



DELINQUENT TAX SALES

THE SALE

As directed by *Title 40, Chapter 10*, of The Code of Alabama-1975, a sale for delinquent tax occurs when tax remains unpaid after the collection official affirms to *the Court* that the tax is uncollectible without a sale of the taxpayer's property; and after notification by *certified mail* to the taxpayer to appear before *the Court* to show cause why a *Decree of Sale* should not be entered and enforced. If the tax payer fails to convince *the Court* otherwise, *the Court* will issue a *Decree of Sale* for the tax payer's property by advertising in a local newspaper for three consecutive weeks at least thirty days prior to the sale. The sales are made in front of the county courthouse door at public outcry, to the highest bidder for cash. The sale must be made during the legal hours of sale (between 10:00 AM and 4:00 PM) on the day specified in the notice or from day to day thereafter until all property embraced in the Decree is sold. Elmore County usually schedules the initial delinquent tax sale for the 3rd Monday of each May and any subsequent or secondary sale, if necessary, during the legal hours of sale the following day or days. [Available properties](#) may be viewed prior to the sale by following the link (underlined) beginning this sentence. If you are not linked to a listing (.pdf) you should assume no property currently available.

It is imperative that any party desiring to participate in a sale for delinquent tax research the entire process and procedures. One recommended source for information is *Title 40 Chapter 10* of The Code of Alabama-1975, entitled "*Sale of Land*". Portions of the *Code* are included herein for interpretation, information and convenience. Participants must satisfy any questions they may have, especially regarding property or properties of interest, prior to the sale. Be advised, tax sale officials and staff are **not** available to conduct research. The Revenue Commissioner and staff **may** answer general questions and provide *suggested methods and sources for research in response to specific inquiries only!* Any information obtained from staff or sales official(s) is considered reliable but is **not** guaranteed and is **not** intended to substitute for **the services of a competent professional**. If the need for professional advice and guidance is determined, the services of competent professional(s) should be retained.

Delinquent Tax sale officials make no guarantees either directly or implied.

PAYMENT BY PURCHASER

Prompt payment is due immediately by the highest bidder!

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.

§40-10-17

(Acts 1935, No. 194, p. 256; Code 1940, T. 51, §264.)

In order to satisfy this requirement of law, a subsequent or *secondary sale*, if necessary, is scheduled at 10:00 A.M. on the day immediately following the *initial sale*. **Accepted forms of payment** include cash, certified funds, or personal check **with** accompanying letter of credit from institution check to be drawn on and appearing on the face of the instrument. Participants, those submitting bids as opposed to those simply observing, are requested to provide the official conducting the sale (Revenue Commissioner), certain information prior to the sale. This information includes, but is not limited to, satisfactory evidence of means sufficient to pay the final bid, thereby satisfying the lien and all associated costs including advertising, immediately upon sale. A Tax Sale [Purchaser Information](#) form is available from the Revenue Commissioner's Office by phoning 334-567-1120, and online by following the link above. For convenience and administrative expediency it is requested and recommended that anyone interested in participating, and not simply observing, have a current completed form on file with the Revenue Commissioner prior to the sale.

CONFIRMATION OF SALE

A defaulting tax payer, his heirs, agents or representatives have five days to protest or challenge the sale or submit payment and effectively set the sale aside. If the sale is confirmed by the court the tax sale official will prepare or produce *Certificate(s) of Purchase* and deliver them to the purchaser(s). The *Certificate of Purchase* is effectively a receipt and substantiates the holder's claim to the property or the sale proceeds. For this reason *Certificate(s)* should be retained in a place of safe keeping for surrender at the appropriate time. This office requires surrender of the original *Certificate* or a certified copy in order for the holder to obtain a *tax deed*. *Certificate(s) of Sale* is negotiable and assignable in writing or by endorsement.

Within 10 days after such sale the tax sale official shall make report of each sale to the 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 sale official 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 sale official to issue proper certificates of purchase to the various purchasers, including the state.

Section 40-10-13

(Acts 1935, No. 194, p. 256; Code 1940, T. 51, §260.)

RIGHT OF PURCHASER OR ASSIGNEE TO POSSESSION; REDEMPTION WHEN LIEN IS RECORDED.

The holder of the *Certificate(s)* is entitled to possession and if possession is not surrendered within six months of demand an action of ejectment or removal may be initiated as described in §40-10-74, appearing below..

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 therefore 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 lien holder. 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

(Acts 1935, No 194, p256; Acts 1935, No 528 p 1114; Code 1940 T 51, 287)

TIME AND BY WHOM LAND MAY BE REDEEMED.

Redemption with the tax sale official must be accomplished within three (3) years from the date of the sale. This is commonly referred to as *administrative redemption*. Once three (3) years from the date of sale has passed an administrative redemption is not allowed by law. However, a judicial redemption by a court of competent jurisdiction may be possible. Certainly any party considering this action would benefit from guidance and assistance by a competent professional.

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.

Section 40-10-120

(Acts 1935, No. 194, p. 256; Code 1940, T. 51, §303.)

THE FOREGOING IS PROVIDED FOR INFORMATION ONLY! No legal, financial or other professional advice or any representation is stated, intended or implied. If the need for professional advice is determined, the services of a competent professional should be sought.

Any prospective tax sale participant or purchaser should research this entire process and procedure, as well as any property included, prior to submitting any bid. A suggested source for research is The Code of Alabama –1975, specifically *Title 40 Chapter 10*, entitled, *Sale of Land*. Portions of the Code and cites included herein for convenience only!