

# Tax Lien of Real Property

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- Effective June 1, 2018, and updated March 1, 2022, ACT 2022-208
- AUTHORITY AND REQUIREMENTS TO HOLD A TAX LIEN SALE 40-10-180
- The tax collecting official for each county shall have the **sole authority** to decide whether a county shall utilize the tax lien sale (auction) for the collection of delinquent taxes that shall apply to all property in that county for the year.

# Article 7 Sale of Tax Liens

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By September 1, the notice needs to be published on the official's website or by advertising once a week for three consecutive weeks in a newspaper with general circulation

# General Definitions:

## §40-10-181

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Tax Lien: The perpetual **first priority lien** as provided by § 40-1-3.

Tax Lien Auction: The public sale of all liens as advertised and held no earlier than March 1 or no later than June 15 of the current year where the tax lien certificate is based on the **lowest interest rate bid on tax lien**. The first bid shall not exceed 12%!

This is a bid down auction.

# NOTIFICATIONS: 40-10-182

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The tax collecting official shall notify the delinquent taxpayer of the auction and all charges pursuant to § 40-10-183 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.
- 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!

The notices shall declare the time, the method, whether **online** or in person and location of the auction.

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

# Preparations For Auction:

## §40-10-183

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At **least 30 days prior to any 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 rolls as the respective owners of tax delinquent properties.
2. A description of each property as it appears in the latest tax roll and the UPN.
3. The year or years for which taxes are delinquent.
4. The principal amount of the delinquent taxes and the amount of the accrued and accruing interest thereon and penalties, fees, and administration cost pursuant to §40-10-184(b) to relating to each year of assessment.

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

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§ 40-10-184

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 §40-10-183 that have not 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.

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

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§ 40-10-184 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 (\$20) as of the date of auction and a (\$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.

§40-10-187 A \$5 certificate shall be collected from the purchaser as well that would be added at the time of auction, also needs to be in the advertisement.

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

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§ 40-10-184

(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.



# TAX LIEN IS NOT INVALID

40-10-185

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Advantages to a tax lien sale is any or all of the below would not invalidate your sale.

- Assessed to the wrong person
- Assessed to a person unknown
- Bad legal description

# PURCHASE PRICE OF TAX LIEN

## §40-10-186

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- (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 in a **form acceptable to the tax collecting official** not later than one hour before close of business on the date of the auction or sale or, if the **auction is online**, not later than the close of business two days following the date of the auction.
- (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 § 40-5-4.

# TAX LIEN CERTIFICATES

## EXECUTION §40-10-187

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- Evidence of auction or sale or assignment to the holder of the certificate .
- Indicate the interest rate per annum as bid by the.
- Describe the real property
- Specify the date on which the tax lien was auctioned.
- Specify the year of the assessment to which the tax lien relates and the amount for which the tax lien.
- Indicate the amount of all taxes, penalties, interest, fees, and cost due on the property.
- Indicate that the certificate bears interest at the rate per annum.

# NOTICE TO PROPERTY OWNER

## 40-10-187

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- Within **30** days of a completed tax lien auction or sale, official shall send notice to the property owner
- The notice shall include the date of auction or sale and the name of the purchaser and shall be made by first class mail to the address listed in the assessment.

# Loss of a tax lien certificate:

## §40-10-190

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Upon presentation of the notarized affidavit, the tax collecting official on payment of a fee of \$50, shall issue the holder, thereof, an exact duplicate of the tax lien certificate.

# FUTURE TAX LIENS

## PREVIOUSLY SOLD §40-10-191

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- The holder of a tax lien certificate shall have the first right to purchase the tax lien relating to a subsequent delinquency at the same interest rate.
- A holder of the certificate shall exercise this right **between five and 30 days** prior to the tax lien auction date, and the purchase by the holder shall be effective as of the date of the tax lien auction as if the holder has been the winning bidder

## Redemption of tax liens: §40-10-193 and §40-10-195

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Tax liens auctioned or sold may be redeemed by the following:

1. The owner, including a partial owner of less than whole in the real property, or his or her heirs or personal representative.
2. Any mortgagee or purchaser of the property or any portion of the property.
3. Any person listed under subsection (a) of § 40-10-120, Code of Alabama 1975, if the property had been sold for taxes.

# Certificate of redemption:

## §40-10-194

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- Upon issuance of the certificate of redemption, the redemption is complete and perfected, the tax lien is satisfied, and the **certificate tax lien is void** and of no effect other than to support a request for payment of redemption money pursuant to § 40-10-196.
- For each certificate of redemption, the tax collecting official shall collect from the person to who the certificate of redemption is issued a fee of **\$10**.



# Delivery of a tax lien Certificate of Redemption to the purchaser or assignee:

## §40-10-196

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- Within **10** days of issuance of any certificate of redemption, the tax collecting official shall mail a copy of the redemption certificate to the holder of the tax lien certificate related thereto at the address specified in the record of tax liens auctions and sales.

# All you need to know about quiet title: §40-10-197 through §40-10-198

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- At any time not less than **three** years after the auction or sale of a tax lien but not more than **ten** years after the auction or sale, if the tax lien has not been redeemed a holder of all of sold tax lien certificates for a parcel of property 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.

## Private sale of tax liens: §40-10-199 and §40-10-200

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- Tax liens that are not sold at auction shall be separated in the tax lien auction list, and the county shall retain the lien pursuant to 40-10-3, the tax collecting official, within 45 days, may sale an unsold tax lien for no less than all taxes, interest, penalties, cost, and fees.
- Interest rate cannot exceed 12%.
- Any tax liens not sold will be held in County inventory.

# OFFICIALS NOT ALLOWED TO PURCHASE TAX LIENS

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§40-10-200

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 a tax lien sold for delinquent taxes.