

## **The Code of Alabama Title 40 – Revenue and Taxation §40-10**

Article 7 Sale of Tax Liens.

### **Section 40-10-180**

#### **Purpose; choice of remedy by tax collecting official.**

(a) The Legislature declares that the purpose of this article is to provide counties with an alternative remedy for collecting delinquent property taxes by the sale of a tax lien.

(b) The tax collecting official for each county shall have the sole authority to decide whether his or her county shall utilize the sale of a tax lien or the sale of property to collect delinquent property taxes and the method decided by the tax collecting official shall apply to all property in that county for the year so decided.

(c) The tax collecting official's decision to change the current remedy used for collecting delinquent property taxes shall be published on the tax collecting official's website or by advertising once a week for three consecutive weeks in a newspaper with general circulation in that particular county, all of which shall occur not later than October 1 when the property taxes become due and payable.

*(Acts 1995, No. 95-408, p. 864, §1; Act 2018-577, §1.)*

### **Section 40-10-181**

#### **Definitions.**

For purposes of this article, the following terms shall have the following meanings:

(1) **TAX COLLECTING OFFICIAL.** The elected or appointed person responsible for collecting ad valorem taxes in a county.

(2) **TAX LIEN.** The perpetual first priority lien provided by Section 40-1-3 against any parcel of real property representing taxes assessed and levied against the property, together with interest, penalties, fees, and costs applicable by law to the taxes.

(3) **TAX LIEN AUCTION.** The public sale of all tax liens advertised under Section 40-10-182 and held no earlier than March 1 or later than June 15 of the current ad valorem tax year where the awarding of the tax lien certificate is based on the lowest interest rate bid on a tax lien.

(4) **TAX LIEN SALE.** The sale of an unsold tax lien by private sale between a tax collecting official and the purchaser of a tax lien under Section 40-10-199.

(5) **UNIFORM PARCEL NUMBER.** The unique parcel identification number assigned to the parcel of property for ad valorem tax purposes based on the tax lien date of the current tax year.

*(Acts 1995, No. 95-408, p. 864, §3; Act 2018-577, §1.)*

## **Section 40-10-182**

### **Tax liens subject to public auction or sale; notice.**

(a) All tax liens representing unpaid and delinquent taxes on real property shall be subject to a tax lien auction or a tax lien sale.

(b)(1) The tax collecting official of any county shall conduct a public auction for the sale and transfer of delinquent tax liens. The tax collecting official shall notify the delinquent taxpayer of the auction at least 30 days prior to the tax lien auction by first class mail and by any one of the following:

a. Advertising for once a week for three consecutive weeks in a newspaper with general circulation in the county where the property is located.

b. Advertising on an online website controlled by the tax collecting official and accessible from the tax collecting official's website.

c. Posting at the courthouse of the county and if possible in a public place in the precinct where the property is located.

(2) The notices shall declare the time and location of the auction.

(c) The tax collecting official may auction or sell tax liens representing delinquent taxes for any year taxes are delinquent and unpaid.

*(Acts 1995, No. 95-408, p. 864, §4; Act 2018-577, §1.)*

## **Section 40-10-183**

### **Tax lien auction list.**

Prior to any tax lien auction, the tax collecting official shall prepare and maintain a list of all tax liens. The list shall be known as the tax lien auction list and shall contain all of the following:

(1) The names of the several persons appearing in the latest tax roll as the respective owners of tax-delinquent properties.

(2) A description of each property as it appears in the latest tax roll.

(3) The year or years for which taxes are delinquent on each property.

(4) The principal amount of the delinquent taxes and the amount of accrued and accruing interest thereon and penalties, fees, and costs to the day of the proposed tax lien auction relating to each year of assessment.

*(Acts 1995, No. 95-408, p. 864, §5; Act 2018-577, §1.)*

#### **Section 40-10-184**

##### **Auction procedures; winning bids; no extinguishment of restrictions, covenants, etc.**

(a) On the day and time designated for a tax lien auction, the tax collecting official shall proceed to auction all tax liens described in the tax lien auction list compiled as provided in Section 40-10-183, except those for which the taxes, penalties, interest, fees, and costs thereon have been paid. Any tax lien unsold after a tax lien auction shall be retained by the county for future auction or sale as provided in this article.

(b) A tax lien shall be sold at auction pursuant to this article to the person who pays all taxes, interest, penalties, fees, and costs due on the property, including an origination cost of twenty dollars (\$20) as of the date of auction and a twenty dollar (\$20) auction fee, and who, in addition, bids the lowest interest rate on the amount required to be paid to redeem the property from the sale. The beginning interest rate bid shall not exceed a rate of 12 percent and additional bids may be made at a rate less than the immediately preceding bid. If the interest rate bid for the property reaches 0.00 percent and more than one bidder remains, the tax collecting official shall draw lots to determine the winning bidder for the property.

(c) The sale of a tax lien does not extinguish any deed restriction, deed covenant, or easement on or appurtenant to the parcel. A tax lien offered for auction or sale shall be identified by a uniform parcel number and a legal description.

*(Acts 1995, No. 95-408, p. 864, §6; Act 2018-577, §1.)*

#### **Section 40-10-185**

##### **Tax lien not required to be offered as being against property of specific person.**

When a tax lien is offered for auction or sale, it shall not be necessary to list, auction, or sell it as being against the property of any specific person. The auction or sale is not invalid by reason of the fact that the property was assessed in the name of a person other than the rightful owner or to a person unknown, if the description and the uniform parcel number of the real estate in the tax lien auction list is sufficient to identify it and the amount of taxes, interest, penalties, fees, and costs for which its tax lien is to be auctioned or sold.

*(Acts 1995, No. 95-408, p. 864, §7; Act 2018-577, §1.)*

#### **Section 40-10-186**

##### **Purchase price.**

(a) The purchase price for a tax lien shall be the amount of delinquent taxes plus any interest, penalties, fees, and costs accrued as of the date of the auction or sale.

(b) The purchase price for a tax lien shall be paid to the tax collecting official in cash or immediately available certified funds not later than one hour before close of business on the date of the auction or sale.

(c) The purchase price for a tax lien received by the tax collecting official shall be credited to the tax collecting official for purposes of calculating commissions, if any, on taxes collected by the tax collecting official pursuant to Section 40-5-4.

*(Acts 1995, No. 95-408, p. 864, §8; Act 2018-577, §1.)*

### **Section 40-10-187**

#### **Tax lien certificate.**

(a) The tax collecting official shall make, execute, and deliver a tax lien certificate to each purchaser at a tax lien sale or auction or to each assignee thereafter and shall collect from the purchaser or assignee a fee of five dollars (\$5) for each tax lien certificate. The tax lien certificate shall be in a form provided by the Department of Revenue and shall also include a certificate of redemption form as provided in Section 40-10-194.

(b) A tax lien certificate shall evidence the auction or sale or assignment to the holder of the tax lien certificate of the delinquent and unpaid taxes, penalties, interest, fees, and costs set forth therein and represented by the tax lien.

(c) A tax lien certificate shall bear the interest rate per annum as bid on by the purchaser at the tax lien auction or as agreed upon by the purchaser at the tax lien sale, until the tax lien certificate is redeemed as provided pursuant to Section 40-10-193.

(d) The tax lien certificate shall do all of the following:

(1) Describe the real property on which a tax lien is auctioned or sold as it is described in the tax lien auction list.

(2) Specify the date on which the tax lien was auctioned or sold to the original purchaser.

(3) Specify the year of assessment to which the tax lien relates and the amount for which the tax lien was auctioned or sold to the original purchaser.

(4) Recite the amount of all taxes, penalties, interest, fees, and costs due on the property, which relate to the year of assessment described in subdivision (3), as of the date specified in subdivision (2).

(5) Recite that the certificate bears interest at the rate per annum bid on by the purchaser at the tax lien auction or agreed upon at the tax lien sale on the amount described in subdivision (4) from the date specified in subdivision (2).

(e) The purchaser of a tax lien certificate may transfer and assign the certificate to any person, and the transferee of a tax lien certificate may subsequently transfer the certificate to any other person. The transferor of a tax lien certificate shall endorse the certificate and shall swear to the endorsement before a notary public or other officer empowered to administer oaths. The transferee shall present the endorsed tax lien certificate to the tax collecting official who prepared and executed the certificate, or his or her successor, who, for a fee of five dollars (\$5), shall acknowledge the transfer on the certificate and shall

make note of the transfer on the record of tax lien auctions and sales kept as provided in Section 40-10-188. An assignment and transfer as provided in this subsection shall vest in the assignee all the right and title of the original purchaser.

(f) A security interest in a tax lien certificate may be created and perfected in the manner provided for general intangibles under Title 7.

(g) Within 10 days of a completed tax lien auction or sale, the tax collecting official shall send notice to the property owner for whom the property was assessed informing the property owner that the tax lien has been auctioned or sold. The notice shall include the date of auction or sale and the name and address of the purchaser and shall be made by first class mail to the address listed in the assessment.

*(Acts 1995, No. 95-408, p. 864, §9; Act 2018-577, §1.)*

### **Section 40-10-188**

#### **Record of tax lien auctions and sales.**

The tax collecting official shall make a correct record of all auctions and sales of tax liens in a durable book or an electronic file, which shall be known as the record of tax lien auctions and sales, containing all of the following:

- (1) The date of auction or sale.
- (2) A description of each parcel and uniform parcel number on which a tax lien was auctioned or sold.
- (3) The year of assessment to which the tax lien relates.
- (4) The name and address of the property owner for whom the property was assessed, if known.
- (5) The name and address of the original purchaser of the tax lien.
- (6) The total amount of taxes, interest, penalties, fees, and costs due on the tax lien, which relate to the year of assessment, as described in Section 40-10-187, as of the date of the auction or sale of the tax lien to the original purchaser.
- (7) The interest rate bid on by the purchaser at the tax lien auction or as agreed by the purchaser at the tax lien sale.
- (8) The amount of any subsequent taxes, penalties, interest, fees, and costs paid by the original purchaser, or assignee, of the tax lien certificate as provided in Section 40-10-191 and the year of assessment to which the payment relates.
- (9) The name and address of the assignee, if any, and the date of assignment of the tax lien certificate.
- (10) The name and address of the person redeeming and the date of redemption.

(11) The total amount paid for redemption.

*(Acts 1995, No. 95-408, p. 864, §10; Act 2018-577, §1.)*

#### **Section 40-10-189**

##### **"Holder of tax lien certificate" defined.**

The "holder of the tax lien certificate" means the original purchaser of a tax lien or any assignee thereof as described in the record of tax lien auctions and sales kept by the tax collecting official pursuant to Section 40-10-188.

*(Acts 1995, No. 95-408, p. 864, §11; Act 2018-577, §1.)*

#### **Section 40-10-190**

##### **Lost or destroyed tax lien certificate.**

When a tax lien certificate is lost or destroyed, the holder of the tax lien certificate may file a notarized affidavit with the tax collecting official attesting to the loss of the certificate. Upon presentation of the notarized affidavit, the tax collecting official, on payment of a fee of fifty dollars (\$50), shall issue to the holder thereof an exact duplicate of the tax lien certificate.

*(Acts 1995, No. 95-408, p. 864, §12; Act 2018-577, §1.)*

#### **Section 40-10-191**

##### **Holder of certificate to have first right to purchase tax lien; abandonment of certificate.**

(a) The holder of a tax lien certificate shall have the first right to purchase the tax lien relating to a subsequent delinquency on the property described in the tax lien certificate of the holder. A holder of the certificate who exercises this right shall be entitled to the same interest rate as shown on the previous tax lien certificate. The owner of the property may pay the current year taxes due once the property owner redeems all outstanding tax liens on the property.

(b) In the event that a mortgagee is or becomes the holder of a tax lien certificate, the mortgagee may add all costs, fees, interest, penalties, and taxes regarding the tax sale to the principal of the loan.

(c) A holder of a tax lien certificate may abandon the certificate at any time upon notification given to the tax collecting official and the surrender of the tax lien certificate. Abandonment of a tax lien certificate relinquishes all rights of recovery of any monies or expenses.

*(Acts 1995, No. 95-408, p. 864, §13; Act 2018-577, §1.)*

### **Section 40-10-192**

#### **Distribution of monies collected.**

All monies collected or received by the tax collecting official as proceeds of a tax lien auction or sale shall be distributed in the same manner and proportions as the tax collecting official is required by law to distribute other monies collected by him or her in satisfaction of ad valorem taxes. All penalties, costs, and fees collected by the tax collecting official shall be paid to the general fund of the county.

*(Acts 1995, No. 95-408, p. 864, §14; Act 2018-577, §1.)*

### **Section 40-10-193**

#### **Redemption.**

(a)(1) Tax liens auctioned or sold may be redeemed by any of the following:

- a. The owner, including a partial owner under Section 40-10-195, or his or her heirs or personal representative.
- b. Any mortgagee or purchaser of the property or any portion of the property.
- c. Any other person listed under subsection (a) of Section 40-10-120, if the property had been sold for taxes.

(2) Property may be redeemed under subdivision (1) by payment to the tax collecting official of the amount specified on the tax lien certificate as the total amount of delinquent tax, interest, penalties, fees, and costs paid to purchase the tax lien, plus interest at the rate specified in the tax lien certificate, plus any due and owing taxes, interest, penalties, fees, and costs due. The tax collecting official shall provide a separate receipt for any current taxes, interest, penalties, fees, or costs paid.

(b) Statutory fees paid by the holder of the tax lien certificate in connection with the tax lien certificate shall be added to the amount payable on redemption and shall also bear interest at the rate of interest specified in the tax lien certificate.

*(Acts 1995, No. 95-408, p. 864, §15; Act 2018-577, §1.)*

### **Section 40-10-194**

#### **Certificate of redemption.**

(a) The tax collecting official shall, upon application to redeem a tax lien, and upon being satisfied that the person applying has the right to redeem the tax lien, and upon payment of the amount due, issue to the person a certificate of redemption appended to a copy of the certificate of tax lien, giving the date of redemption, the amount paid, and by whom redeemed, and shall make the proper entries in the record of tax lien auctions or sales in his or her office.

(b) For each certificate of redemption, the tax collecting official shall collect from the person to whom the certificate of redemption is issued a fee of ten dollars (\$10).

(c) The holder of a certificate of redemption may record the certificate with the recording officer of the county.

*(Acts 1995, No. 95-408, p. 864, §16.; Act 2018-577, §1)*

#### **Section 40-10-194**

##### **Certificate of redemption.**

(a) The tax collecting official shall, upon application to redeem a tax lien, and upon being satisfied that the person applying has the right to redeem the tax lien, and upon payment of the amount due, issue to the person a certificate of redemption appended to a copy of the certificate of tax lien, giving the date of redemption, the amount paid, and by whom redeemed, and shall make the proper entries in the record of tax lien auctions or sales in his or her office.

(b) For each certificate of redemption, the tax collecting official shall collect from the person to whom the certificate of redemption is issued a fee of ten dollars (\$10).

(c) The holder of a certificate of redemption may record the certificate with the recording officer of the county.

*(Acts 1995, No. 95-408, p. 864, §16.; Act 2018-577, §1)*

#### **Section 40-10-196**

##### **Duties of tax collector once tax lien redeemed.**

Within 10 days of issuance of any certificate of redemption, the tax collecting official shall mail a copy of the certificate of redemption to the holder of the tax lien certificate related thereto at the address specified in the record of tax lien auctions and sales kept as provided in Section 40-10-188. On demand of the holder of the tax lien certificate, the tax collecting official shall pay the redemption money to the holder upon surrender of the original tax lien certificate.

*(Acts 1995, No. 95-408, p. 864, §18; Act 2018-577, §1.)*

#### **Section 40-10-197**

**Action to foreclose the right to redeem and quiet title; notice requirements; effect of foreclosure; deed; expiration of certificate.**



(a) At any time not less than three years after the auction or sale of a tax lien but not later than 10 years after the auction or sale, if the tax lien is not redeemed, the holder of the tax lien certificate may bring in the circuit court of the county in which the property is located an action to foreclose the right to redeem and quiet title to the property in the name of the holder of the tax lien certificate. If any applicable law or court order prohibits bringing an action to foreclose the right to redeem and quiet title to the property, the limitation provided in this section shall be extended 12 months following the termination of the prohibition.

(b)(1) At least 30 days before filing a tax lien foreclosure action under this article, but not more than 180 days before the action is commenced, the holder of the tax lien certificate shall send notice of intent to file the foreclosure action by certified mail to all of the following:

a. The property owner of record, according to the property tax records of the county in which the property is located, at the owner's address shown in the records and at the street address of the property if different.

b. All holders of outstanding mortgages, judgment liens, or other liens on the property as recorded in the probate office of the county in which the property is located.

c. The tax collecting official of the county in which the property is located.

(2) The notice shall include the property owner's name, the uniform parcel number, the legal description of the property, the name and address of the holder of the tax lien certificate, and a statement that the holder proposes to file a tax lien foreclosure action between 30 and 180 days after the date of mailing of the notice. If the holder fails to send the notice required by this subsection, the court shall dismiss any tax lien foreclosure action filed under this article.

(c) The holder shall name as parties defendant to the tax lien foreclosure action all persons entitled to redeem under this article. Upon filing the tax lien foreclosure action, the holder shall file a notice as provided by Section 35-4-131.

(d)(1) In a tax lien foreclosure action, if the court finds that the tax lien auction or sale is valid, that proper notice has been given, and that the tax lien has not been redeemed, the court shall enter judgment foreclosing the right of the defendant or defendants to redeem and shall direct the circuit clerk to execute and deliver to the party in whose favor judgment is entered a deed conveying the interests of the defendants in the property described in the tax lien certificate.

(2) After entry of judgment, a party whose rights to redeem the tax lien are foreclosed has no further legal or equitable right, title, or interest in the property subject to the right of appeal and stay of execution as in other civil actions.

(e) The foreclosure of the right to redeem does not extinguish any easement or right-of-way on or appurtenant to the property or rights of any public utility or governmental entity in the property, nor does it affect the rights of holders of prior tax lien certificates.

(f)(1) The clerk's deed executed in accordance with subsection (d) shall include all of the following information:

a. The date of the judgment.

- b. The number and style of the case.
- c. The name of the plaintiff who shall be known as the grantee.
- d. The legal description of the property.
- e. The uniform parcel number of the property.
- f. The date of the conveyance.

(2) The original deed shall be delivered to the plaintiff for recording in the probate records in the county in which the property is located.

(g) Any person who is entitled to redeem under this article may redeem at any time before judgment is entered, notwithstanding that an action to foreclose has been commenced. If the person who redeems has been served personally or by publication in the action, or if the person became an owner after the action began and redeems after a notice is recorded pursuant to subsection (c), judgment shall be entered in favor of the plaintiff against the person for the costs incurred by the plaintiff in the action, including reasonable attorney fees actually incurred, to be determined by the court.

(h) If a tax lien that was purchased pursuant to this article is not redeemed and the holder of the tax lien certificate fails to commence a tax lien foreclosure action on or before 10 years from the date of the tax lien certificate, the tax lien certificate shall expire and the lien shall become void.

(i) If a judicial proceeding prohibits bringing a tax lien foreclosure action, the time of expiration under this section shall be extended by 12 months following the completion of the judicial proceeding.

*(Acts 1995, No. 95-408, p. 864, §19; Act 2018-577, §1.)*

#### **Section 40-10-198**

##### **Rights and remedies of certificate holder.**

(a) Each holder of a tax lien certificate shall be entitled to the same rights and remedies with respect to the collection of the amounts due on such tax lien certificate as are available to the tax collecting official with respect to the collection of delinquent taxes, including, but not limited to, the right to institute garnishment proceedings against the taxpayer for the payment of taxes.

(b) The holder of a tax lien certificate shall not be entitled to charge the taxpayer for the release or satisfaction of the tax lien any amount more than what would otherwise have been available to the tax collecting official with respect to the collection of the delinquent tax.

*(Acts 1995, No. 95-408, p. 864, §20; Act 2018-577, §1.)*

### **Section 40-10-199**

#### **Retention of tax liens not sold at auction; private tax lien sales; reporting.**

(a) Tax liens that are not sold at the tax lien auction conducted by the tax collecting official shall be separated in the tax lien auction list as prescribed by Section 40-10-183 and the county shall retain the lien pursuant to Section 40-1-3. The tax collecting official, within 45 days after the tax lien auction date, may sell at private sale an unsold tax lien for no less than all taxes, interest, penalties, costs, and fees. The purchaser at private sale shall be entitled to interest on the amount paid at a rate agreed to by the tax collecting official, not to exceed 12 percent. All private tax lien sales shall be entered in the record of tax lien auctions and sales, as provided in Section 40-10-188.

(b) All tax liens that remain unsold by the tax lien auction or sale shall be included in all future tax lien auctions or sales until sold.

(c) Any tax lien that does not sell at auction shall be reported to the county commission when seeking approval of errors in assessments, litigations, or insolvents as the tax collecting official will be allowed credit for taxes due to this state upon final settlement with the state Comptroller.

*(Act 2018-577, §2.)*

### **Section 40-10-200**

#### **Financial interest by certain officers or employees in purchase of tax lien sold for delinquent taxes.**

(a)(1) Except as provided in subdivision (2), no tax assessor, tax collecting official, commissioner of revenue, officer of the court with jurisdiction, or any employee of any of those offices shall knowingly have a direct or indirect financial interest in the purchase of any tax lien sold for delinquent taxes.

(2) This section does not apply to an attorney representing a party in the purchase of a tax lien sold for delinquent taxes or an employee of the attorney.

(b) A violation of this section shall be a Class C misdemeanor and the sureties on his or her official bond shall be liable for a penalty not to exceed five hundred dollars (\$500) and to be fixed by the circuit judge with jurisdiction in the county. The penalty shall be remitted to the general fund of the county.

*(Act 2018-577, §2.)*