

1 SB197
2 145164-1
3 By Senator Ward
4 RFD: Finance and Taxation General Fund
5 First Read: 14-FEB-13

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8 SYNOPSIS: Under existing law, if property is sold for
9 delinquent ad valorem taxes, the tax sale purchaser
10 may pay an excess amount which can be paid over to
11 the delinquent taxpayer under certain
12 circumstances.

13 This bill would more clearly define who is
14 entitled to be paid the excess amount by providing
15 that the excess funds only be paid to a person or
16 entity who has redeemed the property. This bill
17 would also require that the excess amount be held
18 in escrow in the county treasury for at least three
19 years until such time as proper application for
20 payment of the excess is made and that, if not paid
21 within 10 years, the excess would be paid into the
22 county general fund for use by the county.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 40-10-28, Code of Alabama 1975, to
2 provide that only a person or entity who has redeemed property
3 sold at a tax sale may receive the excess paid by a tax sale
4 purchaser; to require that the excess be held in escrow in the
5 county treasury for three years until proper application for
6 payment of the escrow is made; and to provide that the excess
7 shall be paid into the county general fund for use by the
8 county if not claimed within 10 years.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 40-10-28, Code of Alabama 1975,
11 is amended to read as follows:

12 "§40-10-28.

13 "The excess arising from the sale of any real estate
14 remaining after paying the amount of the decree of sale, ~~and~~
15 including costs and expenses subsequently accruing, shall be
16 paid over to ~~the owner, or his agent, or to the person legally~~
17 ~~representing such owner, or into the county treasury, and it~~
18 ~~may be paid therefrom to such owner, agent or representative~~
19 ~~in the same manner as to the excess arising from the sale of~~
20 ~~personal property sold for taxes is paid. If such excess is~~
21 ~~not called for~~ a person or entity who has redeemed the
22 property as authorized in Section 40-10-120 or any other
23 provisions of Alabama law authorizing redemption from a tax
24 sale, provided proof that the person or entity requesting
25 payment of the excess has properly redeemed the property is
26 presented to the county commission within three years after
27 such the tax sale by the person entitled to receive the same,

1 upon the order of the county commission stating the case or
2 cases in which such excess was paid, together with a
3 description of the lands sold, when sold and the amount of
4 such excess, has occurred. Until and unless the property is
5 redeemed, the excess funds from the tax sale shall be held in
6 an escrow account in the county treasurer shall place such
7 treasury during the three-year period. If at the end of the
8 three-year period there has been no proper request for the
9 excess of money funds, those funds shall be deposited to the
10 credit of the general fund of the county and ~~make a record on~~
11 ~~his books of the same, and such money shall thereafter be~~
12 treated as part of the general fund of the county. At any time
13 within 10 years after ~~such excess has been passed to the~~
14 ~~credit of the general fund of the county~~ the tax sale has
15 occurred, the county commission may shall on proof made by any
16 person or entity that ~~he is the rightful owner of such excess~~
17 ~~of money~~ property has been properly redeemed by the person or
18 entity under the general laws of the state, the county
19 commission shall order the payment ~~thereof to such owner, his~~
20 ~~heir or legal representative~~ of the excess funds to such
21 person or entity, but if not so ordered and paid within such
22 time, the same shall become the property of the county."

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