

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

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8 SYNOPSIS: Under existing law, the interest to be paid  
9 through any litigation related to properties that  
10 are the subject of a tax sale is currently 12  
11 percent. Additionally, redemption of properties  
12 sold at a tax sale, including the amount in excess  
13 of taxes due that is paid by the tax sale purchaser  
14 at the time of the tax sale purchase, is 12  
15 percent.

16 This bill would reduce the interest to be  
17 paid through any litigation related to properties  
18 that are the subject of a tax sale or the  
19 redemption of properties sold at a tax sale,  
20 including the amount paid in excess of taxes due  
21 that is paid by the tax sale purchaser, to seven  
22 and one-half percent.

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

1           To amend 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, to  
3           reduce interest due or paid on properties subject to tax sale  
4           to seven and one-half percent.

5           BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6           Section 1. Sections 40-10-75, 40-10-76, 40-10-77,  
7           40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975, are  
8           amended to read as follows:

9           "§40-10-75.

10           ~~"If, in~~ In any action brought related to taxes  
11           delinquent on or after January 1, 2016, the interest rate on  
12           any amounts awarded pursuant to this section shall be 7.5  
13           percent. In any other action brought for the possession of  
14           land sold for taxes, the title of the purchaser at the tax  
15           sale shall be defeated on account of any defect in the  
16           proceedings under which the sale is had, or on account of any  
17           defect in or insufficiency of the process by which the owner  
18           of the land was brought before the probate court, as is  
19           provided, or in the service of the process, or by reason of  
20           the failure of the judge of probate on account of any  
21           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 interest  
9 upon each of these amounts, at the rate of 12 percent per  
10 annum, subject to the limitations set forth in Section  
11 40-10-122(a); provided that except as to the state, actions  
12 under this section shall be commenced within five years from  
13 the sale.

14 "§40-10-76.

15 "If, in In any action brought related to taxes  
16 delinquent on or after January 1, 2016, the interest rate on  
17 any amounts awarded pursuant to this section shall be 7.5  
18 percent. In any other action brought by the purchaser, or  
19 other person claiming under the purchaser, to recover the  
20 possession of lands sold for taxes, a recovery is defeated on  
21 the ground that such sale was invalid for any reason other  
22 than that the taxes were not due, the court shall forthwith,  
23 on the motion of the plaintiff, ascertain the amount of taxes  
24 for which the lands were liable at the time of the sale and  
25 for the payment of which they were sold, with interest thereon  
26 from the date of sale, and the amount of such taxes on the  
27 lands, if any, as the plaintiff, or the person under whom he

1 claims, has, since such sale, lawfully paid or assumed by the  
2 state after its purchase, with interest thereon from the date  
3 of such payment, the interest on both amounts to be computed  
4 at the rate of 12 percent per annum, subject to the  
5 limitations set forth in Section 40-10-122(a); and the court  
6 shall thereupon render judgment against the defendant in favor  
7 of the plaintiff for the amount ascertained and the costs of  
8 the action, which judgment shall constitute a lien on the  
9 lands sued for, and payment thereof may be enforced as in  
10 other cases.

11 "§40-10-77.

12 ~~"If, in an~~ In any action brought related to taxes  
13 delinquent on or after January 1, 2016, the interest rate on  
14 any amounts awarded pursuant to this section shall be 7.5  
15 percent. In any other action brought against such purchaser or  
16 other person claiming under the purchaser to recover  
17 possession of lands sold for taxes, the defendant claims and  
18 defends under the tax title and the defense fails on the  
19 ground that such sale was invalid for any reason other than  
20 that the taxes were not due, and the plaintiff recovers, the  
21 court shall forthwith, on the motion of the defendant,  
22 ascertain the amount of taxes for which the lands were liable  
23 at the time of the sale and for the payment of which they were  
24 sold, with interest thereon from the day of sale, and the  
25 amount of such taxes on the lands, if any, as the defendant or  
26 the person under whom he or she claims has, since such sale,  
27 lawfully paid or assumed, in case of the state, with interest

1 thereon from the date of such payment, the interest on both  
2 amounts to be computed at the rate of 12 percent per annum,  
3 subject to the limitations set forth in Section 40-10-122(a);  
4 and the court shall thereupon render judgment against the  
5 plaintiff in favor of the defendant for the amount ascertained  
6 and the cost of the action, which judgment shall constitute a  
7 lien on the land sued for, the payment of which may be  
8 enforced as in other cases, and no writ of possession shall  
9 issue until such judgment has been satisfied, and the court  
10 may order the land sold or condemn it to the satisfaction of  
11 the debt.

12 "§40-10-83.

13 ~~"When~~ In any action brought related to taxes  
14 delinquent on or after January 1, 2016, the interest rate on  
15 any amounts awarded pursuant to this section shall be 7.5  
16 percent. In any other action, when the action is against the  
17 person for whom the taxes were assessed or the owner of the  
18 land at the time of the sale, his or her heir, devisee, vendee  
19 or mortgagee, the court shall, on motion of the defendant made  
20 at any time before the trial of the action, ascertain (i) the  
21 amount paid by the purchaser at the sale and of the taxes  
22 subsequently paid by the purchaser, together with 12 percent  
23 per annum thereon, subject to the limitations set forth in  
24 Section 40-10-122(a); (ii) with respect to property located  
25 within an urban renewal or urban redevelopment project area  
26 designated pursuant to Chapters 2 or 3 of Title 24, all  
27 insurance premiums paid or owed by the purchaser for casualty

1 loss coverage on insurable structures and the value of all  
2 permanent improvements made by the purchaser determined in  
3 accordance with Section 40-10-122, together with 12 percent  
4 per annum thereon; (iii) with respect to any property which  
5 contains a residential structure at the time of the sale  
6 regardless of its location, all insurance premiums paid or  
7 owed by the purchaser for casualty loss coverage on the  
8 residential structure and the value of all preservation  
9 improvements made by the purchaser determined in accordance  
10 with Section 40-10-122, together with 12 percent per annum  
11 thereon, subject to the limitations set forth in Section  
12 40-10-122(a); and (iv) a reasonable attorney's fee for the  
13 plaintiff's attorney for bringing the action. The court shall  
14 also determine the right, if any, of the defendant to recover  
15 any excess pursuant to Section 40-10-28 and shall apply a  
16 credit and direct the payment of the same as set forth in  
17 subsection (b) of Section 40-10-78. Upon such determination  
18 the court shall enter judgment for the amount so ascertained  
19 in favor of the plaintiff against the defendant, and the  
20 judgment shall be a lien on the land sued for. Upon the  
21 payment into court of the amount of the judgment and costs,  
22 the court shall enter judgment for the defendant for the land,  
23 and all title and interest in the land shall by such judgment  
24 be divested out of the owner of the tax deed.

25 "§40-10-121.

26 "(a) In any action brought related to taxes  
27 delinquent on or after January 1, 2016, the interest rate on

1     any amounts awarded pursuant to this section shall be 7.5  
2     percent. In any other action, in order to obtain the  
3     redemption of land from tax sales where the same has been  
4     heretofore or hereafter sold to the state, the party desiring  
5     to make such redemption shall apply therefor as hereinafter  
6     provided and shall deposit with the judge of probate of the  
7     county in which the land is situated the amount of money for  
8     which the lands were sold, with interest thereon at the rate  
9     of 12 percent, together with the amount of all taxes found to  
10    be due on such land since the date of sale, as provided  
11    herein, with interest at the rate of 12 percent and all costs  
12    and fees due to officers.

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

26           "(c) Any party having a right to redeem said  
27    property, his agents, or attorney, shall have the right to



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

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

22 "(e) If any balance remains due to the state upon  
23 any lien arising by reason of any installment redemption the  
24 payment of which is secured under the provisions of Section  
25 40-10-141, the redemptioner shall also deposit with the  
26 probate judge the amount of the balance due upon such lien,  
27 with interest to the date of redemption.

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

13                 "§40-10-122.

14                 "(a) In any action brought related to taxes  
15          delinquent on or after January 1, 2016, the interest rate on  
16          any amounts awarded pursuant to this section shall be 7.5  
17          percent. In any other action, in order to obtain the  
18          redemption of land from tax sales where the same has been sold  
19          to one other than the state, the party desiring to make such  
20          redemption shall deposit with the judge of probate of the  
21          county in which the land is situated the amount of money for  
22          which the lands were sold, with interest payable at the rate  
23          of 12 percent per annum from date of sale, and, on the portion  
24          of any excess bid that is less than or equal to 15 percent of  
25          the market value as established by the assessing official,  
26          together with the amount of all taxes which have been paid by  
27          the purchaser, which fact shall be ascertained by consulting

1 the records in the office of the tax collector, or other tax  
2 collecting official, with interest on the payment at 12  
3 percent per annum. If any taxes on said land have been  
4 assessed to the purchaser and have not been paid, and if the  
5 taxes are due which may be ascertained by consulting the tax  
6 collector or other tax collecting official of the county, the  
7 probate judge shall also require the party desiring to redeem  
8 the land to pay the tax collector or other tax collecting  
9 official the taxes due on the lands which have not been paid  
10 by the purchaser before he or she is entitled to redeem the  
11 same. In all redemptions of land from tax sales, the party  
12 securing the redemption shall pay all costs and fees as herein  
13 provided for due to officers and a fee of ~~\$.50~~ three dollars  
14 (\$3) to the judge of probate for his or her services in the  
15 matter of redemption. This application and payment may be  
16 executed by an on-line transaction via the Internet or other  
17 on-line provision.

18 "(b) With respect to property located within an  
19 urban renewal or urban redevelopment project area designated  
20 pursuant to Chapters 2 or 3 of Title 24, the proposed  
21 redemptioner must pay to the purchaser or his or her  
22 transferee, in addition to any other requirements set forth in  
23 this section, 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 said payments at 12 percent per annum.

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

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

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

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

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  
11 October 1, 2015, for actions related to taxes delinquent on or  
12 after January 1, 2016.