

CODE OF ALABAMA, CHAPTER 10.

SALE OF LAND.

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ARTICLE 1. GENERAL PROVISIONS.

40-10-1. Authority.

The probate court of each county may order the sale of lands therein for the payment of taxes assessed on the lands, or against the owners of the lands, when the tax collector shall report to the court that he or she or the holder of a tax lien issued pursuant to Acts 1995, No. 95-408 was unable to collect the taxes assessed against the land, or any mineral, timber or water right or special right, or easement therein, or the owner thereof, without a sale of the land.

History: Acts 1995, No. 95-408.

40-10-2. Tax book; generally.

The tax collector shall, at the expense of the county, procure a substantially bound book in which he or she shall enter, in the manner usual in docketing causes for trial in the circuit court, each parcel of real estate, or right or interest, or easement therein, assessed to any person against whom taxes have been assessed which are not paid or, if the tax collector has received written notice from the holder of a tax certificate, issued pursuant to Acts 1995, No. 95-408, requesting that the tax collector list the property described in such tax certificate in the book of lands prepared pursuant to this section, have been paid by the holder of such holder of a tax lien certificate, when a portion of the taxes are on the real estate or right or interest or easement therein, describing the same in the same manner as it is described in the assessment list or the record of tax lien sales kept pursuant to Acts 1995, No. 95-408, if applicable, and stating the amount of the unpaid taxes, or taxes paid by the holder of a tax lien certificate, penalties, fees, and charges due by the person, specifying the amount due the state and due the county and to special tax districts, and to the holder of a tax lien certificate issued pursuant to Acts 1995, No. 95-408 and the amount for fees and charges; and he or she shall in like manner enter in the book each parcel of real estate, or right or interest or easement therein, which has been assessed to an "owner unknown," the amount of taxes, fees, and charges due thereon or paid by the holder of a tax lien certificate, stating in each case the fact that it was so assessed. The description of the real estate, or right or interest or easement therein, shall be entered in alphabetical order, if known and they reside in the county, but if they are unknown and do not reside in the county, then by the precincts in which the real estate is situated.

History: Acts 1995, No. 95-408.

40-10-3. Tax book; entries.

Such book shall be prepared in a neat and orderly manner either in a fair and legible handwriting or typewritten, with sufficient space in each case to make the necessary entries, and in other particulars in a manner suitable for the purpose for which it is to be used; and, if it is not thus prepared, the judge of probate shall cause it to be so prepared at the expense of the collector, and the cost thereof shall be deducted from

his compensation. Such books shall be delivered to the judge of probate on or before March 1, but if from any cause there has been a failure to deliver the same by that time, it may be delivered thereafter.

40-10-4. Notice to taxpayers; contents.

- (a) On receiving such book, as speedily as practicable the judge of probate shall issue a notice addressed to each person against whom any unpaid taxes are assessed as shown by such book, substantially in the following form: "State of Alabama, (give name of county) county, to (give name of taxpayer): The tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due. You are reported as delinquent, and your tax amounts to (here give amount of taxes) with costs added. This is to notify you to appear before the probate court of said county at the next term thereof, commencing on Monday, the day of, 19. . . ., then and there to show cause, if any you have, why a decree for the sale of property assessed for taxation as belonging to you should not be made for the payment of the taxes thereon and fees and costs. (Here probate judge's signature). Judge of probate." Such notice must be served by the tax collector, or his deputy, on the person to whom it is addressed, and service of such notice may be made by handing a copy thereof to the party to whom it is addressed, or his agent, or by leaving a copy thereof at the residence or place of business of such party, or his agent, or by sending a copy of said notice to the party to whom it is addressed, by certified or registered mail, postage prepaid, marked "for delivery only to the person to whom addressed," and return receipt demanded addressed to the tax collector of the county; and with his endorsement thereon, showing how and when served or showing his reason for not serving the same, and it must be by the collector or his deputy returned into court on or before the first day of the next term thereof.
- (b) If the party against whom such assessment was made has since died, and letters testamentary or of administration have been granted upon his estate, such notice must in like manner be served on his personal representatives, if a resident of the county. If the property or other subjects embraced in any assessment were returned or listed by a guardian or other person for a minor or person of unsound mind or by a trustee for his cestui que trust, except husband or wife, or by personal representative for the estate of any deceased person, or by a public officer, receiver, or appointee of any court, such notice must in like manner be served on the party making the return, or his successor, and also by publication or posting, as provided in subsection (c).
- (c) If the person against whom such assessment is made is a nonresident of the county and has no agent therein known to the tax collector, or if he has died since making the return and there is no executor or administrator of his estate residing in the county, such notice may be given by publishing the same in a newspaper published in the county or, if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks.
- (d) The book to be prepared and delivered to the judge of probate by the tax collector

must show in each case by whom such returns were made and the address of such person as shown on the assessment list.

- (e) If the notice required to be given by the tax collector to resident taxpayers, as provided for in this section, remains unserved after two notices to the same person are returned not served, notice by publication or posting may be given as in the case of a nonresident.

40-10-5. Notice to taxpayers; publication for unknown owners.

When any assessment is made to an "owner unknown," notice must be given by publication once a week for three successive weeks in a newspaper published in the county, or if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks, substantially in the following form: "The State of Alabama. (Here give name of county) County. To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers and of real estate upon which taxes are due, and therein is reported as assessed to 'owner unknown' the following real estate, to-wit: (here insert descriptions). This is to notify you to appear before the probate court of this county, at the next term thereof, commencing on Monday, the day of, 19. . . , then and there to show cause, if any you have, why a decree for sale of said real estate should not be made for the payment of the taxes assessed upon the same, plus fees and costs. (Here probate judge's signature) Judge of probate." In answer to such notice, any person having an interest in or claim to such real estate may appear and defend against the proceedings seeking to condemn the same to sale for the payment of taxes assessed thereon. When practicable, all real estate so assessed for any one year must be incorporated in one notice, a separate paragraph only, in addition to the caption and conclusion being given to the description of the real estate embraced in each assessment.

40-10-6. Notice to taxpayers; form of publication.

The publication of notices under Sections 40-10-4<S> and 40-10-5<S> is governed by the provisions of this title relating to the publication of notices of sale of land, so far as they may be applicable, and the tax collector may select the newspaper or newspapers in which any notice under this chapter shall be given. The tax collector may give notice in the same or in a different newspaper for each week for three consecutive weeks so long as the newspaper in which the notice is placed is a legally qualified newspaper published in the county.

History: Acts 1995, No. 95-722.

40-10-7. Partial payment.

The tax collectors of the several counties of the state are authorized and required to accept any moneys tendered to them in partial payment of ad valorem taxes collectible by them at any time before the decree of sale of the properties liable therefor; provided, that said payment shall be an amount not less than one fourth of the total amount of taxes due, unless payment is made as provided in Section 40-5-13; provided, that no

such payment shall be made, nor shall same be accepted by the tax collectors, unless such payment shall amount to at least one fourth of the total amount of taxes due on October 1 of each year. They shall credit the amount so paid first upon accrued interest and then upon the principal of the taxes owing. They shall give to the person paying the same a receipt for the amount so paid. Nothing herein shall be construed to postpone the payment of such taxes nor to waive any lien or right of enforcement of collection. The Department of Revenue shall prescribe the form of the receipt to be given hereunder.

40-10-8. Contest.

Such cause shall be triable at the term named in said notice; and, unless the cause is contested at the trial term, the judge of probate shall forthwith issue his decree for the sale of lands, but if the cause is contested, the court with the written consent of the taxpayer and the tax collector, filed in the case and noted on the docket, may for good and sufficient reason continue any cause, but such continuance shall not be beyond the next succeeding term. The fact of such agreement shall be noted on the docket, and such continuance shall not necessitate a republication of the notice.

40-10-9. Tax book; evidence.

The tax collector shall attend the several terms of the probate court at which any of the causes are triable and to have with him or her his or her tax book and his or her record of tax lien sales kept pursuant to Acts 1995, No. 95-408, and the tax book and record of tax lien sales shall, in all cases, be accepted as prima facie evidence of the amount of taxes and fees due and that the same have been properly assessed and charged and are unpaid or have been paid by the holder of a tax lien certificate.

History: Acts 1995, No. 95-408.

40-10-10. Deputy collector; appearance at trials.

If on account of illness or other good and sufficient cause the tax collector is unable to attend any term of court at which any of the causes are triable, his or her deputy may attend in his or her stead and produce the tax book and the record of tax lien sales kept pursuant to Acts 1995, No. 95-408 as required of the tax collector.

History: Acts 1995, No. 95-408.

40-10-11. Decrees.

If service of such notice is perfected 10 days before the commencement of the term to which the same is returnable, the cause shall stand for trial at such term; and if no defense is interposed or if interposed and on trial thereof the same is adjudged insufficient in law or is not sustained by the evidence adduced, the probate court shall make and enter on such book or docket, a decree of sale substantially in the following form: "It appearing to the court that the taxes have been assessed against the person mentioned in this cause (or if the assessment is to owner unknown that the taxes have

been assessed on real estate mentioned in this cause) to the amount of (state amount here) dollars for the year _____, and that the same are still due and unpaid or have been paid by the holder of a tax lien certificate, and it further appearing that notice of this proceeding has been given as required by law, and no valid defense has been interposed against the sale of such real estate for the payment of the taxes or the tax lien certificates, if applicable, it is therefore ordered, decreed and adjudged by the court that the State of Alabama and with respect to each tax lien certificate, the holder of such tax lien certificate, respectively, have a lien for the payment of said amount and for the additional sum of (state amount here) dollars, for fees, charges and costs in this behalf lawfully incurred, on the following described real estate: (Here insert description of real estate). It is further ordered, adjudged and decreed by the court that said real estate or so much thereof as may be necessary be sold for the payment of said delinquent taxes or tax lien certificates and of said fees, charges and costs, and of the expenses of such sale." Such decree when entered shall be signed by the judge of probate and shall have, when the jurisdiction of the court is shown, the effect of judgments in other cases in courts of record.

History: Acts 1995, No. 95-408.

40-10-12. Enforcement of decrees.

Immediately at the end of any term of court at which any decree for sales of real estate for the payment of taxes is rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decree by sales of real estate ordered to be sold, and to this end shall give notice for 30 days before the day of sale, by publication for three successive weeks in some newspaper published in the county, or at least three weeks before the day of sale shall post a notice at the courthouse of his county and at some public place in the precinct in which the real estate is situated that at the time specified therein he will proceed to sell such real estate separately, describing such portions as are embraced in each decree and stating the amount for which each decree was rendered (without stating the items of which said decree is composed) and the person against whom the taxes embraced in such decree were assessed or, if assessed to "owner unknown," stating that fact.

40-10-13. Report of sale.

Within 10 days after such sale the tax collector shall make report of each sale to the probate court and praying confirmation thereof. Such report shall lie over for a period of five days for exceptions or objections thereto. If upon the expiration of five days no objections have been filed, or if in the opinion of the court they are insufficient, and it appearing to the court that the tax collector sold such real estate in accordance with the law, and the decree of court ordering such sale, the court shall make and enter an order confirming said sale, which shall be entered on the same book or docket as the original decree of sale, and ordering the tax collector to issue proper certificates of purchase to the various purchasers, including the state.

40-10-14. Advertisements.

In all advertisements, any notices of the proceedings in the probate court for the sale of land for taxes and of such sales and all entries required to be made by the probate judge, tax collector or other officer, initial letters, abbreviations and figures may be used to indicate townships, ranges, sections, parts of sections, blocks and lots and dates and amounts; and, in estimating the cost of publication, each amount, date or number and each initial letter or abbreviation shall be counted as a word. In all advertisements for the sale of real estate, the notice shall state the precinct in which the property is situated, except in those counties where the tax assessor is not required to list the property by precincts; provided, that nothing herein contained shall in anywise affect the collection of any taxes now due the state or any county therein or operate to abate or discontinue any suit or action of any character instituted or begun for the collection thereof.

40-10-15. Procedure at sale.

Such sales shall be made in front of the door of the courthouse of the county at public outcry, to the highest bidder for cash, between the hours of 10:00 A.M. and 4:00 P.M., and shall continue from day to day until all the real estate embraced in the decree has been sold. The judge of probate must attend such sales and make a record thereof in a book to be kept by him in his office for that purpose, in which he shall describe each parcel of real estate sold and state to whom sold, the price paid by the purchaser, the date of sale and, if no sale was effected, stating that fact, and the reason thereof, and also in separate columns the amounts, as taken from the book or docket in which the decrees are entered, of each kind of tax penalties and of the fees and costs in each case, and he must also enter in such docket, in each case, the land sold under the decree in that case, the purchaser thereof and the amount at which it was sold.

40-10-16. Amount to be sold.

It shall be the duty of the tax collector, in making such sales, if practicable, to so offer such real estate for sale that only such portion thereof may be sold as is necessary to satisfy the decree under which it is sold and the expenses of the sale, but no sale shall be made for a sum less than the amount of such decree and expenses.

40-10-17. Payment of bid.

The person to whom any real estate at such sale is knocked off shall forthwith pay to the collector the amount of his bid, and on his failure to do so the collector must proceed at once to again offer it for sale.

40-10-18. No bids taken.

If no person shall bid for any real estate offered at such sale an amount sufficient to pay the sum specified in the decree of sale, and the costs and expenses subsequently

accruing, the judge of probate shall bid in such real estate for the state at a price not exceeding the sum specified in such decree and such subsequently accruing cost and expenses. In no event shall the judge of probate bid in for the state less than the entire amount of real estate included in any assessment.

40-10-19. Certificate of purchase; private bidder.

As soon after the confirmation of sale is made as may be practicable, the tax collector must make out and deliver to each purchaser, other than the state, a certificate of purchase, which shall contain a description of the real estate sold and show that the sum was assessed by the assessor, to whom assessed, the date of assessment, for what year or years the taxes were due, the amount of taxes thereon, the amount of and the name of the holder of each tax lien certificate related thereto, distinguishing the amount due the state and county and for school purposes and to each holder of a tax lien certificate and the fees and costs, that it was advertised and how long, that it was offered for sale and at what time, who became the purchaser, at what price and the fact and date of the confirmation of such sale.

History: Acts 1995, No. 95-408.

40-10-20. Certificate of purchase; state as bidder.

For the real estate bid off for the state in each case the judge of probate shall make out a certificate of purchase to the state of like import to the one provided for in Section 40-10-19 and deliver the same to the tax collector who shall, on final settlement, deliver all certificates received by him from the judge of probate to the comptroller, who shall examine carefully all certificates of purchase of real estate where the same were bid in for the state at tax sale. When the same are received by him and if, in his opinion, such sale was erroneous for want of regularity, proper or sufficient description, error in advertising or for any other cause that may appear from such certificates, he shall so declare it and return the certificate to the judge of probate and charge the account of the officer making the error with all taxes, interests, fees, and costs involved in said sale. The comptroller shall notify the judge of probate who issued the certificate of such cancellation, and shall also notify the tax assessor of the county in which the property is situated and direct him to assess the property as an escape for the years in which it was subject under existing laws. The comptroller, when he has settled the accounts of the tax collector, shall deliver to the land commissioner all certificates of land bid in for the state which have been accepted by him, and said land commissioner shall cause the same to be recorded in a book kept in his office for that purpose and properly indexed for convenient reference. Lands bid in for the state shall not thereafter be assessed except as herein provided until the same have been redeemed or sold by the state.

40-10-21. Certificate of purchase; assignment.

The certificate of purchase delivered by the tax collector to the purchaser at such sale

or to the state in case the state is the purchaser is assignable in writing or by endorsement, and if the state is the purchaser such assignment shall be made by the land commissioner upon the payment of the amount bid by the state, with interest thereon at the rate of 12 percent per annum from the date of sale to the date of assignment, plus all taxes due on said lands since the date of sale, with interest thereon at 12 percent from date of maturity. Such assignment shall vest in the assignee and his legal representatives all the right and title of the original purchaser or of the state in case the state is a purchaser.

Upon such assignment it shall be the duty of the assignee or his legal representatives to assess such property as from the date of such assignment.

Should such assignment be made after the third Monday in January, the assignee shall be allowed 30 days within which to assess such property before any penalties for such failure shall accrue.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-22. Costs; paid by state.

The cost of advertising the caption and conclusion of notices for the sale of real estate for the payment of taxes, and so much thereof as pertain to those portions of such real estate as are bid off for the state, must be paid by the state, and the comptroller shall after every such sale and after the collector has filed with the comptroller the certificates of sale and purchases by the state, audit the account of the owner or proprietor of the newspaper in which such notices were published and shall draw his warrant on the treasurer in favor of such owner or proprietor for the amount he may find to be lawfully due him, and payable by the state, and the treasurer shall pay the same; but the state shall pay no other costs attending any tax sale.

40-10-23. Costs; paid by private bidder.

The cost of advertising the part of such notices pertaining to lands purchased by others than the state shall be covered by the bids of the purchaser and collected by the collector as part of the purchase money, but for the use of the owner or proprietor of the newspaper in which such notices were published, and shall be by the collector paid over to him on demand; and for such portions of such costs, as well as for the cost of advertising lands inserted in the notice by the mistake of the collector, such collector and the sureties on his official bond shall be liable to the owner or proprietor of such newspaper.

40-10-24. Conflicts of interest.

If the assessor, collector, judge of probate or any county tax assessor shall directly or indirectly be concerned or interested in the purchase of any real estate sold for taxes, the sale shall be void, and he and his sureties on his official bond shall be liable to a penalty of not exceeding \$500 to be fixed by the jury, which may be recovered in an action in the circuit court, or court of like jurisdiction, brought on the relation of any

taxpayer of the county, in the name of the state, one half of the amount recovered to be paid to the relator and the other half to the state.

40-10-25. Appeals.

From any decree rendered by the probate court for the sale of real estate for the payment of taxes, the defendant in the cause or the state, in behalf of itself and the county, may appeal to the circuit court of the county within 30 days after the rendition of the decree. If the defendant appeals, he must execute a bond in double the amount of the decree, payable to the State of Alabama, with sufficient surety to be approved by the judge of probate, and conditioned that he will prosecute the appeal to effect and pay such judgment as the appellate court may render thereon; but the state shall not be required to execute any bond. The district attorney shall represent the state on such appeal, and of the pendency thereof the judge of probate must give him notice in writing; and on appeal by the state, notice thereof shall be given the defendant, as in other cases of appeal from the court to the circuit court, such appeal must be tried de novo, upon an issue made up under the direction of the court. If the defendant appeals and the issue is decided adversely to him, the court must render judgment against him and his sureties in favor of the state for the amount of the taxes, fees and costs, besides the costs of the appeal, and such judgment shall be a lien upon the lands described in the decree from which the appeal was taken, which lien with a description of the lands must be declared in the judgment.

40-10-26. Collection of judgment.

Any money collected on such judgment, except for costs of court, must be paid to the tax collector, who shall account for and pay the same over to the officers and persons entitled to receive the same.

40-10-27. Show cause orders; fees.

For each notice to a delinquent property owner to show cause why a decree of sale should not be rendered, the judge of probate is entitled to a fee of \$5 and for each decree of sale, \$5; the tax collector shall have \$5 for serving each notice which may be given by certified or registered mail with return receipt demanded, but for his attendance at court, he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for services in like cases.

History: Acts 1980, No. 80-630; Acts 1990, No. 90-535.

40-10-28. Excess funds after sale.

The excess arising from the sale of any real estate remaining after paying the amount of the decree of sale, and costs and expenses subsequently accruing, shall be paid over to the owner, or his agent, or to the person legally representing such owner, or

into the county treasury, and it may be paid therefrom to such owner, agent or representative in the same manner as to the excess arising from the sale of personal property sold for taxes is paid. If such excess is not called for within three years after such sale by the person entitled to receive the same, upon the order of the county commission stating the case or cases in which such excess was paid, together with a description of the lands sold, when sold and the amount of such excess, the county treasurer shall place such excess of money to the credit of the general fund of the county and make a record on his books of the same, and such money shall thereafter be treated as part of the general fund of the county. At any time within 10 years after such excess has been passed to the credit of the general fund of the county, the county commission may on proof made by any person that he is the rightful owner of such excess of money order the payment thereof to such owner, his heir or legal representative, but if not so ordered and paid within such time, the same shall become the property of the county.

40-10-29. Deed; delivery.

After the expiration of three years from the date of the sale of any real estate for taxes, the judge of probate then in office must execute and deliver to the purchaser, other than the state, or person to whom the certificate of purchase has been assigned, upon the return of the certificate and payment of a fee of \$5 to the judge of probate, a deed to each lot or parcel of real estate sold to the purchaser and remaining unredeemed, including therein, if desired by the purchaser, any number of parcels, or lots purchased by him at such sale; and such deed shall convey to and vest in the grantee all the right, title, interest and estate of the person whose duty it was to pay the taxes on such real estate and the lien and claim of the state and county thereto, but it shall not convey the right, title or interest of any reversioner or remainderman therein.

History: Acts 1990, No. 90-535.

40-10-30. Deed; evidence.

Such deed shall be signed by the judge of probate in his official capacity, and by him acknowledged before some officer authorized to take acknowledgment of deeds, and it shall be, in all the courts of the state, prima facie evidence of the regularity of all proceedings recited therein both prior and subsequent to the decree of sale in any controversy, proceeding or suit involving or concerning the rights of the purchaser, his heirs or assigns to the real estate thereby conveyed.

40-10-31. Erroneous sale.

Where real estate is erroneously sold for taxes and the state became the purchaser thereof, it shall be the duty of the tax collector of the county in which the real estate is situated to prepare and issue a certificate setting forth the following facts:

- (1) A correct description of the real estate sold and purchased by the state,
- (2) That the sale was erroneous and the reason therefor, and

(3) The present owner of the property, if known.

This certificate shall be forthwith forwarded to the land commissioner of the state; and, if it is determined by him that the facts therein set out are true and correct, he shall approve the same and forward the same to the judge of probate of the county in which the property is situated, who shall note on the margin of the record of such sale the fact that the land commissioner has approved the cancellation of the same, and he shall mark the sale void and sign his name as judge of probate to his certificate voiding the same.

ARTICLE 2. LAND COMMISSIONER.

40-10-50. Generally.

The Commissioner of Revenue shall be ex officio land commissioner. The land commissioner, subject to the provisions of the merit system, shall appoint such agents or assistants as deemed necessary to carry out the provisions of this title with respect to the duties of the land commissioner herein provided for. He shall not receive any compensation as land commissioner. The duties of land commissioner as herein designated shall be in addition to the duties required by law of the Department of Revenue.

40-10-51. Authority.

The land commissioner shall have supervision and control of all real estate bought in by the state at tax sales, shall rent, lease or operate the same and make conveyances thereof when authorized by law and shall perform any and all duties with reference to such real estate as may be required by law or directed by the Governor.

40-10-52. Agents.

The Director of the Department of Revenue shall appoint subject to the provisions of the merit system such agents as may be necessary to look after, protect against trespassers and rent any real estate bid in by the state at tax sales. Such agents under the direction of the Department of Revenue shall investigate sales of real estate for taxes bid in by the state, notify the parties at interest in such real estate or sales, secure redemption, sales or property, prevent waste and perform any and all duties relating to lands bid in by the state at tax sales as the Department of Revenue may direct.

40-10-53. Forms.

The Attorney General must furnish the land commissioner with suitable forms of certificates of purchase and deeds to purchasers at sales of real estate for taxes, from which the land commissioner shall cause to be printed a sufficient number of blank certificates and deeds and distribute the same among the several judges of probate to be used by them and tax collectors on the sales of lands for taxes.

40-10-54. List of land sold.

It shall be the duty of the land commissioner to transmit to the tax assessor of each county by August 1 of each year a descriptive list of all the lands in the county reported to him as bid in for the state during the year and not redeemed, and it shall be the duty of said county tax assessor to compare such list carefully with the record of sales of land for taxes in the county, and of the redemption thereof, and to ascertain if any of such lands have been redeemed or were not liable for the taxes for which they were

sold; if any of such lands are ascertained to have been redeemed or to have been sold for taxes for which they were not liable, the said county tax assessor shall promptly certify the facts to the land commissioner, and the probate judge shall correct the record of land sales in his office accordingly. The assessor shall furnish to the judge of probate a copy of the list returned to the land commissioner, and it shall be the duty of the judge of probate to enter the taxes therein calculated on the record of sale thereof kept in his office.

ARTICLE 3. RIGHTS AND REMEDIES OF PURCHASERS AT TAX SALES.

40-10-70. Assignment of rights and liens.

When the sale of any land sold for the payment of taxes is, for any cause, ineffectual to pass the title to the purchaser, whether individual or the state, except in the case in which such sales are in this article expressly declared to be invalid, such sale shall operate as an assignment to the purchaser of the rights and liens of the state and county in and to the lands sold, both as to the taxes paid at said sale and as to the taxes subsequently paid by the purchaser, and such liens may be foreclosed in the same manner as other liens as provided in this title.

40-10-71. Erroneous sale.

When lands are sold for taxes which are not liable therefor, the purchaser may recover from the officer by whose fault or neglect the assessment or sale was made, and the sureties on his official bond, the amount of the purchase money paid him therefor, with interest thereon from the day of the sale, together with all costs which are adjudged against him in any action concerning said land involving such tax title.

40-10-72. Description of land.

In case of the sale of any real estate, either for the collection of the taxes thereon or for the collection of other taxes due by the owner thereof, said real estate shall be described in all the proceedings incident to the condemnation and sale thereof, and in the certificate and deed issued to the purchaser at said sale in the manner described in the assessment thereof, and in case of failure of the tax collector to so describe said property in any part of said proceedings, certificate or deed, by reason of which said deed may be held insufficient to convey the property intended to be referred to, the said tax collector and the sureties on his official bond shall be liable to the purchaser at said tax sale for all amounts paid by him for such land, together with cost of suit for same. Should, however, the property be insufficiently described in the assessment thereof, the said tax assessor and the sureties on his official bond shall likewise be responsible to the purchaser, or in case the said liability has been enforced against said tax collector, then the said assessor and the sureties on his official bond shall be liable to the tax collector, or his sureties, for whatever sum he shall have been compelled to pay to said purchaser on account of said defect together with cost adjudged against him in an action for such lands.

40-10-73. Possession; state.

When the lands are bid in for the state at tax sales, the state shall be entitled to possession of said lands immediately upon execution of the certificate of sale by the judge of probate. If possession is not surrendered within six months from the date of sale after demand therefor is made by the land commissioner in behalf of the state, or if the certificate has been assigned by the assignee, then the land commissioner in the

name of the state or the assignee of the state, if the certificate has been assigned, may maintain an action in ejectment or a statutory real action in the nature of ejectment or other proper remedy for the recovery of the possession of the lands purchased at such sales and shall be entitled to hold the possession thereof on recovery, subject, however, to all rights of redemption provided for in this title. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time in this title specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale, served upon such party, and notice served upon either the original mortgagees or lienholders or their transferee of record, or their heirs, personal representatives, or assigns shall be sufficient notice. Such notice shall be given by certified or registered mail, return receipt demanded, addressed to the last known address of the mortgagee or lienholder. Nothing in this title shall affect the rights of minors or insane persons to redeem as provided for in this title, or operate to convey or affect the rights, title or interest of any reversioner or remainderman.

40-10-74. Possession; private purchaser.

Any purchaser of lands at a tax sale other than the state or anyone claiming under him shall be entitled to possession of said lands immediately upon receipt of certificate of sale from the tax collector; and, if possession is not surrendered within six months after demand therefor is made by said purchaser or his assignee, the said purchaser or his assignee may maintain an action in ejectment or a statutory real action in the nature of ejectment, or other proper remedy for the recovery of the possession of the lands purchased at such sales and shall be entitled to hold the possession thereof on recovery, subject, however, to all rights of redemption provided for in this title. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time in this title specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale, served upon such party, and notice served upon either the original mortgagees or lienholders or their transferee of record, or their heirs, personal representatives or assigns shall be sufficient notice. Such notice shall be given by certified or registered mail, return receipt demanded, addressed to the last known address of the mortgagee or lienholder. Nothing in this title shall affect the rights of minors or insane persons to redeem as provided for in this title, or operate to convey or affect the rights, title or interest of any reversioner or remainderman.

40-10-75. Title defects.

If, in any action brought for the possession of land sold for taxes, the title of the purchaser at the tax sale shall be defeated on account of any defect in the proceedings

under which the sale is had, or on account of any defect in or insufficiency of the process by which the owner of the land was brought before the probate court, as is provided, or in the service of said process, or by reason of the failure of the judge of probate on account of any negligence or refusal on his part to produce when called upon, sufficient evidence of the proper issuance and service of said notice or process, or by reason of any other defect or insufficiency in any of the proceedings for the condemnation and sale of said property, or of the certificate or deed to said purchaser or any two or more of said causes, the officer or officers on account of whose omission or error said defect or insufficiency or defects or insufficiencies shall have arisen, together with the sureties on the official bond, shall be liable to the purchaser whose title shall be thus defeated and to his assignees for the full sum of the purchase money paid by him at said tax sale for said property, the cost of the action in which said title failed, which the purchaser shall have incurred in attempting to maintain his title under said tax sale, together with the interest upon each of these amounts, at the rate of 12 percent per annum; provided that except as to the state, actions under this section shall be commenced within five years from the sale.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-76. Invalid sale; plaintiff's recovery defeated.

If, in any action brought by the purchaser, or other person claiming under him, to recover the possession of lands sold for taxes, a recovery is defeated on the ground that such sale was invalid for any reason other than that the taxes were not due, the court shall forthwith, on the motion of the plaintiff, ascertain the amount of taxes for which the lands were liable at the time of the sale and for the payment of which they were sold, with interest thereon from the date of sale, and the amount of such taxes on the lands, if any, as the plaintiff, or the person under whom he claims, has, since such sale, lawfully paid or assumed by the state after its purchase, with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of 12 percent per annum; and the court shall thereupon render judgment against the defendant in favor of the plaintiff for the amount ascertained and the costs of the action, which judgment shall constitute a lien on the lands sued for, and payment thereof may be enforced as in other cases.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-77. Invalid sale; defendant defeated.

If, in an action brought against such purchaser or other person claiming under him to recover possession of lands sold for taxes, the defendant claims and defends under the tax title and his defense fails on the ground that such sale was invalid for any reason other than that the taxes were not due, and the plaintiff recovers, the court shall forthwith, on the motion of the defendant, ascertain the amount of taxes for which the lands were liable at the time of the sale and for the payment of which they were sold, with interest thereon from the day of sale, and the amount of such taxes on the lands, if any, as the defendant or the person under whom he claims has, since such sale,

lawfully paid or assumed, in case of the state, with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of 12 percent per annum; and the court shall thereupon render judgment against the plaintiff in favor of the defendant for the amount ascertained and the cost of the action, which judgment shall constitute a lien on the land sued for, the payment of which may be enforced as in other cases, and no writ of possession shall issue until such judgment has been satisfied, and the court may order the land sold or condemn it to the satisfaction of the debt.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-78. Invalid sale; tender of payment.

In any action under the provisions of either Section 40-10-76<S> or 40-10-77<S>, the party claiming adversely to the tax title may, at any time, tender the amounts required in such sections to be ascertained by the court, with interest as therein prescribed; and no costs accruing after such tender shall be recovered of him, if, upon a refusal of the tender, he shall pay such amounts into court.

40-10-80. Redemption.

If, in any action brought to recover the possession of lands sold for taxes by or against the purchaser or other person claiming under him, it is shown that the party claiming adversely to the tax title, being entitled to redeem, made within the time allowed for redemption the payment required by law for the redemption of such lands, or made tender thereof, and the amount of such tender has been paid into court for the opposite party, judgment must be rendered in his favor for the costs accruing after such payment or tender, except as against the state.

40-10-81. Books and records of tax officials.

Unless otherwise provided, on the trial of any issue involving the sale of real estate for taxes, or the redemption thereof, the books and records belonging to the office of the judge of probate, tax collector or tax assessor and required by law to be kept or certified copies therefrom shall be prima facie evidence of the facts stated therein.

40-10-82. Statute of limitations.

No action for the recovery of real estate sold for the payment of taxes shall lie unless the same is brought within three years from the date when the purchaser became entitled to demand a deed therefor; but if the owner of such real estate was, at the time of such sale, under the age of 19 years or insane, he, his heirs or legal representatives shall be allowed one year after such disability is removed to bring an action for the recovery thereof; but this section shall not apply to any action brought by the state, nor to cases in which the owner of the real estate sold had paid the taxes, for the payment of which such real estate was sold prior to such sale, nor shall they apply to cases in

which the real estate sold was not, at the time of the assessment or of the sale, subject to taxation.

40-10-83. Lien judgment for plaintiff.

When the action is against the person against whom the taxes were assessed or the owner of the land at the time of the sale, his heir, devisee, vendee or mortgagee, the court shall, on motion of the defendant made at any time before the trial of the action, ascertain the amount paid by the purchaser at the sale and of the taxes subsequently paid by the purchaser, together with 12 percent per annum thereon, and a reasonable attorney's fee for the plaintiff's attorney for bringing the action, and shall enter judgment for the amount so ascertained in favor of the plaintiff against the defendant, and the judgment shall be a lien on the land sued for. Upon the payment into court of the amount of the judgment and costs, the court shall enter judgment for the defendant for the land, and all title and interest in the land shall by such judgment be divested out of the owner of the tax deed.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-100. Purchased by state.

When land which has been sold for taxes and purchased by the state has been sold by the state at private sale, and the purchase money has been paid into the state and county treasuries, and it shall be made to appear to the satisfaction of the comptroller that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the purchaser of said land from the state, his heirs, or assigns shall upon the surrender of the deed from the state and the cancellation of the same be entitled to have the purchase money paid for the said lands refunded, if application shall be made therefor, as hereinafter provided, within two years from the date of the deed made by the state.

40-10-101. Private purchase.

When land has been sold for taxes and purchased by anyone other than the state, and the purchase money has been paid into the state and county treasuries, and it shall be made to appear to the satisfaction of the comptroller that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the purchaser of said land, his heirs or assigns, upon the surrender of the certificate of purchase, shall be entitled to have the amount paid for the purchase of said land refunded to him, if application shall be made therefor as hereinafter provided, within two years from the date of sale and before the execution of a deed to such purchaser.

40-10-102. Petition for refund.

In order to procure the refunding under the provisions of Sections 40-10-100 and 40-10-101 of the amounts erroneously paid for the purchase of property, the purchaser,

his heirs or assigns shall file in triplicate a petition directed to the chairman of the county commission of the county wherein the land is situated, setting up the facts relied on to procure the refunding of the money so erroneously paid.

40-10-103. Refund.

The chairman of the county commission shall examine said petition and also the tax books of his county, and if the facts set forth in the petition are such as to entitle petitioner to the refunding of the money as prayed for, he shall so certify to the comptroller, stating the amount to be refunded by the state, and forward to the comptroller a copy of the petition with his certificate endorsed thereon; and, if the comptroller shall be satisfied that the petitioner is entitled to have the money refunded to him, he shall draw his warrant on the treasurer in favor of the petitioner for such an amount as the certificate of the chairman of the county commission shows should be refunded.

40-10-104. Presentment of petition to county.

The chairman of the county commission shall likewise certify his findings on the triplicate petition stating the amount of money which the petitioner is entitled to receive from the county and from the county school and district school fund, and such petition with his certificate endorsed thereon he shall deliver to the petitioner, who may present a copy to the county commission; and, if said commission is satisfied with the proof of the claim made by the petition, the commission must allow said claims to the amount of taxes paid to the county and draw a warrant on the treasurer of the county for the amount allowed in favor of the petitioner, and the petitioner may likewise present a copy of such petition with the certificate of the chairman of the county commission endorsed thereon to the county board of education, and the fact of the allowance by the comptroller and the county commission, and thereupon such county school board shall allow said claim to the amount of taxes paid to the county school fund and the district school fund and draw a warrant on the county treasurer of school funds for the amounts due from the county school fund and from the district school fund.

40-10-105. Claim against county.

The comptroller must also ascertain the amount of such purchase money which has been paid to the county in which the land is situated as fees, costs, taxes, penalty, and interest, or on other account, if any such payment has been made on account of such purchase, which amount he shall certify to the judge of probate of such county or presiding officer of the county commission where the judge of probate has no connection with such commission who shall present such claim at the next meeting of the county commission of such county, whereupon such commission shall order a warrant in favor of the state for such amount, which warrant shall be a preferred claim against the county and payable by the county treasurer to the judge of probate or presiding officer of any county commission where the judge of probate has no connection with such commission who shall forthwith forward such amount, less cost of remitting, to the State Treasury and report it to the comptroller.

ARTICLE 5. REDEMPTION OF LAND SOLD FOR TAXES.

40-10-120. Statute of limitations.

Real estate which hereafter may be sold for taxes and purchased by the state may be redeemed at any time before the title passes out of the state or, if purchased by any other purchaser, may be redeemed at any time within three years from the date of the sale by the owner, his heirs, or personal representatives, or by any mortgagee or purchaser of such lands, or any part thereof, or by any person having an interest therein, or in any part thereof, legal or equitable, in severalty or as tenant in common, including a judgment creditor or other creditor having a lien thereon, or on any part thereof; and an infant or insane person entitled to redeem at any time before the expiration of three years from the sale may redeem at any time within one year after the removal of his disability; and such redemption may be of any part of the lands so sold, which includes the whole of the interest of the redemptioner. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time herein specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale served upon such party, and notice served upon either the original mortgagees or lienholders or their transferee of record, or their heirs, personal representatives, or assigns shall be sufficient notice.

40-10-121. Application; procedure.

- (a) In order to obtain the redemption of land from tax sales where the same has been heretofore or hereafter sold to the state, the party desiring to make such redemption shall apply therefor as hereinafter provided and shall deposit with the judge of probate of the county in which the land is situated the amount of money for which the lands were sold, with interest thereon at the rate of 12 percent, together with the amount of all taxes found to be due on such land since the date of sale, as provided herein, with interest at the rate of 12 percent and all costs and fees due to officers.
- (b) Upon application to the probate judge to redeem land where the same has been sold to the state for taxes, which application shall be made on blank forms to be furnished by the land commissioner, the probate judge shall submit such application to the tax assessor of the county in which the land sought to be redeemed is located, and the assessor shall without delay enter on such application an assessment value for each of the years for which taxes are due, subsequent to the year for which such land was sold to the state for taxes, and such assessment value shall be such percentage as established by law of the fair and reasonable market value of such lands as of October 1 of the year or years subsequent to the year for which the land was sold for taxes.
- (c) Any party having a right to redeem said property, his agents, or attorney, shall have the right to file a written protest with the board of equalization, objecting to the valuation of said land as placed on said property by the tax assessor, setting

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

- (d) The redemptioner shall deposit with the probate judge the amount of money for which lands were sold for taxes, plus the amount due for subsequent years based on the assessment value as required to be fixed herein, and interest, costs, and fees as provided in this section.
- (e) If any balance remains due to the state upon any lien arising by reason of any installment redemption the payment of which is secured under the provisions of Section 40-10-141, the redemptioner shall also deposit with the probate judge the amount of the balance due upon such lien, with interest to the date of redemption.
- (f) If the lands sought to be redeemed, or any portion thereof, are situated in any municipality, the redemptioner shall also deposit with the probate judge the amount of any unpaid taxes assessed against the same by such municipality, and an amount equal to any municipal taxes thereon which, subsequent to the tax sale, were not assessed by reason of the fact that such land had been purchased by the State of Alabama, plus interest which would have accrued upon such municipal taxes from the time the same would have otherwise become delinquent, which amounts, with interest, shall be treated and distributed in the same manner as taxes and interest thereon.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-122. Deposit of funds; amount.

In order to obtain the redemption of land from tax sales where the same has been sold to one other than the state, the party desiring to make such redemption shall deposit with the judge of probate of the county in which the land is situated the amount of money for which the lands were sold, with interest thereon at the rate of 12 percent per annum from date of sale, together with the amount of all taxes which have been paid by the purchaser, which fact shall be ascertained by consulting the records in the office of the tax collector, or other tax collecting official, with interest on said payment at 12 percent per annum. If any taxes on said land have been assessed to the purchaser and have not been paid, and if said taxes are due which may be ascertained by consulting the tax collector or other tax collecting official of the county, the probate judge shall also require the party desiring to redeem said land to pay the tax collector or other tax collecting official the taxes due on said lands which have not been paid by the purchaser before he is entitled to redeem the same. In all redemptions of land from tax sales, the party securing the redemption shall pay all costs and fees as herein provided

for due to officers and a fee of \$.50 to the judge of probate for his services in the matter of redemption.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-123. Subdivided lots.

When distinct lots or parcels of land have been included in one assessment and sold for taxes under one decree, any person, including the owner, whose interest in one or more of such lots or parcels is such as to entitle him to redeem may redeem the lots or parcels in which he has such interest without redeeming all of said property; provided, that any owners desiring to redeem any one or more parcels of land must also pay all tax on personal property assessed against him in said assessment, together with all costs of court and advertising fees.

40-10-124. Subdivided tracts.

When any tracts, lots, or parcels of land have been included in one assessment and sold for taxes under one decree, the owner or any one entitled to redeem may redeem any lot or part of said property where the part to be redeemed can be ascertained by legal and usual subdivision. It shall be the duty of the tax assessor to ascertain the amount of taxes on such portion desired to be redeemed as provided for under Section 40-10-121

40-10-125. Application; subdivided lands.

A person desiring to redeem any separate lot or parcel of land as authorized by Section 40-10-124 must file with the judge of probate an application in writing, under oath, setting forth the date of the decree, the name of the defaulting taxpayer against whom the same was rendered, the description and character of each lot or parcel of land included in the decree and the assessed value thereof, if separately valued in the assessment or, if not separately valued, stating that fact and stating the assessed value of the whole of the lands, a description of the lot or parcel which the applicant seeks to redeem and, if not separately valued in the assessment, stating the value thereof at the time of the assessment and the nature of his interest in such lot or parcel; and such applicant must deposit with the judge of probate a sum of money which bears the same proportion to the amount of taxes, interest, and costs which would be required to redeem all the lands included in the decree, that the value of such lot or parcel, as separately assessed or, if not separately assessed, as ascertained by the judge of probate, bears to the value of the whole of the lands included in the decree; and, in addition thereto, such applicant must deposit the amount of proportionate costs and officers' fees which may have accrued upon such assessment and sale.

40-10-126. Application; subdivided lands; approval.

The judge of probate must, before allowing the redemption of a separate lot or parcel of

land under Sections 40-10-124 and 40-10-125, submit the application, together with a copy of the statement of calculation ascertaining the amount to be paid on such redemption, to the land commissioner for his approval, and the land commissioner may call upon the judge of probate, the assessor, or the collector for any information he may desire touching the application. If the land commissioner is satisfied that the applicant is entitled to redeem such lot or parcel of land and that the proper amount of money has been deposited with the judge of probate, the land commissioner shall endorse his approval upon the application and return the same to the judge of probate, who must allow the redemption; but without the approval of the land commissioner, the judge of probate must not allow the redemption and must return to the applicant the money deposited by him for that purpose, when such application is made within the time allowed by law for redemption the same may be perfected as herein provided, notwithstanding the expiration of such limitations; where the land sought to be redeemed has been purchased by an individual and not by the state, it shall not be necessary to submit the matter to the land commissioner.

40-10-127. Certificate of redemption.

Upon the payment of the amount required by law for the redemption of the lands sold for taxes by a person entitled to redeem, the judge of probate, or official who performs the same function, shall issue that person a certificate of redemption describing the lands, setting forth the facts of the sale substantially as contained in the certificate of purchase, the date of redemption, the amount paid, by whom the lands were redeemed, and make the proper entries in the book of sales in his or her office and immediately give notice of the redemption to the county treasurer or custodian of the county funds. The judge of probate, or official who performs the same functions, shall sign the certificate. Unless signed, no certificate shall be held as evidence of redemption, and it shall be the duty of the judge of probate, or official who performs the same functions, to keep a book of certificates of redemption, and every blank shall have a stub attached thereto, on which shall be printed the matter as the land commissioner may prescribe, with appropriate blank spaces to be filled by the judge of probate, or official who performs the same functions, upon the issuance of any certificates of redemption. The land commissioner shall take and file in his or her office a proper receipt from the judge of probate, or official who performs the same functions, for the certificates of redemption furnished him or her. If the lands were bid in by the state, the person redeeming shall present to the land commissioner the certificates of redemption, and the land commissioner shall give to the person a certificate releasing all claims to the land acquired by the state at the tax sale.

History: Acts 1993, No. 93-717.

40-10-128. Deposit of funds; private purchaser.

If the lands redeemed were bid in by any person other than the state, the redemption money must be deposited by the judge of probate in the county treasury and there kept separate and apart from the general funds of the county, and the judge of probate shall

notify the purchaser of such deposit by mailing notice to the residence or place of business of such purchaser, or to such address as the purchaser may furnish the judge of probate at the time he secures his certificate of purchase; and, upon the demand of the purchaser, his legal representative or assignee and the surrender of the certificate of purchase, the judge of probate must give him an order on the treasury for the same.

40-10-129. Deposit of funds; state purchaser.

When lands which have been bid in by the state are redeemed, the judge of probate must immediately pay over to the tax collector of the county the entire amount of money received by such judge of probate on such redemption. The tax collector shall pay over to the proper authorities the fees of such officers that accrued in the sale and shall determine the proportionate amounts of the redemption money belonging to the state, including advertising fees, and the amounts of such redemption money belonging to the county and to the school fund and to any municipality and to each holder of a tax lien certificate. The tax collector shall monthly, by the tenth day of the month next after the month in which the redemption was made, pay over such proportions to the proper authorities, respectively, after deducting therefrom the commissions allowed by law to tax collectors for collecting taxes; and he shall certify to the land commissioner and to the county treasurer, upon blanks to be furnished by the State Comptroller, a full descriptive statement of all real estate bid in by the state and redeemed, showing separately the amount of state, county, municipal and school taxes and tax lien certificates and penalties and costs embraced in and covered by the redemption so reported. At the end of any month during which no land has been redeemed, the judge of probate shall report that fact to the land commissioner and to the tax collector.

History: Acts 1995, No. 95-408.

40-10-130. Notice to assessors and collectors.

Within five days from the redemption of any real estate bid in by the state, the judge of probate shall notify the tax assessor and tax collector of his county thereof and shall, on demand, pay to them the costs and fees to which they are respectively entitled, and the assessor shall enter such real estate and the name of the person redeeming the same on an appropriate list to be kept by him for assessment.

40-10-131. Liability of purchaser.

Neither the purchaser, nor anyone claiming under him, who may have lawfully obtained possession of any real estate purchased at tax sales shall be liable upon the redemption of such real estate to account to the owner for any rents, issues, or profits during such possession, but as to such rents, issues, and profits he shall be held and considered the rightful owner of such real estate unless such owner at the time of the sale was a minor or a person of unsound mind and had no guardian, or his guardian was not lawfully served with notice of the proceedings had in the court of probate for the sale of such real estate, in which event such purchaser or other person in

possession shall be liable for rents, issues, and profits, as in other cases; but neither such purchaser nor anyone claiming under him shall have the right to cut standing timber from land so purchased at tax sales, nor shall have the right to remove or destroy any improvements on said property or commit waste until he shall have received a deed for the land from the probate judge, and anyone in possession shall have the right to growing crops planted by him.

40-10-132. Book; generally.

It shall be the duty of the land commissioner to cause to be prepared a suitable book, in which shall be entered a description, as accurate as can be obtained, of all the lands which have been bid in by the state, with the amount of state and county taxes due thereon and the date when such lands were bid in; and, when three years shall have elapsed from the date of sale, such portions of lands as have not been redeemed shall be subject to sale by the state; and the land commissioner, with the approval of the Governor, may sell the same at private sale to any purchaser, who may pay therefor in cash to the treasurer such sum of money as the land commissioner may ascertain to be sufficient to cover and satisfy all claims of the state and county, which sum shall not be less than the amount of money for which the lands were bid in by the state, with interest thereon at the rate of 12 percent per annum from the date of sale, together with the amount of all taxes due on said lands since date of sale, with interest thereon at the rate of 12 percent per annum from the maturity of such taxes; provided that, if lands have not been redeemed or sold by the state within five years from the date of sale, such lands may be sold by the land commissioner as hereinafter provided.

History: Acts 1988, 1st Ex. Sess., No. 88-824.

40-10-133. Notice to owner of third party interest.

When application is made to the land commissioner by any person to purchase lands in which such person had no interest, the land commissioner shall mail a notice in writing to the owner, or some person having an interest in such land, if his place of residence is known, or, if not known, then to the judge of probate of the county in which such lands are situated, informing him that such application has been made and fixing a reasonable time within which such owner or such other person having an interest in the lands may redeem the same. The judge of probate shall cause the notice to be posted at the courthouse, and he shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall be sold to the applicant or any other person desiring to purchase the same without other or further notice to such owner or persons having an interest in the lands. If such lands are redeemed within the time so fixed, the judge of probate must, without delay, report the same to the land commissioner and pay over the redemption money as required by law.

40-10-134. Private sale of unredeemed lands; statute of limitations.

When lands have been sold for taxes and bought in for the State of Alabama and have not been redeemed or sold by the state and a period of five years has elapsed from the date of sale to the state, the land commissioner, with the approval of the Governor, may sell the same at private sale to any purchaser for cash at the best price obtainable, irrespective of the amount of taxes due, after giving notice as provided for in Section 40-10-133<S>; provided that the holder of a tax lien certificate related to such land shall be given the option to purchase such land for an amount equal to the best price offered by any purchaser at a private sale.

History: Acts 1995, No. 95-408.

40-10-135. Private sale of unredeemed lands; deed.

When lands have been sold by the state, as provided in Sections 40-10-132<S> and 40-10-134<S>, and the purchase money has been paid, the land commissioner, in behalf of the state, shall execute to the purchaser a deed, duly acknowledged, without warranty or covenant of any kind on the part of the state, express or implied, conveying to him all the right, title, and interest of the state in and to the lands purchased by him; and such purchaser shall thereafter have all the right, title, and interest of the state in and to such lands and shall be held and treated as the assignee of all the taxes due upon such lands, or for which they were sold, and the penalties and all of the taxes that should have been under the law assessed upon the same, if they had been the property of a private citizen of the state, and he shall be clothed with all the rights, liens, powers, and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances; and all such liens and charges as the state had before such sale by the land commissioner shall be enforced in favor of such purchaser from him, as under the provisions of law relating to individual purchasers at sales by the tax collector, such purchaser, on failure of his title, shall have his lien and charges assessed by the court or by a jury and may foreclose the same by proceeding at law in such suit.

40-10-136. Private sale of unredeemed lands; certification.

Upon the consummation of such sale, the land commissioner must certify the same to the judge of probate, who shall make entry thereof in the book of land sales in his office; and the commissioner shall furnish a description of such lands to the assessor of the county in which they are situated, who shall enter the same upon his list for assessment; but the time allowed infants and lunatics in which to redeem lands sold for taxes shall in no wise be affected by any such sale and conveyance.

40-10-137. Conveyance to department of conservation and natural resources.

Any lands which have been bid in by the state at tax sale shall, after three years have elapsed from the date of sale to the state and no person having any interest therein having redeemed same from tax sale, be subject to conveyance to the Department of

Conservation and Natural Resources in the manner hereinafter provided:

(1) Whenever the Department of Conservation and Natural Resources shall determine any lands which have been bid in by the state at tax sale and the title to which has not passed out of the state, to be suitable or desirable for the use of the said Department of Conservation and Natural Resources, either for the purpose of being used as a state park, state forest, or for the purpose of exchange for other lands of equal value, which are determined to be suitable for said purposes, or for any other use or disposition which the Department of Conservation and Natural Resources may hereafter be authorized by law to make of such lands, the Department of Conservation and Natural Resources shall file with the land commissioner a written application, signed by the Commissioner of the Department of Conservation and Natural Resources on a form to be prescribed by the land commissioner, giving such information as may be required by the land commissioner.

(2) When application is made to the land commissioner for the conveyance of any lands to the Department of Conservation and Natural Resources, the land commissioner shall mail a notice in writing to the owner, or some person having an interest in such land, if his place of residence is known to the land commissioner, and also to the judge of probate of the county in which such lands are situated, informing the owner or other persons having an interest in such land that such application has been made and informing him that he shall have 30 days from the date of said notice within which to redeem said lands, and the judge of probate shall cause the notice to be posted at the courthouse, and he shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall, upon approval of the Governor, be conveyed to the Department of Conservation and Natural Resources, without other or further notice to such owner or persons having an interest in the lands. If such lands are redeemed within the time so fixed, the judge of probate must, without delay, report the same to the land commissioner and pay over the redemption money as required by law.

40-10-138. Deed to department of conservation and natural resources.

When lands are required to be conveyed to the Department of Conservation and Natural Resources, as hereinabove provided, the land commissioner, in behalf of the state, with the approval of the Governor, shall execute to the Department of Conservation and Natural Resources, a deed, duly acknowledged, without warranty or covenant of any kind on the part of the state, express or implied, conveying to the said Department of Conservation and Natural Resources all the right, title, and interest of the state in and to the lands so conveyed. The Department of Conservation and Natural Resources shall thereafter have all the right, title, and interest of the state in and to such lands and shall be held and treated as the assignee of all the taxes due upon such lands or for which they were sold and the penalties and all of the taxes that should have been under the law assessed upon the same, if they had been the property of a private citizen of the state, and it shall be clothed with all the rights, liens, powers, and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances, and all such

liens and charges as the state had before such conveyance by the land commissioner shall be enforced in favor of the Department of Conservation and Natural Resources as under the provisions of law relating to individual purchasers at sales by the tax collector. The Department of Conservation and Natural Resources, on failure of its title, shall have its lien and charges assessed by the courts or by a jury and may foreclose the same by proceeding at law in such action.

40-10-139. Notice of conveyance to department of conservation and natural resources.

Whenever it is determined by the land commissioner that it is to the best interest of the state to convey to the Department of Conservation and Natural Resources the title of any lands which have been bid in at tax sale and which remain unredeemed, he may, on his own motion and without application being filed by the Department of Conservation and Natural Resources, issue notice to the former owner or some person having an interest in such land, in the same manner as heretofore provided for in cases where application for conveyance has been filed by the Department of Conservation and Natural Resources; and, if such lands are not redeemed within the time so fixed, the same shall, upon approval of the Governor, be conveyed to the Department of Conservation and Natural Resources in the same manner as if application for such conveyance had been filed by the Department of Conservation and Natural Resources.

40-10-140. Proceeds.

When lands bid in by the state have been sold by the state under any of the provisions of this chapter, the land commissioner shall certify to the comptroller the amount, and the comptroller shall draw his warrant on the treasurer in favor of the judge of probate of the county in which the lands lie for the county and school taxes and the fees and costs due to the different officers of the county, specifying each separately; and, if the same cannot be ascertained from the records and papers in his office, the judge of probate, on notice by the land commissioner of such redemption or sale, must certify the same to him, and the judge of probate, upon the collection of such warrant, shall pay the same over to the officers entitled thereto or authorized by law to receive the same.

40-10-141. Foreclosure sale; lien for partial payments.

The State of Alabama shall have a lien for all unpaid partial payments as well as for taxes for any subsequent year, and in case of the failure to pay any one of said installments together with the taxes for any subsequent year, either or both, the land commissioner for and in the name of the State of Alabama shall at his option declare all said installments due and payable at once. In case of default in payment of any installment or of any subsequent taxes, the land commissioner in the name of the state shall have a right to file a complaint to foreclose the lien of the state, and in such suit all parties at interest shall be made parties defendant. Such suit shall be filed in the

county where the land or the major portion thereof is situated. The court shall determine what amount, if any, of such taxes or installments are illegal, and in its final judgment shall determine the total amount due on such installment payments and any unpaid subsequent taxes and shall render judgment therefor which shall include costs and shall order the property sold to satisfy the judgment in the same manner as in the foreclosure of mortgages on real estate. If at such sale no one bids a sufficient sum to pay the full amount of the judgment, the officer conducting the sale shall announce that the real estate is sold to the State of Alabama for the amount of the judgment, interest, and costs, and the sale shall be reported to the court and be confirmed and a deed made to the State of Alabama, and the state shall be entitled to a writ of possession. The purchaser at such sale, including the state, shall be entitled to a deed and the same processes and remedies to obtain possession of the premises as in other suits where land is sold under order of a court, and the title to the land conveyed by such deed shall be indefeasible as to all parties defendant in the action.

40-10-142. Foreclosure sale; proceeds.

All moneys arising from such sale shall be applied first to the reimbursement to the state of any amount paid for costs, fees, and expenses incurred in such suit, and the remainder shall be divided between the state and the various taxing subdivisions in the manner provided by law.

40-10-143. Redemption lien.

Any mortgagee, lienholder, or other creditor, or any person having an interest but not the legal title shall have a lien on the lands for the amount expended by him in effecting a redemption; and, if such redemption is by a tenant in common, he shall have a lien on the interest of his cotenant.