

1 SB286
2 166621-5
3 By Senator Pittman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-16

2
3
4
5
6
7
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, 2017, 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, 2017, 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, 2017, 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, 2017, 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 order to obtain the redemption of land from
27 tax sales where the same has been heretofore or hereafter sold

1 to the state, the party desiring to make such redemption shall
2 apply therefor as hereinafter provided and shall deposit with
3 the judge of probate of the county in which the land is
4 situated the amount of money for which the lands were sold,
5 with interest thereon at the rate of 12 percent, together with
6 the amount of all taxes found to be due on such land since the
7 date of sale, as provided herein, with interest at the rate of
8 12 percent and all costs and fees due to officers.

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

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

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

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

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

24 "(f) If the lands sought to be redeemed, or any
25 portion thereof, are situated in any municipality, the
26 redemptioner shall also deposit with the probate judge the
27 amount of any unpaid taxes assessed against the same by such

1 municipality, and an amount equal to any municipal taxes
2 thereon which, subsequent to the tax sale, were not assessed
3 by reason of the fact that such land had been purchased by the
4 State of Alabama, plus interest which would have accrued upon
5 such municipal taxes from the time the same would have
6 otherwise become delinquent, which amounts, with interest,
7 shall be treated and distributed in the same manner as taxes
8 and interest thereon.

9 "(g) The interest rate of 12 percent, as prescribed
10 throughout this section, shall only apply to tax sales
11 occurring prior to January 1, 2017. For all tax sales
12 occurring on or after January 1, 2017, whenever an interest
13 rate of 12 percent is prescribed in this section, an interest
14 rate of 7.5 percent shall apply in lieu thereof."

15 "§40-10-122.

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

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

17 The reimbursement to the purchaser from the proposed
18 redemptioner for allowable improvements and insurance premiums
19 as provided in subsections (b) through (e) of this section is
20 not required before the redemption official completes the
21 redemption process as provided in this subsection.

22 "(b) With respect to property located within an
23 urban renewal or urban redevelopment project area designated
24 pursuant to Chapters 2 or 3 of Title 24, the proposed
25 redemptioner must pay to the purchaser or his or her
26 transferee, in addition to any other requirements set forth in
27 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 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 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 percent per
16 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 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
26 kind and character of the property at the time of sale. The
27 proposed redemptioner shall make written demand upon the

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

26 "(e) If the proposed redemptioner fails or refuses
27 to nominate a referee as provided in subsection (d), he or she

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

13 "(f) The interest rate of 12 percent, as prescribed
14 throughout this section, shall only apply to tax sales
15 occurring prior to January 1, 2017. For all tax sales
16 occurring on or after January 1, 2017, whenever an interest
17 rate of 12 percent is prescribed in this section, an interest
18 rate of 7.5 percent shall apply in lieu thereof."

19 Section 2. This act shall become effective on
20 October 1, 2016, for actions related to taxes delinquent on or
21 after January 1, 2017.