

1 HB309  
2 148233-1  
3 By Representatives Hill, McCutcheon and Weaver  
4 RFD: Financial Services  
5 First Read: 19-FEB-13

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8 SYNOPSIS: Under existing law, the rate of interest to  
9 be paid when a tax sale is defective or when a  
10 party redeems property from a tax sale is 12  
11 percent.

12 This bill would provide that the rate of  
13 interest would be the same as the rate of interest  
14 on money judgments, as amended, which is currently  
15 7.5 percent.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 To amend Sections 40-10-75, 40-10-76, 40-10-77,  
22 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, to  
23 provide that the interest to be paid when a tax sale is  
24 defective or when a party redeems property from a tax sale  
25 would be at the rate allowed to be charged on money judgments.  
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 40-10-75, 40-10-76, 40-10-77,  
2           40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, are  
3           amended to read as follows:

4           "§40-10-75.

5           "If, in any action brought for the possession of  
6           land sold for taxes, the title of the purchaser at the tax  
7           sale shall be defeated on account of any defect in the  
8           proceedings under which the sale is had, or on account of any  
9           defect in or insufficiency of the process by which the owner  
10          of the land was brought before the probate court, as is  
11          provided, or in the service of the process, or by reason of  
12          the failure of the judge of probate on account of any  
13          negligence or refusal on his or her part to produce when  
14          called upon, sufficient evidence of the proper issuance and  
15          service of the notice or process, or by reason of any other  
16          defect or insufficiency in any of the proceedings for the  
17          condemnation and sale of the property, or of the certificate  
18          or deed to the purchaser or any two or more of the causes, the  
19          officer or officers on account of whose omission or error the  
20          defect or insufficiency or defects or insufficiencies shall  
21          have arisen, together with the sureties on the official bond,  
22          shall be liable to the purchaser whose title shall be thus  
23          defeated and to his or her assignees for the full sum of the  
24          purchase money paid by him or her at the tax sale for the  
25          property, the cost of the action in which the title failed,  
26          which the purchaser shall have incurred in attempting to  
27          maintain title under the tax sale, together with the interest

1 upon each of these amounts, at the rate of ~~12 percent per~~  
2 annum allowed to be charged on money judgments pursuant to  
3 Section 8-8-10, as amended from time to time, subject to the  
4 limitations set forth in Section 40-10-122(a); provided that  
5 except as to the state, actions under this section shall be  
6 commenced within five years from the sale.

7 "§40-10-76.

8 "If, in any action brought by the purchaser, or  
9 other person claiming under the purchaser, to recover the  
10 possession of lands sold for taxes, a recovery is defeated on  
11 the ground that such sale was invalid for any reason other  
12 than that the taxes were not due, the court shall forthwith,  
13 on the motion of the plaintiff, ascertain the amount of taxes  
14 for which the lands were liable at the time of the sale and  
15 for the payment of which they were sold, with interest thereon  
16 from the date of sale, and the amount of such taxes on the  
17 lands, if any, as the plaintiff, or the person under whom ~~he~~  
18 the plaintiff claims, has, since such sale, lawfully paid or  
19 assumed by the state after its purchase, with interest thereon  
20 from the date of such payment, the interest on both amounts to  
21 be computed at the rate of ~~12 percent per annum~~ allowed to be  
22 charged on money judgments pursuant to Section 8-8-10, as  
23 amended from time to time, subject to the limitations set  
24 forth in Section 40-10-122(a); and the court shall thereupon  
25 render judgment against the defendant in favor of the  
26 plaintiff for the amount ascertained and the costs of the  
27 action, which judgment shall constitute a lien on the lands

1 sued for, and payment thereof may be enforced as in other  
2 cases.

3 "§40-10-77.

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

1 judgment has been satisfied, and the court may order the land  
2 sold or condemn it to the satisfaction of the debt.

3 "§40-10-83.

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

1 improvements made by the purchaser determined in accordance  
2 with Section 40-10-122, together with ~~12 percent per annum~~  
3 interest thereon at the rate allowed to be charged on money  
4 judgments pursuant to Section 8-8-10, as amended from time to  
5 time, subject to the limitations set forth in Section  
6 40-10-122(a); and (iv) a reasonable attorney's fee for the  
7 plaintiff's attorney for bringing the action. The court shall  
8 also determine the right, if any, of the defendant to recover  
9 any excess pursuant to Section 40-10-28 and shall apply a  
10 credit and direct the payment of the same as set forth in  
11 subsection (b) of Section 40-10-78. Upon such determination  
12 the court shall enter judgment for the amount so ascertained  
13 in favor of the plaintiff against the defendant, and the  
14 judgment shall be a lien on the land sued for. Upon the  
15 payment into court of the amount of the judgment and costs,  
16 the court shall enter judgment for the defendant for the land,  
17 and all title and interest in the land shall by such judgment  
18 be divested out of the owner of the tax deed.

19 "§40-10-121.

20 "(a) In order to obtain the redemption of land from  
21 tax sales where the same has been heretofore or hereafter sold  
22 to the state, the party desiring to make such redemption shall  
23 apply therefor as hereinafter provided and shall deposit with  
24 the judge of probate of the county in which the land is  
25 situated the amount of money for which the lands were sold,  
26 with interest thereon at the rate ~~of 12 percent~~ allowed to be  
27 charged on money judgments pursuant to Section 8-8-10, as

1 amended from time to time, together with the amount of all  
2 taxes found to be due on such land since the date of sale, as  
3 provided herein, with interest at the rate ~~of 12 percent~~  
4 allowed to be charged on money judgments pursuant to Section  
5 8-8-10, as amended from time to time and all costs and fees  
6 due to officers.

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

20 "(c) Any party having a right to redeem ~~said the~~  
21 property, his or her agents, or attorney, shall have the right  
22 to file a written protest with the board of equalization,  
23 objecting to the valuation of ~~said the~~ land as placed on ~~said~~  
24 the property by the tax assessor, setting forth ~~his~~ the ground  
25 of objection to the assessed value of ~~said the~~ property as  
26 fixed by ~~said the~~ tax assessor, and the board of equalization  
27 shall, thereafter, fix a day for hearing ~~said the~~ protest by



1 giving to the tax assessor and party desiring to redeem, his  
2 or her agents, or attorney, at least 10 days' written notice  
3 of the day and place of hearing ~~said~~ the petition, and upon  
4 the hearing of ~~said~~ the cause, the board of equalization shall  
5 have the right to review the assessed value of ~~said~~ the  
6 property as fixed by the tax assessor and shall fix and  
7 determine the assessed value for each of the years subsequent  
8 to the year for which such land was sold to the state for  
9 taxes, and the board of equalization shall certify to the  
10 probate judge the assessed value of the land so fixed.

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

16 "(e) If any balance remains due to the state upon  
17 any lien arising by reason of any installment redemption the  
18 payment of which is secured under the provisions of Section  
19 40-10-141, the redemptioner shall also deposit with the  
20 probate judge the amount of the balance due upon such lien,  
21 with interest to the date of redemption.

22 "(f) If the lands sought to be redeemed, or any  
23 portion thereof, are situated in any municipality, the  
24 redemptioner shall also deposit with the probate judge the  
25 amount of any unpaid taxes assessed against the same by such  
26 municipality, and an amount equal to any municipal taxes  
27 thereon which, subsequent to the tax sale, were not assessed

1 by reason of the fact that such land had been purchased by the  
2 State of Alabama, plus interest which would have accrued upon  
3 such municipal taxes from the time the same would have  
4 otherwise become delinquent, which amounts, with interest,  
5 shall be treated and distributed in the same manner as taxes  
6 and interest thereon.

7 "§40-10-122.

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

1 the probate judge shall also require the party desiring to  
2 redeem the land to pay the tax collector or other tax  
3 collecting official the taxes due on the lands which have not  
4 been paid by the purchaser before he or she is entitled to  
5 redeem the same. In all redemptions of land from tax sales,  
6 the party securing the redemption shall pay all costs and fees  
7 as herein provided for due to officers and a fee of \$.50 to  
8 the judge of probate for his or her services in the matter of  
9 redemption. This application and payment may be executed by an  
10 on-line transaction via the Internet or other on-line  
11 provision.

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

18 "(1) All insurance premiums paid or owed by the  
19 purchaser for casualty loss coverage on insurable structures  
20 with interest on ~~said the~~ payments at ~~12 percent per annum the~~  
21 rate allowed to be charged on money judgments pursuant to  
22 Section 8-8-10, as amended from time to time.

23 "(2) The value of all permanent improvements made on  
24 the property determined in accordance with this section with  
25 interest on ~~said the~~ value at ~~12 percent per annum the rate~~  
26 allowed to be charged on money judgments pursuant to Section  
27 8-8-10, as amended from time to time.

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

7           "(1) All insurance premiums paid or owed by the  
8 purchaser for casualty loss coverage on the residential  
9 structure with interest on the payments at ~~12 percent per~~  
10 ~~annum~~ the rate allowed to be charged on money judgments  
11 pursuant to Section 8-8-10, as amended from time to time.

12           "(2) The value of all preservation improvements made  
13 on the property determined in accordance with this section  
14 with interest on the value at ~~12 percent per annum~~ the rate  
15 allowed to be charged on money judgments pursuant to Section  
16 8-8-10, as amended from time to time.

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

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

23 "(e) If the proposed redemptioner fails or refuses  
24 to nominate a referee as provided in subsection (d), he or she  
25 must pay the value put upon the improvements by the purchaser.  
26 If the purchaser refuses or fails to appoint a referee, as  
27 provided in subsection (d), the purchaser shall forfeit his or

1 her claim to compensation for such improvements. The failure  
2 of the referees or either of them to act or to appoint an  
3 umpire shall not operate to impair or forfeit the right of  
4 either the proposed redemptioner or the purchaser in the  
5 premises and in the event of failure without fault of the  
6 parties to affect an award, the appropriate court shall  
7 proceed to ascertain the true value of such permanent or  
8 preservation improvements as applicable and enforce the  
9 redemption accordingly."

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