificate of sale from the tax collector; and, if possession  
17 is not surrendered within six months after demand therefor is  
18 made by said purchaser or his assignee, the said purchaser or  
19 his assignee may maintain an action in ejectment or a  
20 statutory real action in the nature of ejectment, or other  
21 proper remedy for the recovery of the possession of the lands  
22 purchased at such sales and shall be entitled to hold the  
23 possession thereof on recovery, subject, however, to all  
24 rights of redemption provided for in this title. If the  
25 mortgage or other instrument creating a lien under which a  
26 party seeks to redeem is duly recorded at the time of said tax  
27 sale, the said party shall, in addition to the time in this



1 title specified, have the right to redeem said real estate  
2 sold, or any portion thereof covered by his mortgage or lien,  
3 at any time within ~~one year~~ 60 days from the date of written  
4 notice from the purchaser of his purchase of said lands at tax  
5 sale, served upon such party, and notice served upon either  
6 the original mortgagees or lienholders or their transferee of  
7 record, or their heirs, personal representatives or assigns  
8 shall be sufficient notice. Such notice shall be given by  
9 certified or registered mail, return receipt demanded,  
10 addressed to the last known address of the mortgagee or  
11 lienholder. Nothing in this title shall affect the rights of  
12 minors or insane persons to redeem as provided for in this  
13 title, or operate to convey or affect the rights, title or  
14 interest of any reversioner or remainderman.

15 "§40-10-120.

16 "(a) Real estate which hereafter may be sold for  
17 taxes and purchased by the state may be redeemed at any time  
18 before the title passes out of the state or, if purchased by  
19 any other purchaser, may be redeemed at any time within three  
20 years from the date of the sale by the owner, his or her  
21 heirs, or personal representatives, or by any mortgagee or  
22 purchaser of such lands, or any part thereof, or by any person  
23 having an interest therein, or in any part thereof, legal or  
24 equitable, in severalty or as tenant in common, including a  
25 judgment creditor or other creditor having a lien thereon, or  
26 on any part thereof; and an infant or insane person entitled  
27 to redeem at any time before the expiration of three years

1 from the sale may redeem at any time within ~~one year~~ 60 days  
2 after the removal of the disability; and such redemption may  
3 be of any part of the lands so sold, which includes the whole  
4 of the interest of the redemptioner. If the mortgage or other  
5 instrument creating a lien under which a party seeks to redeem  
6 is duly recorded at the time of the tax sale, the party shall,  
7 in addition to the time herein specified, have the right to  
8 redeem the real estate sold, or any portion thereof covered by  
9 his or her mortgage or lien, at any time within one year from  
10 the date of written notice from the purchaser of his or her  
11 purchase of the lands at tax sale served upon such party, and  
12 notice served upon either the original mortgagees or  
13 lienholders or their transferee of record, or their heirs,  
14 personal representatives, or assigns shall be sufficient  
15 notice.

16 "(b) If any real property has been sold for taxes  
17 and is subject to redemption from the sale as set forth in  
18 subsection (a) and has also been sold in one or more  
19 subsequent sales for taxes, then any party entitled to redeem  
20 such sale for taxes may redeem such sale if the redemptioner  
21 simultaneously redeems his or her sale and all subsequent  
22 sales. In the event of a redemption of successive sales, the  
23 redemption amount shall be ascertained by applying the  
24 provisions of Sections 40-10-121 and 40-10-122. Redemption  
25 amounts computed pursuant to Section 40-10-121 shall be paid  
26 as stated therein. Redemption amounts computed pursuant to  
27 Section 40-10-122 shall be paid as stated therein if the

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

8 Section 2. (a) This act is prospective and shall not  
9 apply to the following:

10 (1) Sales made under a power of sale contained in  
11 any mortgage or junior mortgage dated prior to the effective  
12 date of this act.

13 (2) Sales made pursuant to a statutory power of sale  
14 with respect to any mortgage or junior mortgage dated prior to  
15 the effective date of this act.

16 (3) Sales by virtue of a judgment rendered by a  
17 court prior to the effective date of this act.

18 (b) Except as provided in subsection (a), the  
19 amendments in this act reducing the period from one year to  
20 four months during which a person is required to exercise the  
21 right of redemption or file his or her complaint concerning  
22 real estate shall apply to all other sales of property  
23 foreclosed under a mortgage or sold by virtue of a judgment.

24 Section 3. This act shall become effective  
25 immediately upon its passage and approval by the Governor, or  
26 its otherwise becoming law.