

1 HB145  
2 181574-2  
3 By Representative Wood  
4 RFD: County and Municipal Government  
5 First Read: 07-FEB-17

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, Section 40-10-28, Code  
9 of Alabama 1975, as amended by Act 2014-442,  
10 provides for the disposition of any excess funds  
11 arising from a tax sale after the property is  
12 redeemed. It is unclear whether the law applies to  
13 funds held by a county prior to the 2014 amendment.

14 This bill would clarify the process for the  
15 calculation, distribution, and retention of excess  
16 funds held by a county following the sale of real  
17 estate for taxes and would provide for this process  
18 to apply regardless of when the tax sale took  
19 place.

20 This bill would also ratify, validate, and  
21 affirm any good faith actions taken by a county in  
22 regards to the calculation, distribution, and  
23 retention of excess funds pursuant to any prior  
24 version of the law.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To amend Section 40-10-28, Code of Alabama 1975, to  
4 provide for the calculation, distribution, and retention of  
5 all excess funds arising from the sale of real estate for  
6 taxes on the effective date of this act held by a county  
7 regardless of when the tax sale took place; and to ratify,  
8 validate, and affirm the treatment and disposition of excess  
9 funds and interest made in good faith reliance on this  
10 section, prior to the effective date of this act.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 40-10-28, Code of Alabama 1975,  
13 is amended to read as follows:

14 "§40-10-28.

15 "(a) (1) The excess arising from the sale of any real  
16 estate remaining after paying the amount of the decree of  
17 sale, including costs and expenses subsequently accruing,  
18 shall be paid over to a person or entity who has redeemed the  
19 property as authorized in Section 40-10-120 or any other  
20 provisions of Alabama law authorizing redemption from a tax  
21 sale, provided proof that the person or entity requesting  
22 payment of the excess has properly redeemed the property is  
23 presented to the county commission within three years after  
24 the tax sale has occurred. The county commission may retain  
25 any interest earned on those funds. Until and unless the  
26 property is redeemed, the excess funds from the tax sale shall  
27 be held in a separate account in the county treasury during

1 the three-year period. If at the end of the three-year period  
2 there has been no proper request for the excess funds, those  
3 funds and any interest earned on those funds shall be  
4 deposited to the credit of the general fund of the county and  
5 shall thereafter be treated as part of the general fund of the  
6 county.

7 "(2) The Department of Revenue shall promulgate  
8 rules authorizing the county commission to issue a voucher in  
9 the amount of the excess bid to a person or entity which has  
10 paid all other costs of redemption as required in this  
11 subsection. The person or entity redeeming property may  
12 present the voucher to the judge of probate in lieu of the  
13 amount equal to the excess bid to complete the redemption  
14 process. The rules promulgated by the department shall include  
15 forms to be utilized for issuing such vouchers.

16 "(b) At any time more than three years but within 10  
17 years after a tax sale, the excess funds arising from the sale  
18 shall be paid to either of the following:

19 "(1) To any person or entity entitled to redeem  
20 under Section 40-10-83, or any other provisions of law  
21 authorizing redemption from the tax sale, upon proof of a  
22 circuit court order granting redemption to the person or  
23 entity.

24 "(2) To the owner of the land at the time of the tax  
25 sale or a subsequent owner, upon proof provided to the tax  
26 collector or other official performing those duties that the  
27 land has been redeemed by negotiated agreement from the

1 purchaser at the tax sale or the purchaser's successor in  
2 interest. Proof of negotiated redemption agreement shall  
3 include the following:

4 "a. A copy of a properly recorded deed or conveyance  
5 to the redeeming party executed by the party from whom  
6 redemption was made.

7 "b. If the redeeming party was not the owner of the  
8 land at the time of the tax sale, a copy of a properly  
9 recorded deed or conveyance from the owner at the time of the  
10 tax sale to the subsequent owner.

11 "c. If the party from whom redemption was made is a  
12 successor in interest of the tax sale purchaser, a copy of a  
13 properly recorded deed or conveyance from the tax sale  
14 purchaser to the successor in interest.

15 "(c) Upon receipt of proof of redemption as required  
16 in subsection (b), the county commission shall order the  
17 payment of the excess funds as provided therein and retain any  
18 interest earned on those funds. If proof of redemption is not  
19 received within 10 years after the tax sale, the excess funds  
20 and any interest earned on the funds shall become the property  
21 of the county.

22 "(d) Notwithstanding any other provision of law, the  
23 process for calculation, distribution, and retention of any  
24 excess funds resulting from the sale of real estate for taxes,  
25 including any interest earned on the funds, shall be governed  
26 by this section and shall apply regardless of when the tax  
27 sale occurred. Any prior actions taken regarding excess funds

1       and any interest earned on the funds which were made in good  
2       faith reliance pursuant to this section prior to the effective  
3       date of the act adding this amendatory language are ratified,  
4       validated, and affirmed."

5               Section 2. This act shall become effective  
6       immediately following its passage and approval by the  
7       Governor, or its otherwise becoming law.