

1 HB47
2 146970-1
3 By Representative Clouse
4 RFD: Commerce and Small Business
5 First Read: 05-FEB-13
6 PFD: 01/24/2013

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8 SYNOPSIS: Under existing law, excess funds arising
9 from the sale of any real estate for taxes may be
10 paid to the owner of the property that has been
11 sold.

12 This bill would clarify that the owner of
13 property entitled to receive such excess funds
14 includes holders of recorded mortgages and would
15 establish the priority of the distribution of any
16 excess funds.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Section 40-10-28, Code of Alabama 1975, to
23 provide that only a person or entity who has redeemed property
24 sold at a tax sale may receive the excess paid by a tax sale
25 purchaser; to require that the excess be held in escrow in the
26 county treasury for three years until proper application for
27 payment of the escrow is made; and to provide that the excess

1 shall be paid into the county general fund for use by the
2 county if not claimed within 10 years.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§40-10-28.

7 "The excess arising from the sale of any real estate
8 remaining after paying the amount of the decree of sale, ~~and~~
9 including costs and expenses subsequently accruing, shall be
10 paid over to ~~the owner, or his agent, or to the person legally~~
11 ~~representing such owner, or into the county treasury, and it~~
12 ~~may be paid therefrom to such owner, agent or representative~~
13 ~~in the same manner as to the excess arising from the sale of~~
14 ~~personal property sold for taxes is paid. If such excess is~~
15 ~~not called for~~ a person or entity who has redeemed the
16 property as authorized in Section 40-10-120 or any other
17 provisions of Alabama law authorizing redemption from a tax
18 sale, provided proof that the person or entity requesting
19 payment of the excess has properly redeemed the property is
20 presented to the county commission within three years after
21 ~~such~~ the tax sale by the person entitled to receive the same,
22 upon the order of the county commission stating the case or
23 cases in which such excess was paid, together with a
24 description of the lands sold, when sold and the amount of
25 such excess, has occurred. Until and unless the property is
26 redeemed, the excess funds from the tax sale shall be held in
27 an escrow account in the county treasurer shall place such

1 treasury during the three-year period. If at the end of the
2 three-year period there has been no proper request for the
3 excess of money funds, those funds shall be deposited to the
4 credit of the general fund of the county and ~~make a record on~~
5 ~~his books of the same, and such money shall thereafter be~~
6 treated as part of the general fund of the county. At any time
7 within 10 years after ~~such excess has been passed to the~~
8 ~~credit of the general fund of the county~~ the tax sale has
9 occurred, the county commission ~~may~~ shall on proof made by any
10 person or entity that ~~he is the rightful owner of such excess~~
11 ~~of money~~ property has been properly redeemed by the person or
12 entity under the general laws of the state, the county
13 commission shall order the payment ~~thereof to such owner, his~~
14 ~~heir or legal representative~~ of the excess funds to such
15 person or entity, but if not so ordered and paid within such
16 time, the same shall become the property of the county."

17 Section 2. The Department of Revenue shall
18 promulgate rules authorizing the county commission to issue a
19 voucher in the amount of the excess bid to a person or entity
20 which has paid all other costs of redemption as required
21 herein. The person or entity redeeming property may present
22 the voucher to the judge of probate in lieu of the amount
23 equal to the excess bid to complete the redemption process.
24 The rules promulgated by the department shall include forms to
25 be utilized for issuing such vouchers.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.