

1 SB257
2 193332-5
3 By Senator Sanders
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 30-JAN-18

1 SB257

2
3
4 ENROLLED, An Act,

5 To amend Sections 40-10-75, 40-10-76, 40-10-77,
6 40-10-83, 40-10-121, and 40-10-122, Code of Alabama 1975; to
7 provide that a party desiring to redeem property sold to the
8 state for unpaid taxes pay interest of not more than eight
9 percent only on the taxes due at the time of default.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. 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, are
13 amended to read as follows:

14 "§40-10-75.

15 ~~"If, in~~ In any action brought related to taxes
16 delinquent on or after January 1, 2020, the interest rate on
17 any amounts awarded pursuant to this section shall be eight
18 percent. In any other action brought for the possession of
19 land sold for taxes delinquent before January 1, 2020, the
20 title of the purchaser at the tax sale shall be defeated on
21 account of any defect in the proceedings under which the sale
22 is had, or on account of any defect in or insufficiency of the
23 process by which the owner of the land was brought before the
24 probate court, as is provided, or in the service of the
25 process, or by reason of the failure of the judge of probate

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

21 "§40-10-76.

22 If, in In any action brought related to taxes
23 delinquent on or after January 1, 2020, the interest rate on
24 any amounts awarded pursuant to this section shall be eight
25 percent. In any other any action brought by the purchaser, or

1 other person claiming under the purchaser, to recover the
2 possession of lands sold for taxes delinquent before January
3 1, 2020, a recovery is defeated on the ground that such sale
4 was invalid for any reason other than that the taxes were not
5 due, the court shall forthwith, on the motion of the
6 plaintiff, ascertain the amount of taxes for which the lands
7 were liable at the time of the sale and for the payment of
8 which they were sold, with interest thereon from the date of
9 sale, and the amount of such taxes on the lands, if any, as
10 the plaintiff, or the person under whom he claims, has, since
11 such sale, lawfully paid or assumed by the state after its
12 purchase, with interest thereon from the date of such payment,
13 the interest on both amounts to be computed at the rate of ~~12~~
14 eight percent per annum, subject to the limitations set forth
15 in Section 40-10-122(a); and the court shall thereupon render
16 judgment against the defendant in favor of the plaintiff for
17 the amount ascertained and the costs of the action, which
18 judgment shall constitute a lien on the lands sued for, and
19 payment thereof may be enforced as in other cases.

20 "§40-10-77.

21 "~~If, in an~~ In any action brought related to taxes
22 delinquent on or after January 1, 2020, the interest rate on
23 any amounts awarded pursuant to this section shall be eight
24 percent. In any other action brought against such purchaser or
25 other person claiming under the purchaser to recover

1 possession of lands sold for taxes delinquent before January
2 1, 2020, the defendant claims and defends under the tax title
3 and the defense fails on the ground that such sale was invalid
4 for any reason other than that the taxes were not due, and the
5 plaintiff recovers, the court shall forthwith, on the motion
6 of the defendant, ascertain the amount of taxes for which the
7 lands were liable at the time of the sale and for the payment
8 of which they were sold, with interest thereon from the day of
9 sale, and the amount of such taxes on the lands, if any, as
10 the defendant or the person under whom he or she claims has,
11 since such sale, lawfully paid or assumed, in case of the
12 state, with interest thereon from the date of such payment,
13 the interest on both amounts to be computed at the rate of ~~12~~
14 eight percent per annum, subject to the limitations set forth
15 in Section 40-10-122(a); and the court shall thereupon render
16 judgment against the plaintiff in favor of the defendant for
17 the amount ascertained and the cost of the action, which
18 judgment shall constitute a lien on the land sued for, the
19 payment of which may be enforced as in other cases, and no
20 writ of possession shall issue until such judgment has been
21 satisfied, and the court may order the land sold or condemn it
22 to the satisfaction of the debt.

23 "§40-10-83.

24 "~~When~~ In any action brought related to taxes
25 delinquent on or after January 1, 2020, the interest rate on

1 any amounts awarded pursuant to this section shall be eight
2 percent. In any other action, when the action is against the
3 person for whom the taxes were assessed or the owner of the
4 land at the time of the sale for taxes delinquent before
5 January 1, 2020, his or her heir, devisee, vendee or
6 mortgagee, the court shall, on motion of the defendant made at
7 any time before the trial of the action, ascertain (i) the
8 amount paid by the purchaser at the sale and of the taxes
9 subsequently paid by the purchaser, together with ~~12~~ eight
10 percent per annum thereon, subject to the limitations set
11 forth in Section 40-10-122(a); (ii) with respect to property
12 located within an urban renewal or urban redevelopment project
13 area designated pursuant to Chapters 2 or 3 of Title 24, all
14 insurance premiums paid or owed by the purchaser for casualty
15 loss coverage on insurable structures and the value of all
16 permanent improvements made by the purchaser determined in
17 accordance with Section 40-10-122, together with ~~12~~ eight
18 percent per annum thereon; (iii) with respect to any property
19 which contains a residential structure at the time of the sale
20 regardless of its location, all insurance premiums paid or
21 owed by the purchaser for casualty loss coverage on the
22 residential structure and the value of all preservation
23 improvements made by the purchaser determined in accordance
24 with Section 40-10-122, together with ~~12~~ eight percent per
25 annum thereon, subject to the limitations set forth in Section

1 40-10-122(a); and (iv) a reasonable attorney's fee for the
2 plaintiff's attorney for bringing the action. The court shall
3 also determine the right, if any, of the defendant to recover
4 any excess pursuant to Section 40-10-28 and shall apply a
5 credit and direct the payment of the same as set forth in
6 subsection (b) of Section 40-10-78. Upon such determination
7 the court shall enter judgment for the amount so ascertained
8 in favor of the plaintiff against the defendant, and the
9 judgment shall be a lien on the land sued for. Upon the
10 payment into court of the amount of the judgment and costs,
11 the court shall enter judgment for the defendant for the land,
12 and all title and interest in the land shall by such judgment
13 be divested out of the owner of the tax deed.

14 "§40-10-121.

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

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

14 "(c) Any party having a right to redeem said
15 property, his agents, or attorney, shall have the right to
16 file a written protest with the board of equalization,
17 objecting to the valuation of said land as placed on said
18 property by the tax assessor, setting forth his ground of
19 objection to the assessed value of said property as fixed by
20 said tax assessor, and the board of equalization shall,
21 thereafter, fix a day for hearing said protest by giving to
22 the tax assessor and party desiring to redeem, his agents, or
23 attorney, at least 10 days' written notice of the day and
24 place of hearing said petition, and upon the hearing of said
25 cause, the board of equalization shall have the right to

1 review the assessed value of said property as fixed by the tax
2 assessor and shall fix and determine the assessed value for
3 each of the years subsequent to the year for which such land
4 was sold to the state for taxes, and the board of equalization
5 shall certify to the probate judge the assessed value of the
6 land so fixed.

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

12 "(e) If any balance remains due to the state upon
13 any lien arising by reason of any installment redemption the
14 payment of which is secured under the provisions of Section
15 40-10-141, the redemptioner shall also deposit with the
16 probate judge the amount of the balance due upon such lien,
17 with interest to the date of redemption.

18 "(f) If the lands sought to be redeemed, or any
19 portion thereof, are situated in any municipality, the
20 redemptioner shall also deposit with the probate judge the
21 amount of any unpaid taxes assessed against the same by such
22 municipality, and an amount equal to any municipal taxes
23 thereon which, subsequent to the tax sale, were not assessed
24 by reason of the fact that such land had been purchased by the
25 State of Alabama, plus interest which would have accrued upon

1 such municipal taxes from the time the same would have
2 otherwise become delinquent, which amounts, with interest,
3 shall be treated and distributed in the same manner as taxes
4 and interest thereon.

5 "§40-10-122.

6 "(a) (1) In order to obtain the redemption of land
7 from tax sales where the same has been sold to one other than
8 the state, the party desiring to make such redemption shall
9 deposit with the judge of probate of the county in which the
10 land is situated the amount of money for which the lands were
11 sold, with interest payable at the rate of ~~12~~ eight percent
12 per annum from date of sale, and, on the portion of any excess
13 bid that is less than or equal to 15 percent of the market
14 value as established by the assessing official, together with
15 the amount of all taxes which have been paid by the purchaser,
16 which fact shall be ascertained by consulting the records in
17 the office of the tax collector, or other tax collecting
18 official, with interest on the payment at ~~12~~ eight percent per
19 annum. If any taxes on said land have been assessed to the
20 purchaser and have not been paid, and if the taxes are due
21 which may be ascertained by consulting the tax collector or
22 other tax collecting official of the county, the probate judge
23 shall also require the party desiring to redeem the land to
24 pay the tax collector or other tax collecting official the
25 taxes due on the lands which have not been paid by the

1 purchaser before he or she is entitled to redeem the same. In
2 all redemptions of land from tax sales, the party securing the
3 redemption shall pay all costs and fees as herein provided for
4 due to officers and a fee of \$.50 to the judge of probate for
5 his or her services in the matter of redemption. This
6 application and payment may be executed by an on-line
7 transaction via the Internet or other on-line provision.

8 "(2) The reimbursement to the purchaser from the
9 proposed redemptioner for allowable improvements and insurance
10 premiums as provided in subsections (b) through (e) is not
11 required for the proposed redemptioner to take possession of
12 the property; provided however, that the proposed redemptioner
13 shall reimburse the purchaser for such costs prior to January
14 1 of the subsequent tax year in order to complete the
15 redemption process as provided in this subsection. Failure of
16 the proposed redemptioner to reimburse the purchaser for such
17 costs prior to January 1 of the subsequent tax year shall
18 forfeit the right of the proposed redemptioner in the
19 property.

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

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

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

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

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

17 "(2) The value of all preservation improvements made
18 on the property determined in accordance with this section
19 with interest on the value at ~~12~~ eight percent per annum.

20 "(d) As used herein, "permanent improvements" shall
21 include, but not be limited to, all repairs, improvements, and
22 equipment attached to the property as fixtures. As used
23 herein, "preservation improvements" shall mean improvements
24 made to preserve the property by properly keeping it in repair
25 for its proper and reasonable use, having due regard for the

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

1 made within 10 days after the appointment of the umpire and
2 shall be final between the parties.

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

17 Section 2. This act shall become effective on
18 January 1, 2020, for actions related to taxes delinquent on or
19 after January 1, 2020.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB257

Senate 13-FEB-18

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 28-MAR-18

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives

Passed: 20-MAR-18, as amended

House of Representatives

Passed: 28-MAR-2018, as amended by Conference Committee Report.

By: Senator Sanders