

Handbook for Alabama Tax Administrators:

**Tax Assessors, Tax Collectors,
License Commissioners, and
Revenue Commissioners**

Eighth Edition

Alabama Law Institute

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License Commissioners, and
Revenue Commissioners**

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PREFACE

The eighth edition of the *Handbook* continues updating the duties, functions, and statutory authority of the officials charged with the responsibility of assessing and collecting taxes as well as issuing licenses.

Throughout the years, the Alabama Law Institute has worked with the leaders of the Association of Alabama Tax Administrators and with other experienced tax administrators to organize and update the *Handbook*. The Institute wishes to specifically recognize Ms. Annie Wilson, president of the Alabama Tax Administrators Association, for her leadership and vision throughout this process. The Institute would also like to recognize the assistance of the Association of Tax Administrators Handbook Committee:

Annie Wilson.....President, Association of AL Tax Administrators,
Sumter County
Wendy Williams.....Revenue Commissioner, Chambers County
Don Armstrong.....Property Tax Commissioner, Shelby County
Teddy J. Faust, Jr.....Revenue Commissioner, Baldwin County
Debra Lamberth.....Revenue Commissioner, Coosa County
Barry Willingham.....Revenue Commissioner, Cullman County
Jeff Arnold.....Revenue Commissioner, Jackson County
Greg Tucker.....License Commissioner, Limestone County
Online Price.....Revenue Commissioner, Lee County
Charles L. Luker.....Executive Administrator, Coosa County

At the request of several Alabama legislators, the Alabama Law Institute, in conjunction with the University of Alabama's Bureau of Public Administration, developed a *Handbook for Alabama Tax Assessors and Tax Collectors* in 1978. The Alabama Law Institute continued to monitor the changes in Alabama laws in this area and developed a second edition of the Handbook which includes the duties of license commissioners. The third edition added the duties of the revenue commissioners. The number of license commissioners nearly doubled between the third and fourth editions.

The editors for the first edition of the *Handbook* were Robert L. McCurley, Jr., Director of the Alabama Law Institute, and Dr. James D. Thomas of The Bureau of Public Administration, University of Alabama. They were assisted in the preparation of the first edition by Al Agricola, Gerald Paulk, and Penny Davis, then law students at The University of Alabama.

The editor of the second edition was Penny Davis, Associate Director of the Alabama Law Institute. William G. Gantt, then a law student at The University of Alabama, greatly assisted in the research and writing of this edition.

The editors of the third edition were Bob McCurley, Director of the Alabama Law Institute, and Penny Davis, Associate Director of the Alabama Law Institute. Mary Ellen Lamar, a law student at The University of Alabama, greatly assisted in the research and writing of this edition.

The editor for the fourth edition was Penny Davis, Associate Director of the Alabama Law Institute. Jean Powers and Sam Sullivan, Jr., then third year students at The University of Alabama School of Law, were largely responsible for the research of this edition.

The editor for the fifth edition was Penny Davis, Associate Director of the Alabama Law Institute. Leigh Haynie, Anna-Katherine Graves, and Sarita Sanders, students at The University of Alabama School of Law, were largely responsible for the research of this edition.

The editor for the sixth edition was Penny Davis, Associate Director of the Alabama Law Institute. Matthew Benton, a law student at The University of Alabama, was largely responsible for the research of this edition.

The editor for the seventh edition is Penny Davis, Associate Director of the Alabama Law Institute. Peter Jay and Lee Fernon, law students at The University of Alabama, were largely responsible for the research of this edition.

The editor for the eighth edition is Michael S. Hill, Attorney with the Alabama Law Institute. Nikki Skolnekovich and Emily Vanhaneghan, third year law students at the University of Alabama, were largely responsible for the research of this edition.

Finally, we wish to thank Ms. Jill Colburn, Office Manager at the Alabama Law Institute, for her patient efforts in compiling and producing this manuscript.

It should be emphasized that this publication is not an authoritative statement of the law. Nor is it a substitute for the Code or other legal materials explanatory thereof. This publication seeks to serve only as a general guide to the specific mandates of Alabama's law regulating tax assessment and collection. Users of this publication who have need of authoritative legal statements should seek such assistance from the appropriate legal sources.

Although the Alabama Law Institute is a state agency, no conclusions concerning policies of the state of Alabama are to be drawn from this volume. This statement is also true with respect to the position of The University of Alabama for their earlier editions. The findings and conclusions of the study are those of the editor, who takes sole responsibility for the accuracy of the study and for any interpretations of the cases presented.

Clay Hornsby
Deputy Director
Alabama Law Institute
June, 2018

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I.

INTRODUCTION

HISTORICAL BACKGROUND

Historically in Alabama, the county tax assessor and tax collector have administered the tax on property. The assessment and collection of property taxes have been important functions of county government in Alabama since territorial days.

During Alabama's territorial period, an inferior county judicial court composed of justices of the peace appointed by the Governor served as a county's governing body. As early as 1799, this court was required to estimate annually the amount necessary to cover the county's expenses for that year. It was then the court's job to raise these funds through taxes on property.

Commissioners, appointed by the court with the approval of the Governor, assessed the levy against individual taxpayers. These charges were collected by the county sheriff, who served as ex officio tax collector. Any person feeling unfairly or improperly taxed could appeal to the county trial court or to the territorial Supreme Court.

Soon after the turn of the century, a series of laws was passed by the territorial legislature to form the local system for administration of property tax. It consisted of county tax assessors, appointed annually by the Governor and the sheriff, who was continued in ex officio service as the tax collector in each county. The early county court was empowered to grant relief to persons improperly or excessively taxed by the assessor.

This system was not changed until shortly after Alabama's admission into the Union in 1819. At that time, both tax assessors and tax collectors were appointed by the county court. This inferior court continued to perform as a county governing body until 1821—having authority to levy county taxes, to establish and maintain county roads, and to make appointments to nonelective county offices.

In 1821 important changes occurred in the courts and offices comprising Alabama's system of county government. First, the early county court of appointed justices of the peace was replaced by a county court composed of only one judge and a clerk. Alabama's Constitution of 1819 called for the judge of the new county court to be selected by the Legislature, while the clerk was elected by popular vote. Moreover, the office of commissioner of roads and revenue was established in the counties. These commissioners, along with the judge of the county court, were given powers of county government formerly vested in the early county court. Finally, the judge of the new county court was designated ex officio presiding officer of the commissioners' court. The court created in 1821 evolved into today's county commission.

For a few years tax assessors and collectors were appointed in each county by the early commissioners' court. In 1827, however, the offices of tax assessor and tax collector became elective. Their term was fixed at one year.

During the remainder of roughly the first half of the nineteenth century, the structure for administration of property tax was unstable and diverse. Much of this instability can be blamed on local legislation affecting specific counties. But the general state policy called for elected tax assessors and collectors until 1842, when the office of assessor again became appointed. A system of numerous precinct assessors within one county was established and continued until 1848. The state returned to a single appointive assessor for an entire county in 1850, and in 1854 the office of county tax assessor was finally established permanently on an elective basis.

In the meantime, the commissioners' court acted to correct tax inequities by the equalization of assessed property valuations. However, in 1848 the equalization function was assigned to the county commissioners and the tax assessor, who were designated as the county board of equalization.

Separate county boards of equalization were created in 1915. These boards exercised the tax equalization function under

the supervision of a state board of equalization until 1919, when a state tax commission and a system of county tax adjusters were established. In 1923, the state returned to the local equalization policy originally established in 1848 and replaced the system of county tax adjusters with a board of review composed of the county commissioners and the tax assessors, who served the board as ex officio secretary. The board of review was continued until the present board of equalization was established in 1939.

As a matter of general state policy, the offices of tax assessor and tax collector assumed their present elective form in 1854 and 1827, respectively. Originally, the assessor and the collector served for one-year terms but these were increased periodically, ultimately being extended to four years in 1883. The four-year term was continued until 1943, when the present six-year term was established. Alabama's local structure for administration of property tax was determined by these developments. Also, separate boards of equalization were created in 1939 and charged with the equalization function previously assigned to the commissioners' court.

A few organizational developments have occurred subsequently. The office of license commissioner has been created in at least fifteen counties. This office has assumed some of the functions associated with the administration of property tax; mainly, the assessment and collection of taxes on motor vehicles. Fifty-four counties now have a Revenue Commissioner's Office, which has replaced separately elected tax assessors and tax collectors as the dominant organization for administration of property tax. The local tax authorities function to some extent under the administrative supervision of state authorities, most notably the State Department of Revenue.

The Department of Examiners of Public Accounts examines and audits the books, accounts, and records of all state and county offices, officers, bureaus, boards, commissioners, corporations, departments, and other agencies. Reports of the Department are prima facie evidence in court proceedings.

Since the earliest times, property has been assessed for tax purposed in proportion to its value. Alabama's Constitution specifies that all taxes levied on property "shall be assessed in exact proportion to the value of such property." At the present time, the state uses a classification system for determining assessed valuations, having four classes of property, with each being assessed at a prescribed ratio of assessed value to fair and reasonable market value.

The ratios of assessment prescribed in the Constitution (Amendment No. 325) apply to the assessment of property for state tax purposes. Assessment ratios may (and do) vary among counties, so long as each ratio is uniform within a county.

The Alabama Legislature has defined the base of the property tax by specifically naming particular objects of taxation, even though the tax is general and applies to all property not exempt from taxation. Numerous exemptions have been made by law, the most important are for the taxpayer's homestead and the property of religious, charitable, and educational institutions.

With the exception of utility property and other property assessed by the State Department of Revenue, property subject to taxation is assessed by the tax assessor, who also computes the taxes due on the property. Appeals from the original assessment can be taken to the county board of equalization and to the courts. The property tax due is then collected by the tax collector, who at the option of the municipalities within the county may collect their taxes as well as the taxes due the state, the county, and the school districts. The tax collector is authorized to take various steps to collect the taxes, including the sale of property on which taxes are delinquent. However, a delinquent taxpayer whose property has been sold for taxes has the right to redeem his or her property under the conditions and procedures of the law.

Evidence of the constantly changing structure of tax assessment and collection is reflected in the expansion of the number of revenue commissioner and license commissioner offices within the state.

Essentially, these are the organizations and procedures that have been developed in Alabama for administration of property tax. The purpose of this handbook is to describe the duties imposed by law on the tax administrators: tax assessor, tax collector, revenue commissioner and the license commissioner.¹

¹ This description of the historical development of the local organization for administration of property tax in Alabama was based on a number of informational sources. Included among these sources were the Alabama Historical Records Survey Project, Work Projects Administration, Inventory of the County Archives of Alabama: No. 61, Talladega County (Birmingham, 1940); The Alabama Revenue System: Report of the Revenue Survey Committee, An Interim Committee of the 1945 Legislature (Montgomery, 1945); and Report of the Joint Interim Committee to Study the Tax Structure of the State of Alabama and the Distribution of Tax Revenues (Montgomery, 1977).

II.

THE OFFICE OF TAX ASSESSOR

ELECTION AND TERM

A tax assessor is elected by the voters of each county at the general election in November of the appropriate election year. The term of office is six years, and the successful candidate assumes office on October 1 of the year immediately following the election. § 36-3-5.1. However, the tax assessor cannot take office until he or she first gives an official bond. § 36-2-10.

QUALIFICATIONS

In order to be qualified to hold the office of tax assessor, a person must be a resident and qualified voter of the county and must not come within any of the following categories of ineligibility:

- (1) Those who are not qualified voters, except as otherwise expressly provided;
- (2) Those who have not been inhabitants of the state, county, district, or circuit for the period required by the Constitution and laws of the state;
- (3) Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or any other crime punishable by imprisonment in the state or federal penitentiary and those who are mentally incompetent;

¹ Unless otherwise stated, all citations in this book are to the Code of Alabama, 1975.

- (4) Those against whom there is a judgment unpaid for any monies received by them in any official capacity due to the United States, this state, or any county or municipality thereof; and
- (5) Soldiers, seamen or marines in the regular army or navy of the United States.

No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this state, nor shall any person hold two offices of profit at one and the same time under this state, except constables, notaries public and commissioners of deeds. § 36-2-1.

OFFICIAL BOND

Generally, the bonds of elected officials must be filed within 40 days after the declaration of election. However, since the tax assessor does not assume office until the October following the November election, the bond is to be filed on or before September 1 of the year immediately following the election. § 36-5-2.

The tax assessor must execute in duplicate a bond in the sum of not less than \$5,000, payable to the State of Alabama and with sufficient sureties approved by the probate judge, conditioned on the faithful discharge of the duties of the office of tax assessor. One copy of the bond is filed with the local probate judge and the other in the office of the State Comptroller. § 40-4-1.

ETHICS LEGISLATION

The Alabama Ethics Law was enacted on September 13, 1973, and signed into law by the Governor on the following day. §§ 36-25-1 through 30. As originally enacted, it applied only to state officials and employees. Because it was doubtful that the act extended to coverage of county and municipal employees by the State Ethics Commission, the Legislature in 1975 enacted Act No. 130. This Act replaced all references to “state officials and employees” with definitions of and references to “public officials” and “public employees,” and defined the term in such a way as to

include state, county, and municipal officials and employees. As amended, subsection 36-25-1(27) is as follows:

(27) Public Official. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40.

In the case of *Comer v. City of Mobile*, 337 So. 2d 742 (Ala. 1976), the Alabama Supreme court struck down a population classification formerly contained in the section. From this opinion it is clear that the provisions of 1975 Act No. 130 relating to disclosure of the economic interests of county and municipal officials covered under subsection 36-25-1(27) are applicable to the offices of tax assessor, tax collector, revenue commissioner and license commissioner. The State Ethics Commission requires this information to be filed in its office by April 30 of each year. § 36-25-14.

The ethics laws have been amended a number of times since then. A provision was added that the commission shall take no investigatory action against a public official on an anonymous complaint. Complaints must be made by identifiable sources and must be in writing. § 36-25-4(d). The category of persons who must file a statement of economic interest has been broadened and now includes “[a]ll elected public officials at the state, county, or municipal level of government or their instrumentalities” and “[a]ny person appointed as a public official or employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is seventy-five thousand dollars (\$75,000) or more annually, as adjusted by the commission by January 31 of each year to reflect changes in the U.S. Department of Labor’s

Consumer Price Index, or a successor index.” § 36-25-14(a)(2).
“Public employee” is now defined as:

(26) Public Employee. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county, or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee’s income. § 36-25-1(26).

The penalty provisions in § 36-25-27 were amended in 1995 to separate between violations committed intentionally and violations committed unintentionally. Intentional violations will be guilty of a Class B felony; unintentional violations will be guilty of a Class A misdemeanor. §§ 36-25-27(a)(1) and 36-25-27(a)(2).

In 2005, the “Alabama Open Meetings Act” became law. It was amended in 2015. It specifically provided that it is the policy of Alabama that the deliberative process of governmental bodies shall be open to the public during meetings as defined in Section 36-25A-2(6). Except for executive sessions permitted in Section 36-25A-7(a) or as otherwise expressly provided by federal or state statutes, all meetings of a governmental body shall be open to the public and no meetings of a governmental body may be held without providing notice pursuant to the requirements of Section 36-25A-3. It further provided that electronic communications could not be utilized to circumvent any of the provisions of that Act. § 36-25A-1.

The Act did allow for executive sessions under the limited circumstances provided under Section 36-25A-7. Furthermore, it provided for immunity in addition to any existing applicable immunity, for members of a governmental body and any of its employees participating in a meeting conducted in conformance with the Act. The Act states that they shall have an absolute privilege and immunity from suit for any statement made during the meeting with relates to an action pending before the governmental body. § 36-25A-8.

The Act also provided a penalty provision, Section 36-25A-9. Under subsection (g) for each meeting proven to be held in violation of the Act, the court shall impose a civil penalty. The maximum penalty for each meeting shall not exceed one thousand dollars (\$1000) or one half of the defendant's monthly salary for service on the governmental body, whichever is less. The minimum penalty shall be one dollar (\$1). With regard to claims related to improper discussions during executive sessions, monetary penalties may only be assessed against defendant members of a governmental body who voted to go into an executive session and who remained in the executive session during the discussion determined by the court not to have been authorized by this chapter. Penalties imposed against a member of a governmental body found to have acted in violation of the Act shall not be paid by nor reimbursed to the member by the governmental body he or she serves. If more than one cause of action is filed pursuant to this chapter, all causes of action based on or arising out of the same alleged violation or violations shall be consolidated into the action that was first filed and any party may intervene into the consolidated action pursuant to the Alabama Rules of Civil Procedure, and no member found to have acted in violation of this chapter by a final court order and assessed a penalty as authorized herein shall be subject to further liability or penalty to the same or different plaintiffs in separate causes of action for the same violation or violations. However, under subsection (h), a governmental body is authorized to pay for and provide for the legal expenses of present or former members of the body named as defendants in a proceeding under the Act. § 36-25A-9.

OFFICE: LOCATION AND HOURS OF OPERATION

The main office of the tax assessor must be located in the county courthouse and must be kept open on a year-round basis. § 40-7-3. Location of the office at the courthouse provides easy access to records in the offices of the probate judge and the tax collector, which is a necessity to the efficient functioning of the office of tax assessor. Furthermore, when plat books are annotated or updated, the copies in each office are readily available for corresponding amendments.

In counties that require the tax assessor to visit election precincts throughout the county, the tax assessor must maintain office hours from 8:00 until 4:00 p.m. § 40-7-3. Other office hours in the courthouse are set by the county commission, which can authorize the closing of the office on legal holidays set pursuant to Section 1-3-8, or for special circumstances deemed necessary or appropriate Documents that cannot be filed by a certain deadline as a result of a closing will have their deadlines extended to when the office reopens as provided in Section 1-1-4. § 11-1-8.

METHOD OF COMPENSATION

Originally the tax assessor's compensation was based solely on the fee system, however, most assessors are currently paid by salary. Under the fee system of compensation, which is still in operation in only a few counties, the tax assessor is paid statutorily prescribed fees for performing certain duties such as the preparation of plat books, for which not less than \$150 per book over 400 pages is payable by the county. A similar fee is paid for the preparation of the abstract book for the tax collector. §§ 40-4-5, 40-7-32, 40-7-36 through 38. In addition to these fees, there are specified commissions paid to the tax assessor by the tax collector, based on a percentage of the amount of tax collected. Most counties have changed to the salary basis of compensation; however, some of the smaller counties still retain the fee system, in which case the tax assessor receives the prescribed fees and commissions as compensation for services rendered.

The tax assessor's commission depends upon the fund in which property tax proceeds are deposited. County property tax proceeds are deposited into the county General Fund, Road and Bridge Fund, and such other funds as may be required by law. State property tax proceeds are deposited into three funds: the state General Fund, the Public School Fund, and the Pension Fund. A scaled percentage that yields the tax assessor's commissions is applied to the net collections from the tax on property other than motor vehicles for the general fund of the state and county. Commissions for the assessment of taxes on motor vehicles for the general fund of the state and county are computed on the same basis. The scale is as follows:

<i>Amount Collected</i>	<i>% Commission</i>
First \$5,000	10 %
Next \$4,000	5 %
Next \$3,000	4 %
Next \$3,000	1 ½ %
Over \$15,000	1 %

In addition, the tax assessor receives a commission of 2 percent of the collections of special taxes and all special county or district taxes for school purposes provided the school taxes have been properly apportioned, and a commission of 2.5 percent of the amount of ad valorem taxes on motor vehicles collected for municipalities. §§ 40-4-2, 40-12-253.

None of the commissions or fees provided for by statute are applicable to tax assessors who are paid a salary. Fees and commissions payable to the tax assessor accrue to the county treasury when the basis of the assessor's compensation is changed to the salary system. § 40-4-3.

With the implementation of statewide reappraisal of property and the resulting equalization of ad valorem taxes in the state, the Legislature passed Act No. 85-791 which established an equitable, minimum basis for compensating salaried tax assessors, tax collectors, revenue commissioners, and license commissioners. The scheduled amounts were amended in 1990.

In 2000, the Omnibus Salary Bill was enacted by the Alabama Legislature providing an expense allowance to the Tax Assessor in amounts not to exceed ten thousand (\$10,000) per annum. This amount would then be part of the base salary of the Tax Assessor at their next term of office and would also entitle them to the same uniform increases in compensation, including cost-of-living increases, longevity increases, merit raises, and bonuses that are granted to county employees by the county commission at the time of the approval of the county budget. Certain Tax Assessors were not affected by this law, as they were recipients of other local legislative pay increases or their county commissions elected to adopt a resolution declaring their intent not to participate.

The minimum annual salary is computed according to the following schedule:

<i>In Counties Having A Population of</i>	<i>Annual Salary</i>
25,000 or less	\$32,500
25,001 to 75,000	37,500
75,001 to 119,000	40,000
More than 119,000	42,500

Assistant tax assessors and assistant tax collectors who are elected receive 90% of the salary established for the tax assessor or tax collector. In counties where the offices of tax assessor and tax collector have been combined, the official holding the combined office, shall receive a minimum annual salary of \$10,000 greater than the minimum prescribed for his county in the above schedule. § 40-6A-2, § 40-6A-3.

The money for these salaries is taken from the ad valorem taxes collected during the tax year and deposited into the county general fund. The salary is paid from that fund in equal installments. Each fund, agency, or municipality which receives ad valorem taxes pays a pro rata share of the salaries. § 40-6A-2.

EMPLOYEES AND OFFICE EXPENSE

The tax assessor is authorized to appoint deputies for whose acts the tax assessor is responsible in case of loss to a taxpayer or to the state or county by reason of any unlawful act of the deputies. Assistants to the tax assessor do receive compensation from the county. §§ 40-4-6, 40-6A-2.

Moreover, the employment of part-time or temporary staff during months of increased work load may be included in the budget request made by the tax assessor and submitted to the county commission for approval. If the request is approved, the county commission may appropriate the necessary funds from the county treasury to pay for such temporary assistance. § 11-8-3. In some of the larger counties, a merit system patterned after the state personnel system is in operation. In those counties, new employees are channeled through a personnel board.

Assessment forms and all books, stationery, and printed blanks necessary for the proper conduct of the assessor's office are furnished by the county commission. § 40-6A-5.

VACANCY IN OFFICE

A vacancy in the office of tax assessor occurs if the incumbent dies or resigns, if the assessor ceases to be a resident of the county in which he or she is elected, if a competent tribunal declares invalid the election in which he or she was elected, if the Legislature abridges the term of office, or if there is a failure to elect a successor at any general election. §§ 36-9-1, 36-9-5. Once it is determined that there is a vacancy in the office, the Governor appoints a successor to fill the unexpired term. § 36-9-17.

III.

THE ASSESSMENT PROCESS

THE ASSESSMENT FUNCTION IN GENERAL

The Alabama Legislature enacted major revenue legislation in 1935 from which the office of tax assessor still derives its basic authority. The provisions of this legislation are found in Title 40 of the Alabama Code on Revenue and Taxation.

Under this existing legislation, the tax assessor has the authority to assess all taxable real estate and improvements on real estate as well as personal property around the taxpayer's home. Property assessed by the State Department of Revenue is excepted from the tax assessor's responsibilities. An enumeration of specific types of property that are subject to taxation is contained within the 1975 Alabama Code § 40-11-1. The Alabama Legislature now includes manufactured homes as subject to the ad valorem tax as real estate. Also, any property that is brought into the state after October 1, will be taxed that year as if it had been in the state on October 1, except that there will be a reduction according to the number of months left in the year. (1991 Acts No. 91-694, p. 1351, § 5).

The assessment of taxable property is made to the owner of record as of October 1 of each year, with the exception of motor vehicles, which is made as of January 1 of each year. The tax on real property is assessed against the holder of title to the land. § 40-7-1. This includes a tax-exempt authority. According to the Attorney General, when a tax-exempt authority purchases real estate from a non-tax-exempt entity after October 1, the tax-exempt authority will be required to pay the ad valorem taxes due on the property for that year. 222 Op. Att'y Gen. 56 (1991).

Any municipality may adopt an ordinance providing for the payment of municipal property taxes on the basis of the state and county assessments. § 11-51-40. In this event, the county tax assessor and tax collector assess and collect the municipal taxes

along with the state and county taxes. [See generally §§ 11-51-40 to 11-51-74].

The tax year commences on October 1 and, except for a supplemental listing for which additional time may be allowed, all assessment of property within the county must be completed by January 1. During this period the tax assessor notifies the taxpayer of his duty to pay the taxes on his property by January 1. When the assessments have been completed they are entered in the abstracts made by the tax assessor for the State Department of Finance, the tax collector, and the State Department of Revenue, §§ 40-7-2, 40-7-35.

TERRITORIAL JURISDICTION

The jurisdiction of the tax assessor is limited to the county for which he or she is elected. The tax assessor has no authority to assess for taxation any property not situated within the county. Movables are located for tax purposes where the owner resides.

DUTY TO VISIT VOTING PLACES

Between October 1 and January 1 of each year, the tax assessor may be required in counties having a population of 100,000 or less to visit the voting places in the county in order to list property for assessment. The assessor is required to give 10 days' public notice of the visit through such means as newspaper advertisements or posted handbills.

In precincts and towns having a population of less than 1,000, the tax assessor is required to stay for one weekday to complete the listing of taxpayers' property. In towns having a population of 5,000 or more, the assessor or his deputy must remain for one week. If the population of the town is between 1,000 and 5,000, the tax assessor need stay only three days.

The county commission, in its discretion, may relieve the tax assessor of the duty to visit these areas within the county. § 40-7-3.

ASSESSMENT OF PROPERTY: FAIR MARKET VALUE

The first step in the process of ad valorem taxation is the assessment of the property. The question of how to assign a value to the property is very important. It must be realized, however, that the end product of the assessment process is at best an educated estimate. The legally required value is known as the “fair and reasonable market value.”

Market value is the price a willing buyer would pay to a willing seller in an “arm’s length” transaction with neither party being subject to outside bargaining pressures. When property has recently changed hands, market value is determined by the mass appraisal figures of the county.

Mineral, coal, oil, gas, timber, and turpentine interests, when they have been severed in ownership from the soil, by sale or otherwise, are separately appraised and assessed. § 40-7-15.

The assessment for taxation of the year immediately preceding is generally an aid in determining the current year’s valuation. By statute the current year’s valuation cannot be less than that of the previous year, absent proof to the board of equalization to the contrary. §§ 40-7-15, 40-7-25.

In 2007, the time in which a taxpayer could file an objection to the assessed valuation was changed to within 30 calendar days for the date of the statement showing the increase in the assessed valuation. § 40-7-25.

TAXPAYER ASSESSMENT

If the owner of real estate makes improvements on his or her property or destroys any improvements during any taxable year, he or she must file a timely tax return covering such changes made after October 1 of the preceding tax year. Section 40-7-1 requires the taxpayer to file his or her return between October 1 and January 1 of any current year. However, the 1983 Taxpayer Convenience Act allows the tax assessor to assess property and accept applications for homestead exemption from January 1

through September 30 of each taxable year. The assessment becomes effective on the following October 1. The Act amends Section 40-7-2.1 of the Code and, in effect, allows for year-round assessment of property.

In counties in which the assessor is required to visit precincts and voting places to list property for taxation, the taxpayer is required to attend in person before the assessor to render a full and complete list of all property of which he or she was the owner or in which he or she owned any interest whatever on October 1 of the tax year. § 40-7-4.

When the taxpayer makes this kind of listing of his or her property, the taxpayer is required to take the following oath administered by the tax assessor or his or her deputy:

You do solemnly swear that you will true answers make to all lawful questions which may be put to you touching the return you are about to make and that you will make a full and complete return of all property owned by you or in which you had any interest whatever or of which you were trustee or agent on the first day of October of the present tax year, and this return is made upon your personal knowledge, so help you God. § 40-7-5.

Today, since most counties no longer require the assessor to visit voting places and precincts, there is no requirement that the taxpayer appear personally or take the above oath orally. As a practical matter, returns are filed by mail on assessment forms which contain the following oath at the bottom of the sheet:

I do solemnly swear that the foregoing list of property returned by me (if not his own property, here state the capacity in which he returns such property for assessment) is a full and complete return of all property owned by (here state "me" if the property returned is his own property and, if not his own property, state the name of the person, corporation or estate for which the property is

returned), or in which (here designate the owner for whom return is made) had any interest whatever, the situs of which for taxation, or exemption from taxation, is in this county, on the first of October of the present tax year, so help me God.

The taxpayer's signature with proper notarization must appear immediately following the oath. § 40-7-8.

The taxpayer is under a duty not only to list and return all property for taxation, but also to report any improvements made on the property. The improvements are taxed to the extent that they increase the value of the property improved. If the taxpayer fails to report an improvement to previously assessed property, he must pay a penalty calculated by taking 10 percent of the difference between the previous year's assessed value and the current year's assessed value. The penalty is different in the case of unassessed property. § 40-7-11.

A person fraudulently failing or neglecting to report a change in the condition of the property or a change in the eligibility status of property for the homestead exemption may be found guilty of a misdemeanor. § 40-7-12. Furthermore, a taxpayer's intentional misrepresentation of its assets does not abrogate the right of the county taxing authorities to assess and collect personal property taxes from the taxpayer based on the information the taxpayer provided in the tax returns. See *Ex Parte HealthSouth Corp.*, 978 So.2d 745 (Ala. 2007).

Generally it is the owner of property who lists it for taxation. However, property belonging to a minor is listed by the minor's legal guardian, father, mother or the person in charge of the property. The husband lists the property of his wife if he is living and sane and they reside together; otherwise, the wife lists her property. § 40-7-17. This section is constitutionally suspect. Property held in trust is listed by the trustee.

If the property is owned by a person who is deceased, the executor or administrator of the estate lists the property; if there is no executor or administrator, the property may be listed by anyone

having an interest in the estate. Corporate-owned property is listed by the officers or agents of the corporation. Persons required to list property for others in their capacity as agents or representatives must list such property separately from their own, in the name of the owner of the property and, if possible, showing the address of the owner. §§ 40-7-17 to 40-7-20.

A foreign business doing business in Alabama is required to make to the assessor returns of the gross or net receipts or commissions of its business. If the business fails to make the returns within 10 days after the date due, the business is deemed to be in default. After notice, as provided in section 40-7-24, the assessor shall include in the assessment a penalty of 10 percent of the taxes due. § 40-7-24.

ASSESSMENT TO “OWNER UNKNOWN”

If the tax assessor knows or learns of property subject to taxation in which the owner is unknown, the assessor must list, return, and value such property according to procedures provided by law and assess this property “owner unknown.” The tax assessor is under a duty of reasonable and diligent inquiry to determine who owns the property, including contacting the last known owner of the property. A penalty of 10 percent of the taxes assessed is added to the amount due. Failure to comply with this requirement by the tax assessor or his deputies is a misdemeanor subject to fine of not less than \$25 nor more than \$500. § 40-7-31.

For each return of property to “owner unknown,” the assessor is entitled to a demand fee of \$5.00 to be entered upon the return and assessment. § 40-4-5.

DESCRIPTION OF REAL ESTATE

Any description of real estate returned for taxation must accurately reflect the location and acreage of the property. The best method used to describe the property will depend on the location and size of the particular parcel of land being described. If the parcel is an entire section, it may be described by the number of the section, township, and range. A federal subdivision of a section

may be similarly described. A description of a parcel of land having less acreage than a subdivision can be described by metes and bounds or any other satisfactory method. If the land has been platted and recorded in the probate judge's office, it may be described by reference to the number of the parcel as platted. Severable interests in land are separately returned for taxation with a description of the land in or on which the interest is located. When the surface rights alone are being returned for taxation, a notation must appear beside the description of the land indicating the nature of the assessment. An abbreviation such as S.R. is sufficient. When mineral or other interests are being returned alone, a similar notation (e.g., M.R.) must be used. § 40-7-16.

ASSESSED VALUATIONS AND RATES OF TAXATION

All taxable property in the state is divided into four classes for ad valorem tax purposes and for state tax purposes is assessed at the following ratios of assessed value to fair and reasonable market value or, as may be provided by law, to the current use value of such property. § 40-8-1.

Class I: All property belonging to a utility that is used in the business of that utility is Class I. Property in Class I is assessed for taxation by the State Department of Revenue and is defined in Title 40, Chapter 21, Code of Alabama 1975. This classification excludes certain railroad property defined in 49 United States Code, Section 26C, which falls in Class II.

The assessment ratio for property in Class I is 30% of fair market value.

Class II: All property not otherwise classified is Class II. Generally this includes business, industrial, personal and undeveloped real property, and it relates to that not falling within any of the other classes of property. The Attorney General in an opinion dated January 11, 1989 stated that travel trailers were Class II property and not to be assessed as real estate.

The assessment ratio for property in Class II is 20% of Fair market value.

Class III: All agricultural, forest and owner-occupied residential property, and historic buildings and sites is Class III. This includes an owner who resides on the property and remains in possession of the property after it is sold at a tax sale. The assessment ratio in this class is 10%.

Class IV: All private passenger automobiles and motor trucks of the type commonly known as “pick-ups” or “pick-up trucks” owned and operated by an individual for personal or private use and not for hire, rent, or compensation are Class IV. Consequently, lease purchase vehicles, hired vehicles (e. g., cabs), motorcycles, trailers or semi-trailers and self-propelled campers or house cars are excluded. As long as the vehicle is individually owned and operated, even though used in the owner’s business but not for hire, compensation or rent, it is Class IV.

The assessment ratio for property in Class IV is 15% of fair market value.

Under certain conditions, a county may increase or decrease the assessment ratio applicable to any class of taxable property. Whether such a variance will be allowed is dependent upon the total assessed value of all property classified in any one class of taxable property located in the county, municipality or other taxing authority. See § 40-8-4.

Alabama uses a millage rate expressed in a percentage to calculate ad valorem taxes. Simply put, a mill is one-tenth of a cent. The rate of taxation for state purposes is sixty-five one-hundredths of 1 percent per annum on the assessed value of taxable property. § 40-8-2. This means that for every one hundred dollars in assessed value, the state receives a tax of 65 cents annually. Converted to mills this is a 6.5 mill tax. Expressed in decimals, the state tax rate is equal to the figure, .0065.

Multiplying the assessed value of taxable property by the tax rate expressed as a percentage (or in decimals) produces the amount of state ad valorem taxes due. However, this computation does not yield the total of all ad valorem taxes due, because the counties and cities also levy ad valorem taxes. In fact, the state ad

valorem tax is relatively small compared to the local taxes. Of course, the local rates vary from county to county.

The following is an example of the computation of the taxes that would be paid by a resident property owner who lives in the City of Tuscaloosa. Since this example is for illustrative purposes only, the homestead exemption from state ad valorem taxes is not taken into consideration here but is described in a subsequent section.

Value of Land	\$ 3,000
Value of Home	<u>27,000</u>
Total	\$30,000
Assessed Value (for Class III Property, 10% of Market Value)	\$ 3,000
Tax Rate for City Resident 45.5 Mills (\$4.55 per \$100 Assessed Value)	<u>.0455</u>
Total Due	\$136.50

The total tax figure for a Tuscaloosa resident is broken down as follows:

State	6.5 m's	\$ 19.50
County:		
General Fund	7.0 m's	21.00
Road & Bridge	3.5 m's	10.50
County Wide Schools	5.5 m's	16.50
City of Tuscaloosa	13.5 m's	40.50
School District 3	<u>15.5 m's</u>	<u>28.50</u>
	51.5 Total m's	\$136.50

Proceeds from the state's share of the ad valorem taxes are deposited into three funds in the state treasury. An amount equal to three mills less commission of the tax goes to the Public School Fund and is distributed among the counties in proportion to their school age children; one mill, to the Pension Fund (originally for needy Confederate soldiers and their widows but devoted now almost entirely to welfare purposes), of which 1 percent of the total amount collected is allocated to the Alabama Historical

Commission for the maintenance of the Confederate Memorial Park at Mountain Creek; and two-and-one-half mills go to the state General Fund. It is unlawful for a historical society to use funds earmarked for the Confederate Memorial Park for any other purposes, even when funding is not sufficient for other functions. AG Op 2005-182. However, admissions and sales proceeds from the Confederate Memorial Park gift shop may be used for any of the purposes of the Alabama Historical Commission, including those not related to the Confederate Memorial Park. (AG Op. 2007-85) [§ 40-8-3; see also Report of the Joint Interim Committee to Study the Tax Structure of the State of Alabama and the Distribution of Tax Revenue, Legislature of Alabama, March 1977, p.32.] The following table illustrates this division of the state tax proceeds.

Allocation of State Ad Valorem Tax
(using the figures set out above)

Public School Fund	3 mills	\$ 9.00
Pension Fund	1 mill	3.00
State General Fund	<u>2.5 mills</u>	<u>7.50</u>
	6.5 mills	\$19.50

MOTOR VEHICLE ASSESSMENT

For state ad valorem tax purposes, motor vehicles are assessed at a certain percentage of their fair market value according to their classification. § 40-8-1. The classes applicable to motor vehicles and the respective assessment ratio of each are given below:

Class I: Includes all motor vehicles owned by public utilities and used in the business of the entity. Assessment Ratio: 30%.

Class III: Applies only to manufactured homes as that term is defined. Assessment Ratio: 10%.

Class IV: Includes all private passenger automobiles, station wagons, jeeps, and buses which are owned and operated by an individual for personal or private use and not for hire, rent or

compensation, and “pick-up” trucks weighing not over eight thousand pounds. Assessment Ratio: 15%.

Class II: Includes all motor vehicles not in Class I, III, or IV. Assessment Ratio: 20%.

In order to determine the state tax due, the state millage rate of 6.5 mills is applied to the assessed value of the motor vehicle. The following illustration represents the taxes due on a hypothetical Class IV automobile:

State Ad Valorem Tax

Department of Revenue Market Value	\$6,280.00
State Assessed Value - 15% (Class IV)	<u>.15</u>
	942.00
State Taxation Rate - 6.5 Mills	<u>.0065</u>
State Tax Due	\$6.12

The calculation is different, however, in counties which do not assess Class IV motor vehicles at 15 percent of their fair market value for county and municipal tax purposes. Under § 40-8-4, certain conditions will permit a county, municipality or other local taxing authority to increase or decrease the assessment ratio applicable to any one class of taxable property. The local calculation, of course, is not complicated in those counties using the same assessment ratios as the state.

All millage rate levies and changes affecting ad valorem taxes on motor vehicles shall become effective on the January 1 following the levy or rate change. § 40-12-253(j). See also AG Op. 2007-106 when the Ad Valorem tax of 7.3 mill was reauthorized by the people on January 16, 2007, and was levied by the Morgan County Commission on February 13, 2007. The License Commissioner could not begin collecting the tax from the owners of motor vehicles until January 1, 2008.

The State Department of Revenue publishes annually a Uniform Motor Vehicle Assessment Schedule – a manual that aids in determining the assessed values of motor vehicles according to

their make, model and type. The manual is distributed to each county assessing official charged with the duty of assessing motor vehicles in an electronic format. The manual is to be used throughout a calendar year as a uniform basis for assessing all motor vehicles for the purpose of ad valorem taxation.

Before a motor vehicle license can be issued, the owner of the motor vehicle is required to pay the accrued ad valorem taxes due on the vehicle. The owner is required to return the motor vehicle to be assessed for ad valorem taxes by the tax assessor in the county where the owner resides or, for institutional owners, where the vehicle is used or operated. Before the assessor levies such taxes, he must be furnished with the tag number presently on the vehicle or, in the case of a new car, with a bona fide certificate of title. After the proper assessment is made, the assessor issues the owner a certificate of assessment which serves as a warrant for the tax collector to collect the taxes shown thereon. §§ 40-12-253.

In the issuance of motor vehicle license tags, the county licensing official is entitled to satisfy himself or herself as to the true residency of the person applying for registration. Thus, it is permissible to ask the applicant if he or she is a citizen of the United States. AG Op. 2007-060. To establish residency within the county, the county licensing official may consider where a person is registered to vote, where the individual's children attend school, if a homestead exemption is applied to their county residence, and the current address on the individual's driver license. AG Op. 2003-077.

Motor vehicles begin to accrue tax when they are brought into the state; new motor vehicles for which licenses have never been issued become subject to ad valorem taxation when they are sold from the inventory of a dealer. §§ 40-12-253 and 32-6-61.

Historically, tax assessors and tax collectors bore the duty of assessing and collecting ad valorem taxes on motor vehicles due the city, as well as those due the county and state. Both officers receive a commission of 2.5 percent of the amount of such city taxes collected. § 40-12-253.

Today, local county governments through local legislative acts may have combined the licensing and taxation of motor vehicles into one office with the county licensing official being perhaps the revenue commissioner, license commissioner or judge of probate. In such counties the office receives the same commission totaling 5.0 percent for assessing and collecting ad valorem taxes on motor vehicles.

Travel trailers are classified as motor vehicles for tax purposes. § 40-12-256.

Manufactured homes are assessed by the tax assessor or other assessing official in each county. § 40-7-1(a). Manufactured homes, or real property, included in the assessment of ad valorem taxation are those located on land owned by the manufactured home owner where such manufactured homes are not rented or leased for business purposes. § 40-11-1(b)(15).

Manufactured homes located on land owned by someone other than the manufactured home owner, or located on land owned by the manufactured homeowner and the manufactured homes are rented or leased for business purposes are subject to registration. § 40-12-255(h). The manufactured home owner shall furnish to the registration official the make, model, year, length, width, number of transportable modules and serial number. § 40-12-255(a).

Every owner of a manufactured home that is both 20 years old or less, and a 1990 model or newer, must have a certificate of title issued by the department. § 32-20-20(a). If no such title exists, the owner must make application to a designated agent for a certificate of title to the manufactured home and for each unit of said home if it consists of multiple units.

However, no certificate of title is required for:

- manufactured homes owned by the United States or its agencies,
- manufactured homes owned by a licensed manufactured home dealer and held for sale,

- manufactured homes owned by nonresidents that are not located in this state,
- manufactured homes designated more than 20 years old, as determined by the department,
- all 1989 and prior models,
- modular homes, and
- manufactured homes situated in this state and permanently affixed to the real property on which it is placed and which the certificate of title or the manufacturer's certificate of origin has been cancelled pursuant to §32-20-20(b).

§ 32-20-21.

If a manufactured home is 20 years old or less and is permanently affixed to a parcel of real property, so that the property and home owner are the same person, then either:

- (1) the original retail purchaser;
- (2) lienholder for the original retail purchaser as recorded on the certificate of origin;
- (3) the titled owner;
- (4) owners lienholder recorded on the certificate of title may apply for a cancellation of a certificate of origin or title to the manufactured home.

All of the following must be delivered to the Alabama Department of Revenue:

- (1) The certificate of origin or certificate of title to the manufactured home, or each separate certificate of origin or certificate of title if the manufactured home consists of more than one unit or, in lieu thereof, post a bond in accordance with the provisions of subdivision (2) of Section 32-20-24;
- (2) Lien release from lienholder as recorded on the certificate of title or, in lieu thereof, post a bond in accordance with the

provisions of subdivision (2) of Section 32-20-24;

- (3) An affidavit executed by all who have an ownership interest in the manufactured home and the realty to which the manufactured home has become permanently affixed to the effect that the manufactured home is permanently affixed to the realty described in the deed and containing written verification from the judge of probate that the manufactured home has been recorded as being permanently affixed and recorded as real property in that county.

§ 32-20-20(b).

If a manufactured home has had its certificate of origin or title canceled according to the provisions of §32-20-20 or §32-8-30, and is subsequently detached from the realty to which it was permanently affixed, the current owner or owners must

- (1) reapply for a new certificate of title,
- (2) post a bond in accordance with the provisions of subdivision (2) of Section 32-20-24 and
- (3) pay the required fee specified in Section 32-20-4, for the manufactured home, or if in more than one section, for each component unit.

§32-20-20(c)

Any dealer, acting for themselves or another, who sells, trades, or otherwise transfers any manufactured home required to be titled under this chapter, who does not comply with the provisions of this chapter, shall be guilty of a Class B misdemeanor and upon conviction shall be fined in a sum not exceeding five hundred dollars (\$500). §32-20-20(d)

The department shall maintain a record of all certificates of title and manufacturer's certificate of origin that are cancelled pursuant to this section:

- (1) Under a distinctive title number if a certificate of title was issued and subsequently cancelled.
- (2) Under the manufactured home identification number.
- (3) Under the name of the owner on whose behalf the certificate of title or certificate of origin is cancelled.
- (4) In the discretion of the department, by any other method the department determines.

§32-20-20(e).

The bond requirements of § 32-20-24(2) state that it must be:

accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to fifty thousand dollars (\$50,000) for manufactured homes less than 10 model years old and twenty-five thousand dollars (\$25,000) for all manufactured homes 10 years old or older and shall be conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the manufactured home or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title or certificate of cancellation for the manufactured home or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the manufactured home. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposits accompanying it, shall be returned at the end of three years or prior thereto if the manufactured home is no longer in this state and the currently valid Alabama certificate of title is surrendered to another state,

unless the department has been notified of the pendency of an action to recover on the bond.

THE CASUAL SALES TAX

A two percent sales tax shall be levied upon every person, firm or corporation purchasing within Alabama any automotive vehicle, motorboat, truck trailer, trailer, semi-trailer or travel trailer. This tax does not apply when the seller is a licensed dealer engaged in selling these vehicles. § 40-23-101(a). In 1994, the Alabama Legislature added motor boats to the list of items subject to the tax. § 40-23-101(a).

A two percent excise tax or use tax shall be levied upon every person, firm or corporation purchasing any automotive vehicle, motorboat, truck trailer, trailer, semi-trailer, or travel trailer outside the state for use in Alabama § 40-23-102(a).

In addition to all other taxes, a two percent privilege or license tax shall be levied on gross receipts of retail sales upon every person, firm or corporation engaged in the business of selling any automotive vehicle, truck trailer, semi-trailer, house trailer, or manufactured home set-up materials including steps, blocks anchoring, cable pipes, and other materials needed. Exempt from this sales tax are automobiles, motorcycles, trucks, truck trailer, or semi-trailers that will be registered or titled outside Alabama, that will be removed from Alabama within 72 hours of the sale for first use outside Alabama. § 40-23-2(4).

Furthermore, in 1989 the casual sales tax was amended to require the county tax collector to collect municipal sales taxes and county sales taxes authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or, if a business, where the business is located. The county licensing official is also directed to collect municipal and county use taxes authorized by general or local law for the local taxing jurisdiction:

- (1) where the purchaser resides; or
- (2) where a business is located which purchases vehicles:

- (i) from dealers doing business outside of the state; or
- (ii) from a licensed Alabama dealer which did not collect the tax from the buyer at the time of the purchase. § 40-23-102(c).

§§ 11-51-201, 11-51-203, 40-12-4, 40-23-101 through 102, 40-23-104, 40-23-107, 40-29-115. Under Act No. 89-752 the casual sales tax was made to apply to sales of manufactured homes. Under Act No. 94-622, the casual sales tax was made to apply to motorboats. §§ 40-23-101 through 102.

CERTIFICATE OF TITLE

In 1973, the Legislature enacted a law requiring a certificate of title to be issued by the State Department of Revenue to all owners of motor vehicles, except as provided in § 32-8-31. § 32-8-30.

Beginning in 2012, the amended law stated no certificate of title will be issued for any motor vehicle more than thirty-five (35) years old. For example, in 2018, all 1983 and subsequent model year motor vehicles are required to be titled.

Likewise in 2012, no certificate of title will be issued for any trailer, semi-trailer, travel trailer or pop-up camper more than twenty (20) years old. For instance in 2018, all 1998 and subsequent model year trailers, semi-trailers, travel trailers, or pop-up campers are required to be titled.

Alabama law requires that the county licensing official be furnished with one of the following documents by the vehicle owner when he applies for registration:

- (1) An application for a certificate of title to the motor vehicle;
- (2) A certificate of title;
- (3) A duplicate certificate of title if the original is held by a lien holder; or
- (4) A copy of an application for a replacement of a certificate of title.

The taxpayer is not compelled to submit any of the above documents for the same vehicle after he has once furnished them to the assessor for tax purposes. § 32-8-33.

In 1989 the Legislature amended § 32-8-30 to require owners of all manufactured homes designated a 1990 year model, and all subsequent models, to obtain a certificate of title. Since 2012, no certificate of title will be issued for any manufactured home more than twenty (20) years old. Where the manufactured home is affixed to real property and the ownership of the real property and the manufactured home is the same, the owner may obtain a cancellation of the certificate of title to the manufactured home. § 32-8-30. Furthermore, a taxpayer may seek an exemption from the certificate of title requirement for a newly purchased manufactured home if it is immediately placed on property already owned by taxpayer, and the property deed is updated to include the manufactured home. AG Op. 2005-180.

For a business that deals in motor vehicles from out of state to obtain a tax, the business must pay the proper use tax. An application for a certificate of title in Alabama must be presented to the county licensing official, plus proof of payment of sales or use tax, before Alabama license tags can be issued. In order for a business in an Alabama county to purchase Alabama tags, it must title the motor vehicles in Alabama, and the use tax due under § 40-23-102 must be paid. 229 Op. Att. Gen. 33 (1992).

ASSESSMENT OF BUSINESS PERSONALTY

As a practical matter, much personal property in the individual taxpayer's residence is exempt from ad valorem taxation. § 40-9-1(11), (18).

A major concern of personal property ad valorem taxation, therefore, is with business personalty. Businesses which have inventory on consignment, assignment, or on commission are required to list, value and return such personalty for taxation even though the business does not have title to the personalty. However,

this return is done separately from property owned by the business.
§ 40-7-13.

Personalty, excepting automobiles and pick-up trucks, is classified as Class II property and is assessed for state tax purposes at 20 percent of its fair and reasonable market value. § 40-8-1.

STATE DEPARTMENT OF REVENUE: ADVISOR TO ASSESSOR

The State Department of Revenue has published an appraisal manual used by the tax assessor in assessing property in the assessor's county. This manual contains instructions regarding the various methods of appraisal, surveying, map making, office organization, record keeping, filing, etc. The tax assessor must evaluate the suggestions contained in the manual and decide which ones are best suited for use in his or her particular county.

It is emphasized throughout the manual that property values are neither static nor constant but are a product of local demands and needs in each county. Thus, while the Department of Revenue advises the local tax assessor, the local official's familiarity with the situation in his or her own county is a determining factor in the assessment process. Agents of the Department of Revenue are available to assist the tax assessor further, whenever they are needed.

If the Department of Revenue approves a valuation fixed by the tax assessor, the state waives its right to appeal the assessment. The taxpayer, however, may appeal from an approved assessment in the same manner and within the same time limits as appeals are allowed from non-approved assessments. The tax assessor must keep a docket of all non-approved assessments containing data required by the Department of Revenue §§ 40-7-26, 40-2-11.

EXEMPTIONS FROM AD VALOREM TAXATION: MISCELLANEOUS

Amended in 1978, Section 217 of the 1901 Alabama Constitution provides:

The following property shall be exempt from all ad valorem taxation: the real and personal property of the state, counties and municipalities and property devoted exclusively to religious, education or charitable purposes, household and kitchen furniture, all farm tractors, all farming implements when used exclusively in connection with agricultural property and all stocks of goods, wares and merchandise.

Legislative exemptions from property taxes are found generally in the sections of § 40-9-1, many of which are derived from the 1901 constitutional provision above. Further exemptions extend to instruments or instrumentalities of the United States as established in the early case of *McCulloch v. Maryland*, 4 Wheat. 316 (1819).

Generally, subdivision (1) of § 40-9-1 includes the following kinds of property among the numerous exemptions from ad valorem taxation in Alabama:

Bonds and property of the United States, this state, counties and municipal corporations; all cemeteries; property used exclusively for religious, educational, or charitable purposes, except property of such organizations or institutions as may be leased, rented, or hired; recorded mortgages, notes, debts, and credits secured by real and personal property located in the state; security agreements and security interests under the Uniform Commercial Code; money on deposit in any bank; and warrants issued by the county and city boards of education for educational purposes.

Hospitals receive an exemption for real and personal property to the extent of \$75,000 if 15 percent of the business of the hospital is for charitable purposes. The same exemption is available for a corporation which owns or operates a hospital to the

extent of \$75,000 worth of its capital stock, if 15 percent of the hospital's business is for charitable purposes. § 40-9-1(2), (3).

In 2012, the Alabama Association of Volunteer Fire Departments, county volunteer fire associations, the Alabama Association of Rescue Squads, Inc., all volunteer rescue squads that are members of the Alabama Association of Rescue Squads, all county volunteer rescue associations, all local fire districts that are not under the auspices of their county commission were exempted by legislation from state, county, local, use, and ad valorem taxes. § 40-9-38.

An entity's status as a nonprofit charitable organization exempt from federal income taxation, does not automatically exempt it from ad valorem taxation. See *Surtees v. Carlton Cove*, 974 So.2d 1013 (Ala. App. 2007). In *Surtees*, there were genuine issues of material fact as to whether the property was used exclusively for charitable purposes, since the residential retirement facilities were not available to a sufficiently large segment of the elderly population, and it could be considered a for-profit business rather than a non-profit charitable organization.

Non-educational ad valorem taxes, construction related transaction taxes, except those used for educational purposes, and mortgage and recording taxes may be abated or eliminated from a taxpayer's liability with respect to private use industrial property. An abatement of transaction taxes relieves the seller from the obligation to collect and pay over the transaction tax as if the sale were to a person exempt from the tax.

Abatement of non-educational ad valorem taxes may not exceed the maximum exemption period. This period is the shorter of:

- a. 10 years from:
 1. the date of issuance of bonds to finance any costs of private use property, or
 2. if no bonds are issued then the later of:
 - i. date when title to property was acquired or vested, or

- ii. date in which the property is or becomes owned by a private user, or
- b. weighted average economic life of the assets compromising such property, determined consistently with 26 U.S.C. § 147(b) which is the later of:
 - 1. date the bonds are issued, or
 - 2. date facility is or is expected to be placed in service

Abatement of construction related transaction taxes applies only to tangible personal property and taxable services incorporated into a private use industrial property. The abatement shall not extend beyond the date the private use industrial property is placed in service. No construction related transaction taxes which are levied for educational purposes may be abated. No further abatement can be granted with respect to private use industrial property unless incurred in connection with a substantial addition, which is the lesser of:

- a. 30% of original cost of the industrial development property, or
- b. two million dollars (2,000,000)

The governing body of a municipality, a county or a public industrial authority may grant abatements for private use industrial property. These abatements will be agreed upon by the private user and the governing body and filed with the Department of Revenue within 90 days after reaching the agreement. § 40-9B-3 through 40-9B-7.

Other miscellaneous exemptions include:

- (1) property owned by the American Legion;
- (2) property owned by library or scientific institutions;
- (3) libraries of ministers;
- (4) property of deaf mutes and mentally ill persons to the extent of \$3,000 and the property of blind persons to the extent of \$12,000;
- (5) family portraits;

- (6) cotton, livestock, or agricultural products grown in the state and kept by the producer thereof; and
- (7) cotton stored in licensed warehouses for less than 12 months, regardless of where grown.

For a more detailed list, see the Exhibit provided at the end of this Handbook.

HOMESTEAD

The most familiar exemption, however, is the homestead exemption, which is described in § 6-10-2 but with its historical basis in Section 205 of the Alabama Constitution of 1901. Section 205 provided:

Every homestead not exceeding eighty acres, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town or village, or in lieu thereof, at the option of the owner, any lot in a city, town, or village with the dwelling and appurtenances thereon owned and occupied by any resident of this state, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution or any other process from a court; for any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

Historically, both the value and the area of land allowed for the homestead exemption have been changed by the state legislature. The latest step in the history of the homestead exemption is Alabama Code § 6-10-2, which describes homestead for purposes of the allowed exemption from levy and sale under process:

The homestead of every resident of this state, with the improvements and appurtenances, not exceeding in value \$5,000.00 and in area 160 acres, shall be, to the extent of any interest he or she may have therein, whether a fee or less estate or whether held in common or in severalty, exempt from levy and sale under execution or other process for the collection of debts during his or her life and occupancy and, if he or she leaves surviving him or her a spouse and a minor child, or children, or either, during the life of the surviving spouse and minority of the child, or children, but the area of the homestead shall not be enlarged by reason of any encumbrance thereon or of the character of the estate or interest owned therein by him or her. When a husband and wife jointly own a homestead each is entitled to claim separately the exemption provided herein, to the same extent and value as an unmarried individual. For purposes of this section and sections § 6-10-38 and 6-10-40, a manufactured home or similar dwelling if the principal place of residence of the individual claiming the exemption shall be deemed to be a homestead.

As applied to the ad valorem tax, homestead is governed by § 40-9-19, which was amended in 1982 and again in 1986. The amended statute raises the maximum assessed value from \$2,000 to \$4,000. The first exemption in section § 40-9-19(a) is as follows:

Homesteads, as defined by the Constitution and laws of Alabama, are hereby exempted from all state ad valorem taxes. In no case shall the exemption herein made apply to more than one person, head of the family, nor shall the said exemption exceed \$4,000.00 in assessed value, nor 160 acres in area for any resident of this state who is not over 65 years of age.

The above exemption applies only to state ad valorem taxes. Assuming that the value of the homestead exceeds \$4,000, the calculation of the exemption is as follows:

Homestead Exemption Maximum	\$4,000.00
State Ad Valorem Tax Rate - 6.5 mills	<u>.0065</u>
	\$26.00

The amount of the exemption will be proportionately less than \$26 if the assessed value of the homestead is less than \$4,000.

The exemption is subtracted from the state tax bill in order to arrive at the final tax due the state. However, this exemption is not the only statutory homestead exemption from state ad valorem taxes. Section 40-9-19(a) allows a total exemption for certain taxpayers:

The homesteads of residents of this state, over 65 years of age, or who are retired due to permanent and total disability, regardless of age, or who are blind as defined in section 1-1-3, regardless of age or whether such person is retired, shall be exempt from all state valorem taxes. The state commissioner of revenue is hereby empowered to define and specify the condition or state of health that makes a person "permanently and totally disabled" and may issue certificates of disability to such person as he may find meets such specifications. Any person who is drawing any pension or annuity from the armed services or a company or governmental agency as being permanently and totally disabled shall automatically be granted a certificate of permanent and total disability by the state commissioner of revenue.

Clearly then, the homesteads of persons over 65, the permanently and totally disabled, and the blind are totally exempt from all state ad valorem taxes.

Section 40-9-19(b) provides a \$2,000 homestead exemption for all ad valorem taxes levied by the counties, except for those levied for school districts:

For tax years beginning on and after October 1, 1981, for residents of this state not over 65 years of age, homesteads, as defined by the Constitution and laws of Alabama, are hereby exempted from all ad valorem property taxes levied, except county wide

and school district ad valorem taxes levied for school purposes, by any county of this state. In no case shall such exemption herein made apply to more than one person, head of the family, not shall the said exemption exceed \$2,000.00 in assessed value, nor 160 acres in area for any resident of this state who is not over 65 years of age except as provided in subsection (c) of this section.

In addition to the exemption from county ad valorem taxes, section 40-9-19(c) allows counties, municipalities, and other local taxing authorities to grant a \$4,000 exemption for residents not over 65 years of age. Such exemptions must be granted by ordinance or resolution and may at any time be adjusted, rescinded, or reinstated through the same procedures. Subsection (c) also requires that exemptions affecting school districts be approved by the governing bodies and school boards which would be directly affected by such exemptions.

The homesteads of residents who are over 65 years of age and have an annual adjusted gross income of less than \$12,000, who are permanently and totally disabled, or who are blind as defined in section 1-1-3, are exempted from ad valorem taxes levied by any county. This exemption also includes such taxes levied for school districts. However, such exemption is limited as follows:

In no case shall such exemption exceed \$5,000.00 in assessed value, nor 160 acres in area. With respect to homesteads situated in more than one county, the exemption granted herein shall be prorated between the counties in which the homestead is situated in the proportion that the area of the homestead in each county bears to the total area of the homestead claimed for exemption. § 40-9-19(d).

The final section of § 40-9-19 as amended prohibits the grant of any homestead exemption which would “prevent the

payment of any bonded indebtedness secured by any tax to which the homestead exemption would apply.” § 40-9-19(e).

In addition to the persons and property exempt from ad valorem taxation, as described in this Homestead and the previous Miscellaneous Exemptions sections, the Alabama Legislature has authorized another important exemption in section 40-9-21 for property owners who qualify. The exemption covers the entire value of the taxpayer’s “principal residence” and up to 160 adjacent acres:

In addition to the persons and property exempt from ad valorem taxation as prescribed in section 40-9-1, the following shall also be exempt from ad valorem taxation: the principal residence and 160 acres adjacent thereto of any person who is totally disabled or who is 65 years of age or older having a net annual taxable income of \$12,000.00 or less, as shown on such person’s and spouse’s latest United States income tax return. In the event that such person and spouse are not required to file a United States income tax return, then an affidavit indicating that the net taxable income of such person and spouse for the preceding taxable year was \$12,000.00 or less shall be sufficient proof. Proof of age shall be furnished when the exemption provided herein is claimed. Proof of total disability may be, but shall not be limited to, the written certification of such total disability by any two physicians licensed to practice in this state. For example, the tax assessor may accept statements from the Social Security Administration and the Veteran’s Administration. 226 Op. Atty Gen. 18 (1992). In order to qualify for exemption under this section, such principal residence must be a single-family residence owned and occupied by a person qualifying under this section.

CERTIFICATION OF ASSESSOR'S RETURNS TO DEPARTMENT OF REVENUE

Before the last Monday in February of each year the tax assessor must have completed the assessment, valuation, and equalization of all property listed for taxation. At the time he must certify over his signature to the correctness of his returns and notify the Department of Revenue by certified mail of the completion of his work. This notification must inform the Department of Revenue that the returns are ready for review and inspection. The certified lists of property must be delivered to the board of equalization by the tax assessor no later than the second Monday in March. § 40-7-27.

COUNTY BOARD OF EQUALIZATION

Each county in Alabama has a board of equalization, composed of three members, each of whom must meet certain qualifications, including residence in the county for at least five years. The members are appointed by the Governor from nominations of qualified people made by the county commission, the board of education, and the governing bodies of the various municipalities in the county. Members of county boards of equalization serve for terms of four years and are compensated on the basis of the total assessed value of all taxable property in the county, in accordance with amounts and allocation provisions prescribed by law. The county tax assessor serves as the secretary of the board of equalization but receives no additional compensation for his services. §§ 40-3-1, 40-3-7, 40-3-8, 40-3-14.

The function of the board of equalization is to inspect, review, revise, and fix the value of all property returned to or listed with the tax assessor for each tax year. Upon completion of the work of the board, the tax assessor publishes tax return lists. If a taxpayer wishes to protest valuations placed on his property, he may appear before the county board of equalization on the first Monday in June and, ordinarily, the second Monday in July. If the board serves full time, protest hearings begin in February and continue as long as necessary but generally not beyond the second Monday in July. §§ 40-3-16, 40-3-19. Any corrections or

adjustments made by the board are entered on the tax return lists by the tax assessor. Appeals from rulings of the board of equalization may be made to circuit court. §§ 40-3-21, 40-3-24.

CORRECTION OF ERRORS AND REMISSION OF PENALTIES

When the tax assessor finds manifest errors in the calculation of the amount of taxes due or any mechanical error is discovered on a legally made assessment, he is authorized to correct the error in his records and must file proper evidence supporting the correction. § 40-7-9. When property is reclassified from Class II to Class III because it is a historic building or site, the owner is eligible to claim a refund, for years in which it was improperly classified, within two years of payment of tax. AG Op. 2006-089.

If a taxpayer is taxed on improvements to property when, in fact, no such improvements have been made, and proof of the error is made to the tax assessor prior to March 1 following the close of any ad valorem tax year, the tax assessor is authorized to correct the error. Written notice of the correction must be given to the tax collector and the board of equalization, and a copy of the notice must be attached to the corrected assessment record. § 40-7-28.

The Department of Revenue, upon proof of a taxpayer's absence from the state and lack of a resident agent in the state during the time period for filing returns, may order that any penalties assessed against the taxpayer for failure to return property for taxation be remitted to the taxpayer. Proof of minority, mental disability, or disability due to sickness are additional reasons for the remission of such penalties. § 40-7-29.

It is the duty of judges of probate and clerks of other courts of record to notify the tax assessor of the appointment of any administrator, executor, guardian, or other fiduciary within 30 days after their appointment. § 40-7-30.

REQUIRED BOOKS AND FORMS

The tax assessor is required to make and enter in an assessment book a condensed statement of all assessments made during each tax year. The entry beside each taxpayer's name includes a description of the real estate and improvements thereon, the assessed value thereof, and the value of the personal property assessed for taxation, together with figures showing the assessor's computation of the total state, county, and special taxes with which the taxpayer is charged. § 40-7-33.

After completion of the book of assessments, the Department of Revenue certifies the book after first comparing the book's figures with those on the tax returns. The Department of Revenue specifies the amount of state, county, and special taxes due as recorded in each book of assessments. The certificate of the Department of Revenue serves as the warrant to the tax collector to proceed to collect the taxes due. § 40-7-34.

When the book of assessments has been completed, the tax assessor must prepare in triplicate (on forms furnished by the Department of Revenue) a complete abstract of all assessed real and personal property in the county. The abstract must show the total amount and value of each class of taxable property, as defined in § 40-8-1, as well as the property exempt from taxation, and the amount of taxes of each item. The abstract must be approved and certified by the Department of Revenue. The copies of the abstract are to be sent by the second Monday in August of each year to the State Department of Finance, the Department of Revenue, and the tax collector. If a tax assessor is over five days late in delivering the abstract, the Department of Finance must report the delay to the Governor. The tax assessor shall be required to file an official report to the Governor explaining the delay. § 40-7-35.

From information contained in the book of assessments, the tax assessor must prepare another book for delivery to the tax collector showing separately:

- (1) the amount of taxes assessed against each taxpayer, delineating taxes on real estate, personal property, and other subjects of taxation;
- (2) the total amount of tax due from the taxpayer;
- (3) the fees of the tax assessor; and
- (4) a blank for the fees of the tax collector.

This book is to be delivered to the tax collector by September 15th of each year. In counties where the tax assessor is paid on a fee basis, the assessor is entitled to compensation for the preparation of this book in various amounts depending on the aggregate value of assessed real and personal property in the county. § 40-7-36. This compensation is to be paid into the county treasury in counties where the tax assessor is paid on a salary basis. § 40-4-3.

The tax assessor is also required to procure, at the expense of the county, a book to enter lists and maps of all blocks and lots which have been platted and recorded in the office of the probate judge. This property is to be listed numerically showing the owner's name opposite the block or lot. The county commission fixes the compensation for the preparation of this book, at not less than \$150 for each book of at least 400 pages, which is payable to the tax assessor except in counties where the tax assessor is paid on a salary basis. Updating entries must be made annually. In Jefferson County, the plat books must show only the unit number of each parcel of land and presumably not the owners thereof. § 40-7-37.

In addition, unless already provided, the tax assessor must make a complete plat book of all real estate in the county, whether recorded and platted or not, showing the owner of each parcel. The plat book shall be in the form prescribed by the Department of Revenue. Compensation for the preparation of this plat book is allowed in the same manner, with the same exclusion for tax assessors paid a salary, as permitted for the preparation of the plat book required by Section 40-3-7. § 40-7-38. Both plat books must be updated annually. § 40-7-39. If the tax assessor fails to comply with the statutory requirements pertaining to plat books, he is

liable for a \$500 fine collectible against the tax assessor's bond in a civil action initiated by the state. § 40-7-40.

The tax assessor must keep all maps and plat books in his office and make them available for public inspection at all times except when being used by the assessor or the board of equalization. § 40-7-41.

REPORT OF PROPERTY SUSPECTED OF ESCAPING TAXATION

In addition to the reports that the tax assessor is required to make in conjunction with the books of assessment, the abstracts, and the plat books, the tax assessor must report assessed property to the tax collector for immediate collection of taxes when the tax assessor has reason to believe that the property may escape taxation for any reason. Generally, this situation occurs when the tax assessor learns that a taxpayer is about to move out of the county or is going out of business by selling substantially all personal property on which taxes would be due on the following October 1. If such property has not been assessed, the tax assessor must make an immediate assessment for delivery to the tax collector. If the tax assessor fails to notify the tax collector when he has reason to believe that property will or may escape taxation, the assessor is liable for the full amount of the tax due on the property. § 40-7-43.

ASSESSMENT OF ESCAPED TAXES

If any property, including improvements on real estate assessed as vacant property, has escaped taxation within five years prior to discovery of the escape, the tax assessor must list, return, and value the property for assessment for the years during which it has escaped taxation. A penalty of 10 percent of the taxes due for each year, in addition to the taxes due, is charged against the owner of the property. Notice must be sent to the owner of the property informing him of the tax delinquency. Notice must be given by registered mail with return receipt demanded to the last known address of the owner. If the assessment is not objected to in person

or by agent within 20 days of mailing the notice, the assessment becomes final. § 40-7-23.

If the owner does object to the assessment within the required 20 days after notice but the assessment is not changed, the owner may appeal directly to the circuit court of the county in which the property is located within 30 days after the assessment becomes final. Appeal is taken by giving notice in writing to the tax assessor and to the clerk of the circuit court and by giving bond to be approved and filed with the circuit clerk to cover costs. The case is tried from that point as though it was an appeal to the circuit court from the board of equalization. The taxpayer or the state will be entitled to have a jury trial upon written demand being filed within 10 days after the appeal is taken. § 40-7-23.

Whenever any escape assessment becomes final, the tax is immediately due and the tax assessor must certify the assessment to the tax collector who must collect the tax, unless at the time of taking the appeal the taxpayer executes a supersedeas bond with sufficient sureties approved by the circuit clerk in double the amount of the taxes. The bond must be payable to the State of Alabama and conditioned upon the payment of all taxes, interests, and costs due. § 40-7-32.

For making returns on property which has escaped taxation, the assessor is entitled to a fee of \$5.00 for each assessment. If the escape is for more than one year, all back years constitute one assessment in addition to another for the current year's escape. § 40-7-32.

APPEAL FROM FINAL ASSESSMENT

A taxpayer has the right to appeal a final assessment to the circuit court of his county within 15 days from the time the assessment is entered on the books. The court may revalue property on appeal unless a jury trial is requested. § 40-7-45.

In order to appeal, the taxpayer must file written notice with the officer, board or commission making the final assessment, together with a bond of \$100 approved by the probate judge or

circuit clerk, payable to the state and conditioned on completion of the prosecution of the appeal. § 40-7-46. The court determines issues of fact and law in the trial on appeal unless a jury trial is demanded in writing within 10 days of the time of taking the appeal. § 40-7-47.

After receiving notice from the taxpayer of his intention to appeal, the officer, board, or commission concerned must certify a statement of the assessment to the clerk of the circuit court, who then must docket the case for trial within 10 days after its being docketed. The judgment of the court is the valuation for the assessment of the property, which must then be certified to the officer, board, or commission charged with assessing the property for taxation. § 40-7-48.

TIMETABLE FOR ASSESSMENT AND COLLECTION

Property taxes become due after October 1 of each year and are payable until December 31. Taxes not paid before January 1 are delinquent. § 40-7-2.

DEMAND AGAINST PERSONS FAILING TO MAKE RETURNS

After a taxpayer's return becomes overdue on January 1, the tax assessor must make a written demand on the taxpayer, either by hand delivery or by certified mail with return receipt demanded, to the taxpayer's last known place of residence. It is the taxpayer's duty to have the overdue return filed with the tax assessor by the third Monday in January.

As compensation for making this demand, the tax assessor shall be entitled to a fee of \$5.00 to be paid by the taxpayer, which shall be added to the tax receipt and collected with the tax. § 40-7-19.

SIGNIFICANT ISSUES: STATEWIDE REAPPRAISAL PROGRAM

To equalize the property tax burdens in the state, Alabama has undergone a statewide program of property reappraisal. The need for this program arose when a federal court declared Alabama's 1967 property assessment statute unconstitutional in the case of *Weissinger v. Boswell*, 330 F. Supp. 615 (1971).

The act found unconstitutional provided:

All taxable property within the State shall be assessed for the purpose of taxation *not to exceed* thirty percent of its fair and reasonable market value. (Emphasis supplied). [Ala. Acts, Reg. Sess. 1967, Act. No. 502.]

The court determined that enforcement of the act resulted in a variation of the tax impact on property according to geographical areas within the State of Alabama. The court further found taxable property to be classified arbitrarily, which violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment. The act vested such wide discretion in the hands of local tax officers, regardless of how good their motives might be, that the end result would be an arbitrary and discretionary system of taxation within the state.

The effect of the federal court's declaration of the act as unconstitutional was to reinstate the previous property assessment law (Title 15, Section 17, Code 1940):

All taxable property within this state shall be assessed for the purposes of taxation at 60 percent of its fair and reasonable market value.

This provision was subsequently changed by the adoption of Constitutional Amendment No. 325, which established the present classification system of property assessment.

Moreover, the Legislature enacted a measure that charged the Department of Revenue with the duty of inspection, regulation, and supervision of the property reappraisal program required to be conducted on a county-by-county basis. § 40-7-60. Under the legislation requiring the statewide property reappraisal, the Department of Revenue was empowered to set standards and procedures for the work to be done pursuant the Act. All of the county contracts or work performed in connection with the statewide property reappraisal had to be inspected and finally approved by the Department of Revenue. § 40-7-61.

The reappraisal legislation required the county commission of each county, through the tax assessor, to have all property within the county appraised at its fair and reasonable market value as a basis for assessment for ad valorem tax purposes. § 40-7-62. The act authorized the counties to carry out the reappraisal program either through their own assessment and equalization machinery or through contracts with appraisal companies meeting the required qualification.

The Department of Revenue and the tax assessor in each county, together with the county governing body, were required to consult with one another to determine which system of appraisal would be put into effect in each county for maximum efficiency. § 40-7-65. Should a county fail or refuse to implement the property reappraisal program, the Department of Revenue was authorized to take steps to effectuate the purposes of the law. Whether employed by the state or by the individual counties, the appraisers hired had to meet the requirements formulated by the Department of Revenue and had to be members of a recognized appraisal association or have at least five years' certified experience. § 40-7-67. The Department of Revenue may, with the approval of the Governor, hire qualified consultants to advise the Department of Revenue of the best procedures to expedite reappraisal in the several counties, provided consultants hired are bona fide residents of the State of Alabama. § 40-7-65.

The county agencies were required to pay the cost of the property reappraisal program in proportion to the amount of funds each agency received from ad valorem taxes. § 40-7-68.

Subsequently, the county governing bodies were authorized to issue warrants, if necessary, to meet the obligations incurred in connection with the implementation of the statewide property reappraisal program. §§ 40-7-90 to 40-7-100.

When property in a county has been reappraised at its fair and reasonable market value, to the satisfaction of the Department of Revenue, this value must be certified to the county board of equalization and the tax assessor. The reappraisal is deemed final unless protest of such valuation is filed with the county board of equalization. If either the property owner or the state is dissatisfied with the valuation made by the county board of equalization, an appeal may be taken to the circuit court of the county where the property is located. § 40-7-71.

It is a misdemeanor punishable by a fine of not more than \$500 for any public official to act deliberately in such a way as to frustrate the provisions or intent of the statewide property reappraisal program. § 40-7-73.

At the outset, the reappraisal program, as mandated by the above statutory provisions, failed to achieve equalization of assessments in Alabama. The reappraisal program was originally to have been completed during the course of a relatively brief time span, but numerous problems developed during the conduct of the program that prevented effective implementation.

This Plan is established for the purpose of creating the procedures, requirements, plans, and programs of the Department of Revenue to equalize property assessments in Alabama. It identifies those areas in need of improvement. One goal of the Plan is to ensure that payment of all future property taxes will be based on the property's current fair and reasonable market value. The plan, entitled "Division Plan ADV-1", has gone through several revisions over the past twenty years. The most current ADV plan went into effect June 1, 1995, and may be obtained by the Department of Revenue.

The Department of Revenue's purpose is to advise and assist county elected officials and their staff, officials charged with

mapping and appraisal duties and members of the board of equalization relating to all laws, regulations, standards, and procedures governing ad valorem tax administration. § 40-7-74.

Division Plan ADV-1 contains a directive that outlines the plan for the updating of property value in the state as issued under the authority of Alabama Code §§ 40-7-60 to 64 by order of the Commissioner of Revenue. Furthermore, procedures for evaluating land and improvements thereon are included as a supplement to the established procedures of the Alabama Appraisal Manual.

Finally, the Division Plan contains the suggested qualifications and experience for county appraisers and mappers, as well as the proposed education and certification program for Department of Revenue and county ad valorem tax personnel.

Obviously, Division Plan ADV-1 is a very important step toward implementing the Master Plan for property assessment in Alabama.

THE LID BILL

Although ad valorem taxes are a very small part of total state revenues, they are a major source of revenue for counties, cities and their local instrumentalities. Legislation such as the Lid Bill is vitally important to local governments. The legislation currently affecting assessment rates is located in Chapter 8, Title 40 of the Alabama Code.

Section 40-8-1, as previously explained in this Handbook, outlines the classes of property and the assessment rates of each. Section 40-8-2 sets the state taxation rate at 6.5 mills. Section 40-8-3 gives the allocation scheme for the state property taxes collected. The last section in the chapter, Section 40-8-5, allows a credit to any taxpayer who paid a higher amount of state, county or municipal ad valorem tax as a result of the completion of countywide property reappraisal.

Section 40-8-4 contains the essence of the “Lid Bill” legislation. Its title suggests its importance for county and

municipal officials: “Assessment ratios for purposes of local taxation.” Section 40-8-4 allows county, municipality or local taxing authorities to increase or decrease the ratio of assessed value to the fair and reasonable market value of any class of taxable property provided certain criteria are met. To put such an increase or decrease into effect, the local governing body must take three initial steps:

- (1) The proposal must be presented at a public hearing on the issue;
- (2) it must be approved by an act of the legislature; and
- (3) a special election must be held by the taxing authority in which a majority of the voters approve the proposal.

The statute contains the qualifying criteria that must be met by the taxing authority that proposes to change the assessment ratio. To *decrease* the assessment ratio with respect to any class of taxable property, the total assessed value of all property in that class must be more than 50% of the total assessed valuation of all taxable property in the county, municipality or local taxing authority. The assessment ratio for purposes of local taxation on that class of property may be *decreased* up to a maximum of 5% from the class rate set by the state (in § 40-8-4).

To *increase* the local assessment rates for a particular class of property, the total assessed value of that property in the taxing authority must constitute less than 20% of the assessed valuation of all its taxable property. The assessment ratio of that class may then be *increased* up to 5% greater than the rate set by the state.

Finally, if the total assessed value of all properties in any one class of the taxing authority equals more than 75% of the assessed valuation of all taxable property in the authority, the assessment ratio applying to that class may be *decreased* up to 5% from the state’s ratio. Then the assessment ratios of the remaining classes of taxable property in the authority may be *increased* to a 5% maximum.

The date for applying any of the above criteria for purposes of determining the percentage of a particular class of property in the authority is October 1. The criteria must be met on that date.

IV.

THE OFFICE OF TAX COLLECTOR

ELECTION AND TERM OF OFFICE

The tax collector is elected for a six-year term by the voters of each county at the November general election held in the appropriate year. (For time-tables on general and municipal elections, consult the appendices of the *Alabama Election Handbook*, 14th edition, published in 2009 by the Alabama Law Institute.) The collector's official duties begin on October 1 in the year immediately following his or her election. § 36-3-6. However, the tax collector cannot take office until he or she first gives his or her official bond, as discussed below. § 36-2-10.

QUALIFICATIONS

In order to be qualified to hold the office of tax collector, a person must be a qualified voter of the county but must not come within any of the categories of ineligibility provided by law. Section 36-2-1 prescribes the following causes for disqualification:

- (1) Those who are not qualified voters, except as otherwise expressly provided;
- (2) Those who have not been inhabitants of the state, county, district, or circuit for the period required by the Constitution and laws of the state;
- (3) Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or any other crime punishable by imprisonment in the state or federal penitentiary and those who are mentally incompetent;
- (4) Those against whom there is a judgment unpaid for any moneys received by them in any official

capacity due to the United States, this state, or any county or municipality thereof, and

- (5) Soldiers, seamen or marines in the regular army or navy of the United States.

No person holding an office of profit under the United States shall, during his or her continuance in such office, hold any office of profit under this state, nor shall any person hold two offices of profit at one and the same time under this state, except constables, notaries public and commissioners of deeds. § 36-21-1.

ETHICS LEGISLATION

The tax collector is a public official, an elected authority charged with the receipt or expenditure of public funds. § 36-25-1(27). Accordingly, the tax collector, like the tax assessor, must act in accordance with the State's Code of Ethics for public officials and employees. See Alabama Code, Title 36, Chapter 25. Therefore, the tax collector must refrain from such unethical activities as use of his or her position for personal gain. § 36-25-5. The ethics provisions are discussed in detail on pages 8, 9, 10, and 11.

OFFICIAL BOND

The tax collector is required to file a bond with the county probate judge and the office of the State Comptroller on or before September 1 of the year following his or her election to office. The surety company with which the bond is filed must be authorized to do business in Alabama. The bond is made payable to the State of Alabama. The amount of the bond is determined by the following table and is based on a percentage of the total annual taxes collected as recorded in the latest audit report for the office of tax collector in each county published at least four months prior to the date the bond is required to be filed:

Table of Computing Amount of
Tax Collector's Bond

Greater Than	Less Than	Amount of Bond	Of Excess Over
Zero	\$ 250,000	\$25,000	-----
\$ 250,000	\$1,000,000	\$25,000 + 5%	\$ 250,000
\$1,000,000	-----	\$62,500 + 1%	\$1,000,000

The bond must be approved by the Comptroller and is conditioned on the faithful discharge of the duties of the office of tax collector. The cost of the tax collector's bond is paid out of the county general fund and is a preferred claim against the county. § 40-5-3.

OFFICE: LOCATION AND HOURS OF OPERATION

The main office of the tax collector is required by law to be kept open at the county courthouse all year round. § 40-5-1. The location of the office at the courthouse provides yearly access to records in the offices of the probate judge and tax assessor which is a necessity to the efficient funding of the tax collector's office. Furthermore, when plat books are annotated or updated, corresponding copies in each office are more easily amended.

In counties that require the tax collectors to visit small towns and precincts throughout the county, the tax collector must maintain office hours from 8:00 a.m. until 4:00 p.m. Other office hours in the courthouse are set by the county commission, which can authorize the closing of the office all day for special circumstances deemed necessary in addition to legal holidays. Documents that cannot be filed by a certain deadline as a result of the closing will have their deadlines extended to when the office reopens. § 11-1-8.

FINANCING OF OFFICE: METHOD OF COMPENSATION

In counties in which the tax collector is paid on a fee basis, he or she is entitled to fees for the performance of certain duties and to the same commissions as the tax assessor. (For a discussion of the allowable commissions, see the corresponding section applicable to the office of tax assessor.) The tax collector is entitled to such fees as: (1) a \$5.00 fee paid by delinquents for the written demand issued by the collector in January, § 40-5-6; (2) a fee of \$5.00 for the sale of property for the payment of delinquent taxes, § 40-5-14, see also § 40-5-45; and (3) a fee for collecting special assessments for forest fire protection within the county, § 9-13-186. If the tax collector is paid a salary, she or he is not entitled to any commissions and such added fees are paid into the county treasury. § 40-5-4.

With the implementation of statewide reappraisal of property and the resulting equalization of ad valorem taxes in the state, the Legislature passes Act No. 85-791 providing an equitable, minimum basis for compensating salaried tax assessors, tax collectors, revenue commissioners, and license commissioners. The schedule amounts were amended in 1990.

In 2000, the Omnibus Salary Bill was enacted by the Alabama Legislature providing an expense allowance to the Tax Collector in amounts not to exceed ten thousand (\$10,000) per annum. This amount would then be part of the base salary of the Tax Collector at their next term of office and would also entitle them to the same uniform increases in compensation, including cost-of-living increases, longevity increases, merit raises, and bonuses that are granted to county employees by the county commission at the time of the approval of the county budget. Certain Tax Collectors were not affected by this law, as they were recipients of other local legislative pay increases or their county commissions elected to adopt a resolution declaring their intent not to participate.

The minimum annual salary is computed according to the following schedule:

<i><u>In Counties Having A Population of</u></i>	<i><u>Annual Salary</u></i>
25,000 or less	\$32,500
25,001 to 75,000	37,500
75,001 to 119,000	40,000
More than 119,000	42,500

Assistant tax assessors and tax collectors who are elected receive 90% of the salary established for the tax assessor or tax collector. In counties where the offices of tax assessor and tax collector have been combined, the official holding the combined office, shall receive a minimum annual salary of \$10,000 greater than the minimum prescribed for his county in the above schedule. §§ 40-6A-2, 40-6A-3.

The money for these salaries is taken from the ad valorem taxes collected during the tax year and deposited into the county general fund. The salary is paid from that fund in equal installments. Each fund, agency, or municipality which receives ad valorem taxes pays a pro rata share of the salaries. § 40-6A-2.

In 1989 the Legislature passed Act No. 89-913 which requires the investment of ad valorem taxes and provides for the use of interest earned. Ad valorem taxes shall be invested in short term investments for the period of time between the collection of taxes and the distribution of such taxes. All interest earned on such investment shall be paid into the county general fund. Use of the funds shall be as determined by the county governing body except that 10% of such funds shall be designated as the special fund of tax collector, tax assessor, and if elected the assistant tax collector, assistant tax assessor, revenue commissioner or license commissioner. Any such official who is under the civil service system shall not be entitled to such funds. § 40-1-47. These funds may be used by such officials for expenses incurred in carrying out their official duties. However, such funds may not be expended for

the ordinary expenses of the officials' office which are required by law to be paid by the county governing body. § 40-1-48.

EMPLOYEES AND OFFICE EXPENSE

The tax collector is authorized to appoint deputies; however, he or she remains responsible for any loss to a taxpayer, state, or county because of any unlawful act of these deputies. § 40-5-2. The employment of part-time staff during months of increased work load is included in the budget request made by the tax collector and submitted to the county commission for approval.

It shall be the duty of the county commission to prepare and adopt a budget. The budget adopted, at a minimum, shall include any revenue required to be included in the budget under the provisions of Alabama law and reasonable expenditures for the operation of the offices of tax officials as required by law. The tax officials shall prepare and submit to the county commission an itemized estimate of the amount the official or employee believes to be necessary for personnel, office supplies, and other expenditures during the following fiscal year. Based upon the estimated revenue and expenditures, together with any other financial information available to the county commission regarding the anticipated revenue and expenditures for the next fiscal year, the county commission shall approve a budget which includes the expenditures it deems proper for the next fiscal year. § 11-8-3.

VACANCY IN OFFICE

A vacancy in the office of tax collector occurs if the incumbent dies or resigns, if the collector ceases to be a resident of the county in which he or she is elected, if a competent tribunal declares invalid the election in which he or she was elected, if the Legislature abridges the term of office, or if there is a failure to elect a successor at any general election. §§ 36-9-1, 36-9-5. Once it is determined that there is a vacancy in the office, the Governor appoints a successor to fill the unexpired term of office. § 36-9-17. (But, see Chapter VII for the role of the supernumerary if there is such an official for the county.)

V.

PROPERTY TAX COLLECTION PROCESSES

AUTHORITY TO COLLECT TAXES

The office of tax collector derives its basic authority from the same 1935 act of the Alabama Legislature that governs the office of tax assessor. Most of the statute's relevant sections on the office of tax collector are contained in Title 40 of the Code of Alabama 1975.

The tax collector has authority to collect all taxes as they become due. This authority extends to the collection of state, county, school, and municipal taxes. [See Division 2, Article 1, Chapter 51, Title 11 (§§ 11-51-40 through 11-51-74) for the statutory provisions relating to the collection of municipal property taxes by the county tax collector.] Any special taxes levied by local governmental entities are also collected by the tax collector. § 40-5-33. This includes any municipal or county liens if mandated by the statute related to their enforcement and collection. AG Op. 2008-034.

On or before the second Monday in August of each year the tax assessor must deliver his or her abstract to the collector. The abstract contains the amount due from each taxpayer; after these taxes have been collected, all these collections must be carefully entered in the tax receipt books to reflect the amount of state, county, and special taxes collected, as well as any interest, penalties or fees paid by the taxpayer. After the tax receipts are prepared and recorded in the receipt books, notices become available for mortgage companies that hold in escrow the taxes from the owner of properties on which they hold mortgages.

The tax collector is required to make semi-monthly disbursement of all funds received by his or her office to the various taxing authorities. Taxes are payable for the period from October 1st through December 31st of each year. On October 15th of each year and on the 1st and 15th of each month thereafter until final settlement, the collector must make reports of the

disbursements. *(The current form can also be found at comptroller.alabama.gov; Reports & Forms; Online Forms; DFC 12 Final Settlement Worksheet.)* The State Comptroller and the county probate judge (or other chairman of the county commission) are each given a copy of the final disbursement records of the tax collector. §§ 40-5-10 and 11, 40-5-36.

On January 1st, all outstanding taxes become delinquent. The tax collector is required to make a written demand upon each delinquent taxpayer, who is liable not only for the amount of taxes due but also for any costs, fees, interest, or other charges that may have accrued. Delinquent taxes bear interest at the rate of 12 percent a year. §§ 40-5-7 through 9. The interest rate was raised from 6 percent in 1988.

The tax collector must report annually to the State Department of Revenue and the county commission a list known as the “list of insolvents,” which contains the names of persons in the county from whom taxes cannot be collected. This list must include a statement of the amount of state and county taxes due from each insolvent taxpayer. The tax collector is required to publish this list in a newspaper of county-wide circulation twice during the month of July of each year. The state general fund pays one third of the cost of publishing this list of insolvents and the county pays the remainder. § 40-5-23.

At the same time that the list of insolvents is reported, the tax collector also reports a “list of errors in assessments,” or a list of over-assessments or wrong assessments, and a list of taxes in litigation. § 40-5-23.

At its first meeting in June, the county commission examines these lists in consultation with the tax assessor and may credit the collector with the county taxes that could not or should not have been collected. Later, the presiding officer of the county commission must certify the lists to the State Department of Revenue and the State Comptroller. Upon the approval of the lists by the Department of Revenue, the Comptroller allows the tax collector credit for the uncollected state taxes contained in the lists. §§ 40-5-24 and 25. The collector, however, remains charged with

such sums and must attempt diligently to collect them, and file reports thereon, until the tax liability is discharged in the manner prescribed by law. §§ 40-5-26 through 30.

In counties having a population of 100,000 or less, the tax collector is required to visit precincts in the county in order to collect taxes. The visits must be publicized according to the same standards of notice as are required of the tax assessor's visits to small towns and precincts. The county commission in its discretion, however, may relieve the tax collector of the duty to visit the voting places in the precincts. In such case, the collection of taxes is accomplished at the office of the collector in the county courthouse. § 40-5-1.

If the tax collector discovers that any person or property within his or her county has not been assessed with the taxes lawfully chargeable to that person or property of any year or years not exceeding five years prior to the discovery, he or she has the specific authority to assess and collect the taxes due. The tax collector is required to notify the tax assessor in order to ascertain the amounts of any other unassessed taxes that may be due on the property. In this procedure the tax collector has authority to administer the same oaths as does the tax assessor and to put the same questions to the taxpayer that would be asked by the tax assessor. The taxpayer has the same right to appeal from this form of escaped tax assessment as under normal procedures. § 40-5-34.

Assessment by the tax collector must be reported to the tax assessor so that updated entries can be made in the book of assessments. § 40-5-35.

JURISDICTION

The jurisdiction of the tax collector is limited to the county in which he or she is elected. There is, however, a procedure whereby the tax collector in one county can solicit the aid of another tax collector in order to recover an amount due on personal property moved from the original county. §§ 40-5-17 and 40-5-31.

RECEIPT BOOK

The tax collector is required to keep a book of receipts that reflects payment by each taxpayer of the taxes due. This book must indicate:

- (1) Payment of taxes due;
- (2) Name of taxpayer;
- (3) Date of payment;
- (4) Total assessed value, separately, of real and personal property; and
- (5) Amount of state, county, and special taxes, separately, together with any interest, costs, and fees.

The taxpayer's copy of this receipt is prima facie evidence of payment of his or her taxes. The book of receipts must be delivered at the end of each tax year to the chairman of the county commission. The commission may compel the production of this book at any time prior to such delivery. §§ 40-5-10 and 11.

REPORTS REQUIRED TO BE FILED

As mentioned in the section dealing with the general authority of the tax collector, a semi-monthly report is required of the tax collector showing all funds received by his or her office. Within five days after making the report, he or she must distribute the ad valorem tax collections in the manner required by law. This report is made to the custodians of the county, and school funds and copies are forwarded to the county probate judge and the office of the Comptroller. If no taxes, interest, or penalties were collected during the period prior to any reporting date, the tax collector must make a report to that effect, under oath, with copies distributed to the same officials as noted above. If this report is not made within 10 days after it is due, the Comptroller must notify the Chief Examiner of Public Accounts who must then have the tax collector's book audited. The Comptroller is also required to notify the tax collector's bondsmen, who may withdraw from further responsibility within 30 days after first giving 15 days' notice to the tax collector. If the bond is withdrawn, the tax collector must

execute another. Upon failure to do so, the office is deemed vacant and a successor is appointed by the Governor. § 40-5-36.

TIMETABLE FOR COLLECTION OF TAXES

The tax year begins on October 1. On this date all ad valorem taxes on real and personal property become due and are payable until December 31st. After that date they are delinquent. As soon after January 1st as possible, notice in the form of a bill is mailed to all delinquent taxpayers. § 40-5-7.

Personal property on which the tax is delinquent is subject to levy and sale any time after January 1 of each year. The collector gives 10 days' notice by posting the time and place of sale, as well as a description of the property to be sold, in three public places within the owner's precinct. § 40-5-14. Only enough property is sold at auction necessary to equal the amount of tax due, plus penalties and expenses of the sale.

After personal property of the taxpayer is sold at auction, it becomes the auctioneer's responsibility to collect and pay the taxes. The tax assessor first reassesses the taxes in the name of the auctioneer and delivers a statement of the assessment to the tax collector. The tax collector is then responsible for immediate collection. § 40-7-44.

Any time before the sale, the taxpayer may pay the taxes, interest, fees and expenses including the collector's fees for the sale as though the sale had occurred, in order to discharge the levy. § 40-15-14. The collector's fee for making a levy on and sale of personal property is \$5.00 taken out of the proceeds. Storage and moving costs are additional expenses incurred because of a tax sale and as such are collectible from the proceeds of the sale. § 40-5-6.

When little or no personal property can be located from which the taxes of any delinquent taxpayer can be collected, the taxpayer's real property must be sold to satisfy the ad valorem taxes due. Section 40-5-19. No property is exempt from levy and sale for the payment of ad valorem taxes due. § 40-5-18.

By March 1st of each year, the tax collector submits to the probate judge a book listing persons delinquent in the payment of their real estate taxes. The book shall also contain a list of each parcel of real estate when the owner is unknown, together with the amount due on the property. This book must be "substantially bound" and contain entries showing each parcel of real property together with the owner's name and the unpaid taxes due the state, county, municipality and any special tax districts. §§ 40-10-2, -3.

After receiving this book from the tax collector, the probate judge must issue a notice to each taxpayer against whom unpaid taxes are assessed, which must read substantially as follows:

State of Alabama

_____ County

To (Give name of taxpayer):

The tax collector has filed in my office a list of delinquent taxpayers, and of real estate on 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 _____, 20____, 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 taxes thereon and fees and costs.

(Here probate judge's signature).

Judge of Probate.

This notice is served by the tax collector or his agent either in person or by certified or registered mail, marked for delivery only to the person to whom it is addressed. If the taxpayer is deceased, service may be made on his or her personal representative in the same manner, provided the representative is a resident of the county. If neither the taxpayer nor his or her agent or representative resided in the county, notice is served by publication in a newspaper published in the county or by posting

the notice. § 40-10-4. Service of this notice must be perfected at least 10 days prior to the commencement of the term of court to which it is returnable. § 40-10-11.

The tax collector is required to attend the terms of the probate court at which such cases are triable and to bring his or her tax book, and his or her record of tax lien sales kept pursuant to Acts 1995, No. 95-408, which is prima facie evidence of the amount of taxes and fees due and the fact that they have been properly assessed and charged and are unpaid. § 40-10-9. Further dates and deadlines are discussed under the section on Sale of Land.

On or before July 1st of each year, the tax collector must make a final settlement with the custodians of county and school funds and the state comptroller, and pay into the proper treasury the balance due from him or her for taxes collected, including escaped taxes. § 40-5-43. Before July 1st, all funds obtained from the sale of land on which unpaid taxes were due must be paid over to the various taxing authorities, any holder of a tax lien certificate issued pursuant to Acts 1995, No. 95-408, and an accounting must be made for lands bought by the state. § 40-5-44. Final settlements with the state comptroller must be made by July 1st each year, with a grace period of 10 days permitted. § 40-5-44.

Any tax lien that does not sell at auction shall be reported to the county commission when seeking approval of errors in assessments, litigations, or insolvents as the tax collecting official will be allowed credit for taxes due to this state upon final settlement with the Comptroller. § 40-10-199(c) (effective July 1, 2018).

PAYMENT OF TAX BY TAXPAYER

Between October 1st and January 1st of each year, the taxpayer may come into the office of the tax collector and pay the amount of taxes assessed to him or her. Of course, payment after January 1st includes a 12 percent interest on the amount owed, plus any other costs, charges, and fees authorized by statute. §§ 40-5-6,

8, and 9. The taxpayer must be given a receipt for payment of his or her taxes. § 40-5-10.

Personal property taxes must be paid before payment of taxes on real property can be accepted by the tax collector on assessments where parcels are listed separately but assessed to the same taxpayer. § 40-5-13.

A minimum annual contribution of three dollars (\$3) may be voluntarily contributed to the Alabama Association of Rescue Squads, Inc., on the ad valorem tax return. The voluntary contribution is to be paid to the appropriate authority for ad valorem tax collection. The authority collecting the amount must remit the funds to the executive director of the association by the tenth day of each month next succeeding that in which the contribution is paid. § 40-7-50.

In 2010, the Alabama Firefighters Annuity and Benefit Fund (§§ 36-21-180 through 36-21-197) was created to provide retirement benefits to qualified paid and volunteer firefighters. It is funded through voluntary contributions accompanying either ad valorem or income tax returns.

PAYMENT OF TAX BY PURCHASERS, LIEN HOLDERS, OR MORTGAGEES

Tax payments may be accepted by the tax collector from purchasers, lien holders, or mortgagees on different items of a multiple assessment, provided that the individual items have separate taxable values and enough property remains in the assessment to satisfy taxes due on the remainder of the property. § 40-5-12.

DUTY WHEN COLLECTION IS JEOPARDIZED

If the tax collector has reason to believe that a taxpayer is about to leave or remove his or her property from the county or that such person is going out of business by disposing of substantially all his or her personal property, thereby endangering the collection of taxes, he or she must proceed to collect the taxes

assessed against such taxpayer whether or not due. To initiate this procedure, the tax collector obtains a writ of *fieri facias* from the probate judge which may be executed in any county of the state. § 40-5-31.

If the personal property of the taxpayer has been moved to another county, the acting collector forwards the writ to the tax collector of that county. Upon receipt of the writ, that collector files it in the probate office of his or her county and then issues notice of the delinquency to the taxpayer. Such notice must be given in person or by registered or certified mail. If the taxpayer fails to pay the amount due after 30 days from the date of notice, the tax collector of the second county shall execute the writ as though he or she had filed it originally. § 40-5-17.

If any tax collector fails to act upon receiving notice that the collection of a taxpayer's taxes is endangered, the tax collector is liable for the taxes assessed against the taxpayer. § 40-5-32.

COLLECTION OF DELINQUENT TAXES

After January 1st, the collector must make a personal demand in writing upon delinquent taxpayers, or their agents charged with the duty of paying their taxes whenever they may be found, for the amount of their taxes and fees. The tax collector may charge only one delinquent fee against each taxpayer, even though such taxpayer may have more than one assessment entered against him or her on different parcels of land. (Attorney General Opinion, March 8, 1989). § 40-5-6. If unable to find the delinquent taxpayers, the collector must make a demand by certified or registered mail directed to the last known place of residence or business, return receipt demanded. It is the duty of the delinquent taxpayers to pay the taxes and fees assessed and charged against them. § 40-5-7.

All taxes becoming delinquent bear interest at the rate of 12 percent per annum, added to and collected as part of the taxes. §40-5-9. The interest rate was raised from the prior rate of six percent in 1988.

GARNISHMENT OF PERSONS HOLDING FUNDS, ETC., OF DELINQUENT TAXPAYERS

The tax collector has the duty to ascertain by diligent inquiry whether any person is indebted to or has property or chooses in action belonging to any delinquent taxpayer. Upon discovery that the taxpayer has such assets, the tax collector must serve a notice to the individual indebted to the taxpayer ordering him or her to appear before a court of competent jurisdiction in the county to answer as garnishee. After the court ascertains the facts of the case, and upon a determination of indebtedness, the money or other property is garnished for the payment of the delinquent taxpayer's taxes. In this type of garnishment proceeding, the delinquency of the taxpayer has the effect of a judgment, which is usually a precondition for garnishment. § 40-5-20.

EVENTS OF THE COLLECTION PROCESS

The following is a concise summary of the sequence of events in the tax collection process and highlights the dates and deadlines stated within the comprehensive discussion above. The calendar is followed by a State Settlement form.

CALENDAR OF EVENTS FOR TAX COLLECTORS

Second Monday in August:

Abstract must be delivered to the collector. § 40-7-35.

September 15:

Books showing the amount of taxes must be delivered to the tax collector. § 40-7-36.

October 1:

Receipts should be prepared and readied for collecting taxes.

January 1:

Taxes become delinquent on January 1st. As soon as possible thereafter, the tax collector must make a written demand on each delinquent taxpayer. A fee of \$5.00 is charged to the taxpayer for this notice. § 40-5-6. When delinquent taxes are paid, the taxpayer must pay all costs, fees and charges. § 40-5-8. All taxes which become delinquent bear an interest rate of 12 percent. § 40-5-9. Section 40-5-10 lists the information that must be shown on the tax receipt. Tax receipts must be in duplicate. § 40-5-11.

**Personal Property*

After January 1, the tax collector must proceed, without delay, to levy upon the personal property of delinquent taxpayers for the payment of their taxes. A 10-day notice of the time and place of the sale must be posted at three or more public places in the precinct of the residence of the delinquent or, if such delinquent is a nonresident of the county, in the precinct in which the levy is made. A fee of \$5.00 is charged for this sale. § 40-5-14. Disposition of the proceeds of a sale is shown in section 40-5-15.

No property is exempt from levy and sale for the payment of delinquent taxes. § 40-5-18. If not enough personal property is found to sell to cover the taxes, real property can be sold. § 40-5-19.

**Real Property*

After January 1, the tax collector must make a personal demand in writing upon delinquent taxpayers, or their agents charged with the duty of paying their taxes. § 40-5-7. A fee of \$5.00 is charged for this notice.

March 1:

The book of delinquent taxpayers must be delivered to the probate judge. §§40-10-2 and 3.

The probate judge shall issue a notice to each delinquent taxpayer in the form described in section 40-10-4. A \$5.00 fee is charged for this.

These notices must be mailed by the tax collector as speedily as possible. All individuals on the assessment must be mailed a separate notice, by certified mail, to addressee only, return receipt demanded. A \$5.00 fee is charged, and the cost of this mailing can be charged back to the taxpayer. If the taxpayer is deceased, owner unknown, or a nonresident of the county, notice shall be made by publication or by posting. The tax collector or assistant tax collector may deliver the notices if that method is preferred. § 40-10-4.

After the probate judge decrees land for sale (\$5.00 fee for doing so, § 40-10-11), the tax collector shall proceed to enforce such decree by advertising for three consecutive weeks in the newspaper. § 40-10-12. The first day of advertising must be 30 days before the date of the sale. A \$5.00 fee is charged for the sale. § 40-10-27.

Within 10 days after the sale, the tax collector must make a report of each sale to the probate judge. If after 5 days, there are no objections or insufficient objections, the court will issue a decree confirming the sale. § 40-10-13.

Details of how the sale is made are found in section 40-10-15. If no person bids on any land, the probate judge shall bid on the land for the state of Alabama. § 40-10-18. A certificate of purchase must be sent to each purchaser as soon as possible after the sale is confirmed. § 40-10-19 and 20. Three years after the date of sale, the probate judge can deliver a deed to the purchaser upon presentation of the certificate of purchase. § 40-10-29.

After the sale and before final settlement, the tax collector shall report any insolvents and error in assessments. This report is made to the county commission at their first meeting in June and then to the comptroller at the final settlement. A list of insolvents must be advertised twice during the month of July. § 40-5-23.

July 1:

Final settlement must be made with the comptroller. If the final settlement is not made by July 10, then the tax collector is fined \$10.00 per day out of his or her commissions. § 40-5-44. Mileage to and from the comptroller's office for the final settlement shall be the same as that for members of the legislature. § 40-5-45. Section 40-5-4 shows the amounts of commissions and the method for figuring them.

COMPARATIVE TAX COLLECTIONS BY COUNTY

The following tables reflect the amount of various taxes collected by each county. Twenty-four of the counties which reported do not levy a general sales tax. The chart is based upon 2015 figures.

PROPERTY TAX COLLECTION, BY COUNTY*

(Net collection after all exemption)

Oct. 1, 2015 lien date; October 1, 2016 collection date

County	State Net Taxes	County Net Tax	School Net Tax	Municipal Net T	Total Net Taxes
Autauga	4,373,393	5,459,701	7,352,308	3,576,542	20,761,944
Baldwin	25,945,813	43,708,965	48,042,963	21,137,988	138,835,728
Barbour	1,486,003	2,176,809	4,386,400	1,116,089	9,165,302
Bibb	1,026,924	1,623,920	1,608,068	235,949	4,404,862
Blount	2,518,702	6,634,471	3,882,069	1,326,780	14,362,022
Bullock	541,850	1,638,371	1,574,365	306,584	4,061,170
Butler	1,404,456	2,416,883	2,950,765	1,409,779	8,181,884
Calhoun	6,497,035	13,861,127	18,864,206	9,176,528	48,398,897
Chambers	2,116,393	7,423,019	4,842,614	530,266	14,912,293
Cherokee	1,715,322	4,104,433	5,903,626	487,542	12,210,922
Chilton	2,819,840	9,764,372	4,418,617	1,287,217	18,290,046
Choctaw	1,640,438	2,655,233	3,667,596	118,570	8,081,837
Clarke	1,988,470	3,335,066	5,312,023	663,420	11,298,979
Clay	673,997	1,210,341	1,533,021	308,246	3,736,605
Cleburne	845,646	1,867,083	2,415,063	545,969	6,673,760
Coffee	3,018,652	5,207,909	8,263,809	3,509,155	19,999,525
Colbert	4,012,617	5,718,545	11,578,421	3,607,032	24,916,615
Conecuh	1,062,986	2,987,273	1,758,365	404,633	6,213,257
Coosa	1,013,493	1,191,963	2,000,661	62,313	4,267,430
Covington	2,479,439	4,023,536	3,654,695	2,646,813	12,804,483
Crenshaw	879,702	2,755,884	1,589,214	289,112	5,514,912
Cullman	5,677,786	9,026,259	8,454,794	5,244,985	28,403,824
Dale	2,322,671	5,260,956	3,825,612	3,126,670	14,535,909
Dallas	2,133,575	4,395,014	4,095,302	4,520,750	15,144,641
DeKalb	3,154,342	6,331,847	7,676,453	2,730,147	19,892,789
Elmore	6,548,359	9,145,131	11,088,649	1,823,052	28,605,191
Escambia	2,804,921	5,893,016	7,051,431	2,307,005	18,056,372
Etowah	5,364,756	11,656,938	14,143,925	6,983,052	38,418,671
Fayette	811,395	1,542,007	1,411,230	472,784	4,237,415

Franklin	1,576,377	4,226,190	2,767,432	2,224,281	10,794,280
Geneva	1,129,012	2,724,534	2,134,809	783,311	6,771,666
Greene	1,039,201	2,841,451	2,692,051	350,690	6,923,393
Hale	1,022,276	2,650,274	1,697,140	262,597	5,632,287
Henry	1,002,413	2,305,954	2,052,455	513,804	5,784,626
Houston	9,061,446	19,067,969	15,058,033	4,807,459	47,994,908
Jackson	2,830,210	3,791,123	4,291,848	4,618,522	15,531,703
Jefferson	59,363,201	137,580,947	251,291,751	233,748,579	681,984,478
Lamar	768,958	1,750,068	1,319,443	266,388	4,104,857
Lauderdale	5,020,446	9,656,598	14,890,228	5,965,209	35,532,481
Lawrence	1,670,861	3,617,837	2,929,198	348,709	8,566,605
Lee	11,073,649	24,924,167	22,123,213	34,836,548	92,957,578
Limestone	5,510,913	11,756,556	12,876,650	5,466,413	35,610,532
Lowndes	783,890	2,968,517	1,951,510	330,036	6,033,953
Macon	900,543	1,796,885	4,968,297	553,769	8,219,494
Madison	26,128,649	47,670,051	114,595,973	44,812,899	233,207,573
Marengo	1,648,820	3,423,895	2,583,350	2,425,117	10,081,181
Marion	1,613,215	1,954,359	2,522,896	1,317,124	7,407,594
Marshall	5,525,189	12,696,264	12,744,099	7,996,663	38,962,215
Mobile	32,934,418	102,198,629	142,055,532	21,225,309	298,413,889
Monroe	2,029,988	4,638,473	3,335,419	757,906	10,761,785
Montgomery	17,828,372	22,138,146	30,998,208	33,107,431	104,072,158
Morgan	10,203,050	18,458,054	25,563,191	16,006,223	70,230,518
Perry	577,700	2,044,117	1,214,348	191,418	4,027,584
Pickens	1,057,033	2,699,482	2,046,839	1,056,219	6,859,573
Pike	1,975,753	3,982,239	3,416,136	1,469,181	10,843,309
Randolph	1,822,964	3,877,775	3,607,310	629,972	9,938,020
Russell	3,288,883	6,288,292	12,510,982	3,287,674	25,275,832
St. Clair	5,315,590	10,015,643	11,932,446	3,214,402	30,478,082
Shelby	20,261,134	25,032,922	97,476,696	36,172,694	178,943,447
Sumter	913,023	2,475,476	2,035,240	553,564	5,977,303
Talladega	6,913,816	10,189,256	17,705,807	5,673,123	40,482,001
Tallapoosa	4,117,392	5,882,437	9,832,039	1,620,376	21,452,243

Tuscaloosa	17,429,648	28,165,228	46,446,359	20,553,430	112,592,665
Walker	4,160,929	6,054,008	6,590,124	3,836,140	20,641,199
Washington	2,591,497	4,607,726	5,046,771	96,762	12,342,756
Wilcox	991,528	3,093,251	1,583,744	144,950	5,813,472
Winston	1,933,142	2,689,610	3,480,277	680,783	8,783,811
TOTAL*	371,164,109	744,950,472	1,105,725,110	581,860,645	2,803,700,336

* Provided by Legislative Fiscal Office.

* State of Alabama Department of Revenue 2017 Annual Report

SALE OR AUCTION OF TAX LIENS

The Alabama Legislature enacted Ala. Code §§ 40-10-180 through 40-10-198, which give tax collecting officials an alternative remedy for collecting delinquent property taxes by sale of the tax lien. The Alabama Legislature updated these code provisions for the process and sale of tax liens in 2018 with Act 2018-577. Its provisions go into effect July 1, 2018, and it is those new provisions described in this handbook. The tax collecting official for each county has the sole authority to decide whether his or her county will utilize the sale of a tax lien or the sale of property to collect delinquent property taxes. The method decided by the tax collecting official applies to all property in that county for the year so decided. The tax collecting official's decision to change the current remedy used for collecting delinquent property taxes must be published on the tax collecting official's website or by advertising once a week for three consecutive weeks in a newspaper with general circulation in that particular county, all of which must occur not later than October 1 when the property taxes become due and payable. § 40-10-180.

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

- a. Advertising for once a week for three consecutive weeks in a newspaper with general circulation in the county where the property is located.
- b. Advertising on an online website controlled by the tax collecting official and accessible from the tax collecting official's website.
- c. Posting at the courthouse of the county and if possible in a public place in the precinct where the property is located.

The notices must declare the time and location of the auction. § 40-10-182.

Any delinquent property for which a tax lien remains unsold after a tax lien auction shall be retained by the county for future auction or sale. A tax lien is sold at auction to the person who pays all taxes, interest, penalties, fees, and costs due on the property, including an origination cost of twenty dollars (\$20) as of the date of auction and a twenty dollar (\$20) auction fee, and who, in addition, bids the lowest interest rate on the amount required to be paid to redeem the property from the sale. The beginning interest rate bid shall not exceed a rate of 12 percent and additional bids may be made at a rate less than the immediately preceding bid. If the interest rate bid for the property reaches 0.00 percent and more than one bidder remains, the tax collecting official shall draw lots to determine the winning bidder for the property. A tax lien offered for auction or sale must be identified by a Uniform Parcel Number and a legal description. § 40-10-184.

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

- (1) Names of the owners of tax-delinquent properties;
- (2) Description of each property as it appears in the latest tax roll.
- (3) Years for which taxes are delinquent.
- (4) Principal amount of the delinquent taxes and the amount of interest and the penalties, fees, and costs relating to each year of assessment.

§ 40-10-183.

PURCHASERS OF TAX LIENS

The purchase price for a tax lien will be the amount of delinquent taxes plus any interest, penalties, fees, and costs accrued by the tax collector as of the date of the auction or sale. § 40-10-186(a). A purchaser of a tax lien must pay in cash or immediately available certified funds not later than one hour before close of business on the date of the auction or sale. § 40-10-186(b).

After the sale, a purchaser or assignee shall pay five dollars to receive a tax lien certificate that will evidence his or her purchase. Such certificate shall bear the interest rate per annum as bid on by the purchaser at the tax lien auction or as agreed upon by the purchaser at the tax lien sale, until the tax lien certificate is redeemed pursuant to Section 40-10-193. A tax lien certificate is freely assignable as long as the transferor of a certificate endorses the certificate and has the certificate notarized. The tax collector, for a fee of five dollars, must acknowledge the transfer in the record of tax lien sales. Within 10 days of a completed tax lien auction or sale, the tax collecting official shall send notice to the property owner for whom the property was assessed informing the property owner that the tax lien has been auctioned or sold. The notice shall include the date of auction or sale and the name and address of the purchaser and shall be made by first class mail to the address listed in the assessment. § 40-10-187. A list of what the record of tax lien auctions and sales must contain, in addition to the name of the assignee, is found in Section 40-10-188.

Any purchaser or assignee of a tax lien certificate shall be entitled to the same rights and remedies with respect to the collection of the amounts due on such tax lien certificates as are available to the tax collecting official with respect to the collection of delinquent taxes. This includes, but is not limited to, the right to institute garnishment proceedings against the taxpayer. The holder of a tax lien certificate may not charge the taxpayer any amount more than the tax collect collecting official could with respect to the collection of the delinquent tax. Section 40-10-198.

Included in the rights and remedies of a tax lien certificate holder is the right to request a sale of property. At any time not less than three years after the auction or sale of a tax lien but not later than 10 years after the auction or sale, if the tax lien is not redeemed, the holder of the tax lien certificate may bring in the circuit court of the county in which the property is located an action to foreclose the right to redeem and quiet title to the property in the name of the holder of the tax lien certificate.

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

- (1) the property owner of record, according to the property tax records of the county in which the property is located, at the owner's address shown in the records and at the street address of the property if different;
- (2) all holders of outstanding mortgages, judgment liens, or other liens on the property as recorded in the probate office of the county in which the property is located; and
- (3) the tax collecting official of the county in which the property is located.

The notice shall include the property owner's name, the Uniform Parcel Number, the legal description of the property, the name and address of the holder of the tax lien certificate, and a statement that the holder proposes to file a tax lien foreclosure action between 30 and 180 days after the date of mailing of the notice. The holder must name all persons entitled to redeem as parties defendant to the tax lien foreclosure action. If the court finds that the tax lien auction or sale is valid, that proper notice has been given, and that the tax lien has not been redeemed, the court shall enter judgment foreclosing the right of the defendant or defendants to redeem. § 40-10-197.

REDEMPTION OF TAX LIENS

Tax liens sold or auctioned under these statutes may be redeemed by any person having a legal or equitable claim in the underlying property at any time prior to entry of a decree of sale by payment to the tax collecting official of the amount specified on the tax lien certificate, plus interest at the rate specified in the tax lien certificate, plus any due and owing taxes, interest penalties, fees, and costs due. The tax collecting official shall provide a separate receipt for any current taxes, interest, penalties, fees, or costs paid. § 40-10-193. This includes a new owner where the original owner conveyed his property to the new owner, and the tax assessor has not had time to change the name and sold the property under the original owner's name. AG Op. 2005-152.

Upon payment of the amount due, the tax collecting official shall issue to the person a certificate of redemption appended to a copy of the certificate of tax lien, giving the date of redemption, the amount paid, and by whom redeemed. The tax collecting official must also enter the information in the tax lien sales book. For each certificate of redemption, the tax collecting official shall collect from the person to whom the certificate of redemption is issued a fee of ten dollars (\$10). § 40-10-194.

Within ten days of issuing a certificate of redemption, the tax collecting official must notify any holder of the tax lien certificate with a copy of the certificate of redemption. The tax collection official must pay the holder of the tax lien certificate entitled to the redemption money once the person surrenders the original tax lien certificate. § 40-10-196.

SALE OF LAND

After the delinquent taxpayer receives notice from the probate judge that his or her land will be sold for taxes unless he or she presents a valid legal defense (see the section on Timetable for Collection of Taxes), the taxpayer must appear in court on the appointed date. If the taxpayer's defense is unsuccessful or if he or she does not appear, a decree of sale will be issued by the court.

Notice of the tax sale must be advertised for three weeks following the close of the term of court at which the decree of sale was issued, stating the circumstances of the case and giving a full description of the property to be sold. Such advertisements must commence at least 30 days before the date of the tax sale. §§ 40-10-11, -12, -14.

The tax sale is held “in front of the door of the courthouse,” at public auction, to the highest bidder for cash between the hours of 10:00 a.m. and 4:00 p.m. The sale continues until all the land in the decree is sold. The probate judge must attend the sale and record and preserve the record of the name of the purchaser, the date of the sale, the price paid, and the amount of penalties, interest, and costs in each case. If no sale is made, the fact and the reason therefore must also be recorded. § 40-10-15.

The tax collector must offer for sale only that portion of the real estate that is necessary to satisfy the amount of the tax lien. If it is not practical to divide the parcel of land in this way, the tax collector is relieved of this duty, but no sale may be made for a sum less than the amount of the decree, plus expenses. § 40-10-16. For making such sale, the collector shall be allowed a fee of \$5.00, to be collected out of the property. § 40-5-14.

If a purchaser is unable to pay the amount of his or her bid, the land is immediately put up for sale again. § 40-10-17.

If the highest bid received for a parcel of land will not satisfy the proper amount due on such land, the probate judge bids for the state in an amount sufficient to pay the appropriate sum. In no case can the probate judge bid for less than the entire amount of real estate included in any assessment. § 40-10-18.

CONFIRMATION OF SALE

The confirmation of sale is issued by the probate judge if no or only insufficient objections are registered with the probate judge within a period of five days after the tax collector reports the sale to the probate judge. This report to the probate judge must be made within 10 days after the sale. The confirmation of sale says

in effect that the tax collector complied with the law in conducting the sale at which the property was sold. § 40-10-13.

CERTIFICATE OF PURCHASE

As soon as possible after the sale, the tax collector must complete and deliver to each purchaser, except the state, a certificate of purchase. This certificate must contain:

- (1) A description of the real estate showing that it was assessed by the assessor, to whom assessed, and the date of assessment;
 - (2) The year(s) the taxes were due;
 - (3) The amount of taxes due, and 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;
 - (4) A statement that the real estate was advertised and the period of time it was advertised;
 - (5) A statement that the real estate was offered for sale and at what time, who purchased it, at what price, and the fact and date of the confirmation of the sale.
- § 40-10-19.

In the event of the tax sale of owner-occupied property that is taxed as Class III, the certificate shall provide notice that (1) the Class III tax status shall remain in effect for the property throughout the period allowed for redemption as long as the property is used as an owner-occupied residence, and (2) for any period or periods following the tax sale that the property is not used as Class III property, as defined in Section 40-8-1, the property will be classified, assessed, and taxed as Class II property. §40-10-19(b).

A certificate of land sold for taxes and purchased at a tax sale by an individual is shown in page 88.

The probate judge issues a similar certificate of purchase when the state purchases the real estate. The certificate is delivered

to the tax collector who transmits it to the state comptroller for acceptance or rejection. If rejected because of error or irregularity, the certificate is returned to the probate judge, who charges the officer who made the error with the taxes, interest, and costs due. The comptroller must notify the tax assessor that the property is to be assessed as an escape for the period for which taxes were due. If the certificate is accepted by the comptroller, he delivers it to the land commissioner after final settlement with the tax collector. The land commissioner then records and files the certificate in his or her office. The property thereafter is not assessed until it is either redeemed or sold by the state. § 40-10-20. The certificate of purchase of land purchased by the state is shown on page 89.

STATE OF ALABAMA } OFFICER OF
_____ County } [REVENUE COMMISSIONER]

PARCEL # _____

for the State and County taxes for the year 20____, the said taxes became delinquent, and an application, of which due notice was given, was regularly made to the Probate Court of said County for a decree for the sale of said land for the payment of the taxes and charges due thereon, that a decree was rendered by said Probate Court on the ____day of _____, 20____, for the sale of said land, as prescribed by law, and after having given notice of sale by posting same at the courthouse door of said County and in the precinct where said land lies, at least three weeks before the day of sale, and also by advertisement for three successive weeks in the _____, a newspaper published in said County, at least thirty days before the day of the sale, in pursuance of said decree and notice of sale and said land was, on the ____ day of _____, 20____, offered for sale at public auction at the courthouse of said County, between the hours of 10 a.m. and 4 p.m. of said day, and at said sale _____ became the purchaser of the following described portion of said lands;

Net State Tax . . . \$	Class 1 Value. . . . \$	Exempt State Tax. . . \$
Net County Tax. \$	Class 2 Value. . . . \$	
Net City Tax. . . \$	Class 3 Value. . . . \$	Exempt County Tax. . \$
Net School Tax. . \$	TOTAL. . . \$	
Fees. \$		Exempt City Tax. . . \$
Interest. \$	State Millage. . . . \$	
Advertising. . . . \$	County Millage. . . \$	Exempt School Tax. . \$
Timber. \$	City Millage \$	
Other/Excess. . . \$	School Millage. . . \$	
TOTAL. \$		

[Revenue Commissioner]

CERTIFICATE OF LAND SOLD AND BOUGHT BY THE STATE

THE STATE OF ALABAMA } OFFICE OF
_____ County } [REVENUE COMMISSIONER]

I, _____, [Revenue Commissioner] of said County, hereby certify that the following real estate lying in said County, to-wit:

PARCEL # _ _ _ / _ _ _ / _ _ _ / _ _ _ / _ _ _ / _ _ _ / _ _ _ / _ _ _ /

[Insert legal description of property subject to sale.]

was assessed by [Revenue Commissioner] _____ of said County to:

Name: _____

Address: _____

for the State and County taxes for the year 20____, that the said taxes became delinquent, and an application, of which due notice was given, was regularly made to the Probate Court of said County for a decree for the sale of said land for the payment of the taxes and charges due thereon, that a decree was rendered by said Probate Court on the ____ day of _____, 20____, for the sale of said land, as prescribed by law, and after having given notice of sale by posting same at the courthouse door of said County and in the precinct where said land lies, at least three weeks before the day of sale, and also by advertisement for three successive weeks in _____, a newspaper published in said County, at least thirty days before the day of the sale, in pursuance of said decree and notice of sale and said land was, on the 2 day of _____, 20____, offered for sale at public auction at the courthouse of said County, between the hours of 10 a.m. and 4 p.m. of said day, and at said sale no person having bid for such land an amount sufficient to pay taxes, cost and fees due thereon, I, as such [Revenue Commissioner] _____, bid in for the State of Alabama such lands describes as:

[Insert legal description of property purchased.]

for the amount of such taxes, costs and fees, aggregating the sum of _____ dollars, made up of the following items, to-wit:

Net State Tax . . . \$ _____	Class 1 Value. . . . \$ _____	Exempt State Tax. . . \$ _____
Net County Tax. . \$ _____	Class 2 Value. . . . \$ _____	
Net City Tax. . . \$ _____	Class 3 Value. . . . \$ _____	Exempt County Tax. . \$ _____
Net School Tax. . \$ _____	TOTAL. . . . \$ _____	
Fees. \$ _____		Exempt City Tax. . . \$ _____
Interest. \$ _____	State Millage. . . . \$ _____	
Advertising. . . . \$ _____	County Millage. . . \$ _____	Exempt School Tax. . \$ _____
Timber. \$ _____	City Millage \$ _____	
Other/Excess. . . \$ _____	School Millage. . . \$ _____	
TOTAL. \$ _____		

All of which is certified and given under my hand and seal, this the ____ day of _____, 20__.

[Revenue Commissioner]

TAX DEED

Three years after the date of the sale of any real estate for taxes, the probate judge must execute and deliver to each purchaser or assignee of the certificate of purchase, except the state, a deed to each parcel of real estate sold to the purchaser and remaining unredeemed upon the return of the certificate and payment of a \$5.00 fee. The conveyance of this tax deed vests all right, title, interest, and estate of the original delinquent taxpayer in the grantee. This conveyance, however, does not transfer any right, title, or interest of any reversioner or remainderman. § 40-10-29. A tax deed is shown on page 91.

LAND COMMISSIONER – DUTIES

The State Commissioner of Revenue is the ex officio Land Commissioner. The Land Commissioner is authorized to appoint agents and assistants subject to the provisions of the merit system. The Land Commissioner supervises and controls all real estate bought by the state (see the section on Sale of Land, above) at tax sales and is authorized to rent, lease, operate, and convey this land. §§ 40-10-50 and 51. A deed for conveying land purchased by the state at a tax sale, but not redeemed is shown on page 92.

The agents of the Land Commissioner investigate the procedures involved in the state's acquisition of real estate at tax sales to make certain that the sale was valid and in compliance with the law. Further duties of the land commissioner's agents concern notification of interested parties of redemption or sale of land, management and prevention of waste in regard to these lands, and the performance of related duties as directed by the State Department of Revenue. § 40-10-52.

The Land Commissioner must secure from the Attorney General suitable forms for certificates of purchase and deeds and ensure the preparation of blank certificates and deeds. They are delivered to the probate judges and tax collectors for use in tax sale procedures. § 40-10-53.

The State of Alabama, }
COUNTY. }

Know All Men by These Presents, That

WHEREAS, on the _____ day of _____, 20____, a decree was rendered by the Probate Court of said County for the sale of the lands hereinafter described and conveyed for the State and County taxes then due from _____

_____ the owner of said land for the costs and expenses thereof and thereunder.

AND WHEREAS, therefore, to-wit, on the _____ day of _____, 20____, said lands were duly and regularly sold by the Tax Collector of said county for taxes, costs and expenses, and at said sale

became the purchaser of said lands at and for the sum of said taxes, costs and expenses, and forthwith paid said sum to said Tax Collector, and received from said collector a certificate of said purchase.

AND WHEREAS, the time for the redemption of said lands by said owner or other person having an interest therein has elapsed and said certificate of purchase has been returned to the Probate Judge of said County.

NOW, THEREFORE, I _____ as Probate Judge of said County of _____, under and by virtue of the provisions of Title 40-10-29, **Code of Alabama 1975**, and in consideration of the premises above set out, and in further consideration of the sum of five dollars (\$5.00) to me in hand paid, have this day granted, bargained and sold, and by these presents do grant, bargain, sell and convey unto _____

_____ who is the present owner and holder of said certificate of purchase all the right, title and interest of the said _____

_____ owner as aforesaid of said land, and all the right, title, interest and claim of the State and County on account of said taxes, or under said decree in and to the following described lands hereinafter referred to, to-wit: _____

_____ lying and being situate in said County and State, to have and to hold the same, the said rights, titles and interests unto himself the said _____ and his heirs and assigns forever, but no right, title or interest of any reversioner or remainderman in said land in conveyed hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal,

this the _____ day of _____, 20____.

Judge of Probate.

THE STATE OF ALABAMA, }
COUNTY. }

I, _____, a _____

in and for said County, in said State, hereby certify that _____ whose name as Judge of Probate is signed to the foregoing conveyance and who is known to me, acknowledged before me, on this day, that, being informed of the contents of this conveyance, he, in his capacity as such Judge of Probate, executed the same voluntarily, on the day the same bears date.

Given under my hand, this the _____ day of _____, 20____.

No.

ORIGINAL

THE STATE OF ALABAMA

KNOWN ALL MEN BY THESE PRESENTS:

THAT WHEREAS, on _____ day of _____, A.D. 20____, the Probate Court of _____ County rendered a decree for the sale of lands hereinafter described and conveyed, for the payment of State and County taxes then due from _____ the owner of said lands, and for the payment of the fees, costs, and expenses of and under said decree and the sale had in execution thereof.

AND WHEREAS, thereafter, to-wit, on the _____ day of _____, 20____, under and in pursuance of said decree, said lands were regularly offered for sale by the Tax Collector of _____ County for said taxes, fees, costs, and expenses, and no person having bid a sufficient sum for said lands to pay the same, said lands were bid in for the State for the sum of said taxes, fees, costs, and expenses.

AND WHEREAS, the time allowed by law for the redemption of said lands has elapsed since said sale, and the same not having been redeemed, the title thereto under said sale is still in the State.

AND WHEREAS, said lands having been entered upon the books of the State Land Commissioner, and the State Land Commissioner of the State of Alabama, with the approval of the Governor, has fixed the price of said land, and ascertained that the sum of _____ Dollars is sufficient to cover and satisfy all claims of the State and County against said lands for or on account of taxes, interest, fees, and costs, and officers' fees which were due upon or have accrued against said lands, as provided for by law.

AND WHEREAS, application has been made to the State Land Commissioner of the State of Alabama by _____ to purchase said lands, and said sum of _____ Dollars therefor has been paid into the State Treasury.

NOW THEREFORE, The State Land Commissioner of the State of Alabama, by virtue of and in accordance with the authority in him vested by law, with the approval of the Governor of Alabama, and in consideration of the premises above set out, has this day granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said _____, without warranty or covenant of any kind on the part of the State, express or implied, all right and title of the State of Alabama acquired by the tax sale aforesaid in and to said lands, described as follows:

lying and being situate in said County and State, to have and to hold the same, the said right and title of the State in the lands aforesaid, unto _____ and _____ heirs and assigns forever.

In testimony whereof I have hereunto set my hand and seal this the _____ day of _____, 20____.

Approved

STATE LAND COMMISSIONER OF ALABAMA,

Governor

By _____
State Land Commissioner

THE STATE OF ALABAMA, MONTGOMERY COUNTY

I, _____, a Notary Public in and for said County, in said State, hereby certify that _____, whose name is signed to the foregoing conveyance as State Land Commissioner, and who is known to me acknowledged before me on this day that, being informed of the contents of this conveyance, he, in his capacity as such State Land Commissioner, executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 20____.

_____, Notary Public

On or before August 1st of each year, the Land Commissioner must deliver a list of unredeemed land acquired by the state to tax assessors in counties in which such property is located. The tax assessor compares this list with his or her records of tax sales in his or her county for accuracy. If any of the real estate on the Land Commissioner's list has been redeemed or was erroneously charged with a tax liability, the tax assessor must certify the facts to the land commissioner and make certain that the records of the probate judge are corrected accordingly. The tax assessor must furnish a copy of the Land Commissioner's list to the probate judge, who enters the taxes therein calculated on his or her records of sales of real estate. Section 40-10-54.

RIGHTS AND REMEDIES OF PURCHASERS AT TAX SALES

If for any reason except those specified by law, the tax sale does not actually convey title to the land to the purchaser, the purchaser gets an assignment of the rights and liens of the state and county to the land sold, both as to the taxes paid at the sale and as to subsequent taxes paid as they become due. These rights and liens may be foreclosed in the same manner as other tax liens. § 40-10-70. It is not clear exactly what situations this section of the Code is meant to cover. Presumably, a situation where the delinquent taxpayer claimed title by adverse possession or had merely a life estate in the land would make the tax sale an ineffectual conveyance of title to the land, thus coming within the provisions of this section. In the typical situation, the purchaser of land at a tax sale receives title to the land subject to the original delinquent taxpayer's right of redemption.

Attorney General Opinion 2005-152 states that real estate 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 or her heirs or personal representatives, or by any person having an interest therein. A right to redeem is an opportunity and procedure provided by law to allow a former owner, his or her successors in interest, or anyone else having substantial interest in the property, to defeat the tax

sale and to revest themselves with title as complete and unqualified as it was before the tax was assessed as delinquent by repayment of the amount that the purchaser paid for the property with interest and costs. AG Op 2005-152.

A holder of a certificate of purchase has a lien for the year for which the property was sold and, as such, has the same rights and remedies with respect to the collection of the amount paid the state and county the year the property was sold. This lien may be enforced in the same manner as any other lien. AG Op 2005-152.

The tax collector or his official bond, or any other official by whose fault or negligence a tax sale was made, when either taxes were not due or the land sold was insufficiently described to convey legal title, will be liable to the purchaser of the land for the amount of the purchase price plus interest and costs. §§ 40-10-71 and 72.

To obtain a refund of the purchase price, the purchaser must file a petition in triplicate with the chairman of the county commission of the county in which the land is located, setting out the facts upon which he relied. If the chairman determines that the facts are such as to entitle the petitioner to the amount petitioned for, he or she must certify that decision to the State Comptroller on one copy of the petition. The comptroller draws a warrant for the portion of the amount paid into the state treasury and forwards it to the petitioner. The chairman of the county commission also follows a prescribed procedure with regard to that portion of the amount petitioned for that was paid into the county treasury or the school fund and for reimbursing the state for any amounts paid to the county on account of the purchase. §§ 40-10-102, -105.

In 1989 the Alabama Legislature provided, as an alternative to the preceding, a simpler procedure, for the correction of errors made in assessment, computation, or calculation of the amount of ad valorem taxes, penalties or fees due thereon. 1989 Ala. Acts 89-861, Ala. Code § 40-7-9.1 (1975). This section allows the official charged with assessing or collecting taxes to correct the error on the record with evidence to support the correction. The correction shall be certified to the tax collector, if such person is different

from the person making the correction. The tax collector shall collect the additional tax; or if a refund is due, make the refund out of the next money collected. The taxpayer shall furnish proof of such payment to the satisfaction of such official within two years of such payment. Section 40-7-9.1.

REDEMPTION OF LAND SOLD FOR TAXES

If land is purchased by the state at a tax sale, it may be redeemed at any time before the land is conveyed by the land commissioner to a third party. The land commissioner is authorized to convey the land for an amount not less than that paid for it by the state, plus interest, costs, and all taxes due since the date of the sale. §§ 40-10-21, 40-10-120. In the event the purchaser of the land at a tax sale is not the state, the land may be redeemed, as a general rule, at any time before the expiration of three years after the date of the sale and after the issuance of the certificate of purchase. *Daugherty v. Rester*, 645 So.2d 1361, 1364 (Ala. 1994). A former owner may not redeem property from the state after the issuance of a tax deed under sections 40-10-123 and 121. (222 Op. Atty. Gen. 63 (1989)). § 40-10-120. After that time, the purchaser may acquire a tax deed from the probate judge. § 40-10-29.

After three years from the date of the tax sale, redemption is not through the tax collector's office. Redemption must be done through "judicial redemption". §§ 40-10-20 and 40-10-83. There is no time limit for redemption by an owner who has retained possession. § 40-10-82.

Real property that has been sold for taxes to one or more purchasers in subsequent sales entitles a party to redeem the sale by simultaneously redeeming all subsequent sales. § 40-10-120. In the event of a redemption of successive sales, the redeemer must pay all outstanding taxes and costs of Sections 40-10-121 and 40-10-122.

In order to redeem, the party desiring to redeem must deposit with the Judge of Probate of the county where the property is located the amount of money for which the property was sold plus interest at 8% on the portion of any excess bid less than 15%

of the market value and all taxes which have been paid by the purchaser with interest at 8% per annum. § 40-10-122.

Exceptions to this three-year redemption period include instances in which the person entitled to redemption rights is either an infant or mentally incompetent, or when the mortgage or other instrument creating a lien under which a party seeks to redeem is duly removed at the time of tax sale. In these exceptional cases, addition time is provided. The right of redemption extends to the original owner's heirs, personal representatives, creditors, or judgment creditors, mortgagees or purchasers, and tenants in common. § 40-10-120.

When there is a mortgage or other instrument creating a lien, the mortgagee shall have the right to redeem at any time within one year from the date of written notice to the lien holder by the purchaser at the tax sale. This one-year period of redemption is effective for mortgagees regardless of whether notice occurs within three years. For a decision on this issue by the Alabama Supreme Court, see *Almon v. Sixty St. Francis Street, Inc.*, 368 So. 2d 24 (Ala. 1979).

PROCEDURE FOR REDEMPTION

When land is bought by the state at a tax sale, it may be redeemed by application and depositing with the probate judge of the county in which the property is located, the amount of money paid by the state for the property plus interest and costs, together with the amount of all taxes due on the property since the date of the tax sale plus interest, costs, and fees. The probate judge must notify the tax assessor of the application for redemption, and the tax assessor must then assess the property for taxation, using the fair market value of the property during the year or years for which taxes are due. Protest may be filed with the board of equalization, in the manner provided by law by any party having the right of redemption. (See the section on Board of Equalization, *supra*). § 40-10-121.

The same procedure is followed when the land was bought by a party other than the state except that the redemptioner must

pay any taxes due on the property which were unpaid by the purchaser. § 40-10-122. Furthermore, with respect to property located within an urban renewal or urban redevelopment project area designated pursuant to Chapters 2 or 3 of Title 24, the proposed redemptioner must pay to the purchaser or his or her transferee all insurance premiums paid or owed by the purchaser for casualty loss coverage on insurable structures with interest of 12 percent per annum as well as the value of all permanent improvements made on the property with interest on the value at 12 percent per annum.

With respect to property which contains a residential structure at the time of the sale regardless of its location, the proposed redemptioner must pay to the purchaser or his or her transferee all insurance premiums paid or owed by the purchaser for casualty loss coverage on the residential structure with interest on the payments at 12 percent per annum as well as the value of all preservation improvements made on the property with interest on the value at 12 percent per annum. §40-10-12.

Distinct lots or parcels of land may be redeemed without redeeming the entire tract of land sold at a tax sale. §§ 40-10-123 and 125. When redemption money is deposited in an interest bearing account pursuant to Section 40-10-128, the interest paid on this should go into the county general fund. (Attorney General's Opinion dated August 4, 1989).

On redemption of land purchased by the state, the judge of probate pays the tax assessor and tax collector the fees to which they are entitled. The assessor enters the real estate and the name of the person redeeming it on an appropriate list kept by him for assessment. § 40-10-130.

APPROVAL OF LAND COMMISSIONER ON REDEMPTION

When land is bought by the state at a tax sale and redemption is sought on a lot or parcel of such land, the probate judge must obtain the approval of the land commissioner for such

redemption. This procedure is unnecessary if the land was not purchased by the state at a tax sale. § 40-10-126.

DISPOSITION OF REDEMPTION MONEY

Upon presentation to the probate judge of the certificate of purchase, the purchaser of land subsequently redeemed is entitled to the redemption money. § 40-10-128. When the state purchases the land at a tax sale, the probate judge must deliver the redemption money to the tax collector for distribution to the various taxing authorities entitled to taxes on the land. The fact that no land has been redeemed must also be reported by the probate judge each month to the tax collector and to the land commissioner. § 40-10-129.

RENTS AND PROFITS ON REDEEMED LAND

One who purchases land at a tax sale is not liable to the redemptioner for rents and profits on the land during the time such purchaser was in lawful possession of the land. This provision does not apply if the original delinquent taxpayer was a minor or a person of unsound mind and had no notice of the proceedings against him in the probate court. However, no purchaser at a tax sale has the right to cut standing timber, to remove improvements to the land, or to commit waste until he or she receives a deed for the land from the probate judge. § 40-10-131.

PURCHASE OF TAX LIENS

The Legislature addressed the large amount of land that the State holds because the private property holder is a delinquent taxpayer by allowing each county to create a method of selling the tax liens attached to the delinquent taxpayer's deed.

If there is a tax lien on a parcel of property, then the county, on its own initiative, is allowed to sell the tax lien in a private transaction and use the money from those sales as it sees fit in the running of the county government. The land commissioner shall conduct the tax lien sales as far as setting the date, time and procedures. § 40-10-134. Of course, as with all funds collected by

the tax collector, the tax collector is required to report and account to the state comptroller for all amounts of money in his or her accounts.

The county tax collector is required to list the land owned by delinquent taxpayers in a book as required by Section 40-10-2. The record of tax lien sales shall be kept as a list, and the tax collector will be required to carry to probate court both the tax book and a book containing a record of the list and sales of tax liens. This book of tax liens shall contain all the following:

- (1) the date of sale of the tax lien;
- (2) description of each parcel of property on which a tax lien was sold;
- (3) the year of assessment to which the tax lien relates;
- (4) the name of the property owner, if known;
- (5) the name and address of the original purchaser of the tax lien;
- (6) the name and address of the person who purchased the tax lien from the original purchaser, if there is such a person;
- (7) the total amount of taxes due on the tax lien;
- (8) the name of the person redeeming the property;
- (9) the total amount paid for redemption; and
- (10) the date of any decree of sale.

§ 40-10-2.

The county tax collector is required to collect for any municipal or county liens if mandated by the statute related to their enforcement and collection. The purchaser of a tax certificate at a tax sale is required to pay any liens or assessments that accrue during his or her time of ownership of the tax certificate. AG Op. 2008-034. The tax collector is required to inform the purchaser of a tax lien when the property is redeemed. At the time of redemption, the tax collector will be required to pay the owner of the tax lien the price he or she paid and any interest collected on the lien. In effect, the purchaser of a tax lien is buying a bond on the property of the delinquent taxpayer. When the property is redeemed, then the owner of the tax lien should receive the amount he or she paid for the lien plus interest. §§ 40-10-19 and 40-10-129.

SALE OR CONVEYANCE OF LANDS BID IN BY STATE

After three years from the date of the tax sale, lands bid in by the state and not redeemed may be sold for the state by the land commissioner or conveyed to the State Department of Conservation and Natural Resources. Procedures for these actions are prescribed by Sections 40-10-132 and 142.

REFUND OF TAXES PAID BY MISTAKE OR ERROR

Any taxpayer who through any mistake or error has paid taxes that were not due on his or her property is entitled, upon proof of error, to have the amount of the error refunded to him if he applies for the refund within two years after the erroneous payment. §§ 40-10-160 through 166. The taxpayer must file a petition in duplicate with the probate judge setting forth the fact surrounding the error. If the probate judge determines that the facts entitle the petitioner to a refund, the judge must certify his or her decision to the comptroller and forward a copy of the petition to him. If the comptroller agrees with the probate judge, he draws a warrant on the state treasury for the amount of the refund and sends it to the taxpayer. §§ 40-10-161 and 162. In order to obtain a refund from the county, the petitioner presents his or her petition as certified by the probate judge to the county commission. If the county commission agrees with the probate judge, it draws a warrant on the county treasury for the amount of the refund. § 40-10-163. Amounts of municipal, school, and special taxes erroneously paid are similarly recoverable. §§ 40-10-164, -165.

In 1989 the Alabama Legislature provided, as an alternative to the preceding, a simpler procedure, for the correction of errors made in assessment, computation, or calculation of the amount of ad valorem taxes, penalties or fees due thereon. 1989 Ala. Acts 89-861, Ala. Code § 40-7-9.1 (1975). This section allows the official charged with assessing or collecting taxes to correct the error on the record with evidence to support the correction. The correction shall be certified to the tax collector, if such person is different from the person making the correction. The tax collector shall collect the additional tax; or if a refund is due, make the refund out

of the next money collected. The taxpayer shall furnish proof of such payment to the satisfaction of such official within two years of such payment. Section 40-7-9.1.

The county taxing authorities are not required to provide a refund to a taxpayer when the taxpayer made an intentional misrepresentation of property on which excess ad valorem taxes were paid. In *Ex parte HealthSouth Corp.* 978 So.2d 745, (Ala. 2007), the Alabama Supreme Court held that the terms “error” and “mistake” as used in Ala. Code § 10-40-160 did not include intentional dishonest acts. Also, the taxpayer’s intentional misrepresentation of its assets did not abrogate the right of the county taxing authorities to assess and collect personal property taxes from the taxpayer based upon the information the taxpayer provided on the tax returns.

MOTOR VEHICLE COLLECTION

In counties that have not provided for the office of license commissioner, the tax collector is authorized to collect ad valorem taxes on motor vehicles. In counties in which the office of license commissioner has been legislatively created, that officer collects ad valorem taxes on motor vehicles. § 40-12-253.

COLLECTION FROM PERSON GOING OUT OF BUSINESS

Collateral to the collector’s duty to collect taxes when payment is endangered is the responsibility to collect taxes from a business person going out of business. The rationale is that the business person will be disposing of substantial amounts of personal property, and tax payments are therefore endangered.

In a “Going Out of Business” sale, the store owner’s total amount of taxes become immediately due. If the collector negligently fails to collect immediately these taxes either by sale, levy or otherwise it will be held against his or her bond. See § 40-5-31 for these provisions.

THE CASUAL SALES TAX

See pages 33 and 34.

VI.

THE OFFICE OF REVENUE COMMISSIONER

STATUS OF OFFICE

As of 2017 over 50 of the 67 counties in the State of Alabama have an office of Revenue Commissioner as a result of the combination of the duties and offices of the tax assessor and the tax collector. Below is a table which lists most of the counties which have a Revenue Commissioner's office.

Counties with a Revenue Commissioner's Office

County	Year Tax Collector and Tax Assessor Officials First Combined ¹	Term of Office	Population to 2010 Census
Autauga	1993	6 years	54,571
Baldwin	1995	6 years	182,265
Barbour	1997	6 years	27,457
Blount	1984	6 years	57,322
Bullock	1991	6 years	10,914
Butler	2009	6 years	20,947
Calhoun	2003	6 years	118,572
Chambers	1990	6 years	34,215
Cherokee	1989	6 years	25,989
Chilton	2015	6 years	43,643
Choctaw	2003	6 years	13,859
Clarke	1989	6 years	25,833
Clay	1988	6 years	13,932
Cleburne	1985	6 years	14,972
Coffee	1981	6 years	49,948
Colbert	1997	6 years	54,428
Conecuh	1998	6 years	13,228
Coosa	1985	6 years	11,539
Covington	1988	6 years	37,765
Crenshaw	1991	6 years	13,906
Cullman	1979	6 years	80,406
Dale	1988	6 years	50,251
DeKalb	1997	6 years	71,109
Elmore	1990	6 years	79,303

¹ Some of these offices were established and began on the effective date set out in the amendment while others were established and began at a date earlier than the effective date due to a resignation or other type of vacancy in either the Tax Assessor or the Tax Collector's office.

Etowah	1990	6 years	104,430
Fayette	1991	6 years	12,241
Franklin	1997	6 years	31,704
Geneva	1985	6 years	26,790
Greene	2003	6 years	9,045
Henry	1985	6 years	17,302
Houston	1973	6 years	101,547
Jackson	1985	6 years	53,227
Lamar	2003	6 years	14,564
Lauderdale	1984	6 years	92,709
Lawrence	1997	6 years	34,339
Lee	2003	6 years	140,247
Limestone	1987	6 years	82,782
Macon	1988	6 years	21,452
Marengo	1985	6 years	21,027
Marion	2003	6 years	30,776
Marshall	2003	6 years	93,019
Mobile	1989	6 years	412,992
Monroe	1997	6 years	23,06
Montgomery	1997	6 years	229,363
Morgan	1979	6 years	119,490
Perry	2009	6 years	10,591
Pickens	1979	6 years	19,746
Pike	1997	6 years	32,899
Randolph	1991	6 years	22,913
Russell	1985	6 years	52,947
Shelby*	2003	6 years	195,085
St. Clair	1990	6 years	83,593
Talladega	1984	6 years	82,291
Tallapoosa	1995	6 years	41,616
Walker	1978	6 years	67,023
Washington	1997	6 years	17,581
Winston	1997	6 years	24,484

* Property Tax Commissioner

TERM OF OFFICE

As the table illustrates, the term of office for a revenue commissioner is 6 years.

AUTHORITY, PROCEDURE, AND PURPOSE FOR ESTABLISHING OFFICE

The Legislature's authority to combine the offices of tax assessor and tax collector into one office stems from constitutional amendment No. 441 which was ratified in September 1982. This amendment also expressly recognized as being valid the creation of a revenue commissioner's office in six counties which occurred prior to the amendment's passage date.

Each county establishes a revenue commissioner's office by its own local act which is presented and approved by the Legislature. After the Legislature approves the Act, the amendment is placed on a ballot to be approved by the general population of voters within that county.

The two main purposes usually expressly stated in the amendment for establishing a revenue commissioner's office are: to conserve county revenue and to promote public convenience. While such amendments are generally approved by the voting public, this is not invariably true. The following counties have elected not to abolish the Tax Assessor and the Tax Collector's office: Chilton, Dallas, Escambia, Hale, Jefferson, Lowndes, Madison, Sumter, Tuscaloosa, and Wilcox. A typical amendment to establish a revenue commissioner's office is located in Appendix A.

QUALIFICATIONS

To be qualified to hold the office of revenue commissioner, a person must be a qualified voter of the county but must not come within any of the categories of ineligibility provided by law. Section 36-2-1 prescribes the following causes for disqualification:

- (1) Those who are not qualified voters, except as otherwise expressly provided;
- (2) Those who have not been inhabitants of the state, county, district, or circuit for the period required by the Constitution and laws of the state;
- (3) Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or any other crime punishable by imprisonment in the state or federal penitentiary and those who are mentally incompetent;
- (4) Those against whom there is a judgment unpaid for any moneys received by them in any official capacity due to the United States, this state, or any county or municipality thereof; and

- (5) Soldiers, seamen, or marines in the regular army or navy of the United States.
- (6) A person already holding another office of profit except constables, notary publics, and commissioner of deeds.

OFFICIAL BOND

The revenue commissioner as a state officer is required to take the oath of office contained in Article XVI § 279 of the Alabama Constitution. This requirement is also usually expressed in the local acts which established a revenue commissioner's office. (For example see Section Four of the typical bill to establish a revenue commissioner's office found in Appendix A at page 128).

Also, the local act will usually require the revenue commissioner to file a bond with the probate judge in such sum as fixed by the county commission. This bond will vary from county to county and will depend upon how much revenue is handled by the particular revenue commissioner's office. Some counties also require their deputy commissioners to be bonded.

METHOD OF COMPENSATION

In 1990 the Legislature amended § 40-6A-2 of the Alabama Code which had previously been amended in 1985. This section of the Code deals with a minimum annual salary schedule for the compensation of the offices of tax assessors, tax collectors, revenue commissioners, and license commissioners based on the 1980 federal decennial census. The amendment embodied in Legislative Act No. 90-694, changed the existing schedule by increasing each salary bracket by \$7,500 and by lowering the population level required to be under the highest pay bracket from 135,000 to 119,000. The 1990 amendment was designed to prevent the result of the decision made by the Alabama Court of Civil Appeals in the case of Hamilton v. Walker County, 521 So. 2d 34 (Ala. Civ. App. 1987). In that case the court held that when a county adopted the pay schedule provided by § 40-6A-2 it was not bound by a subsequent amendment to the act increasing the

minimum salaries when the language of the amendment contained as a prerequisite to its adoption the approval of the county governing body. Sections two and three of the 1990 Act work together to provide a mandatory pay raise of \$7,500 to the tax assessors, tax collectors, revenue commissioners and license commissioners of those counties which have adopted the provisions of § 40-6A-2 in either its original or amended form.

Below is a table showing a comparison between the minimum annual salary under the 1990 Act and the 2000 Act.

Salary of Revenue Commissioner

In Counties Having a Population of	Annual Salary Under 1990 Act	Annual Salary Under 2000 Act
25,000 or less	\$32,500	\$42,500
25,001 to 75,000	\$37,500	\$47,500
75,001 to 119,000	\$40,000	\$50,000
More than 119,000	\$42,500	\$52,500

In 2000, the Omnibus Salary Bill was enacted by the Alabama Legislature providing an expense allowance to the revenue commissioner in amounts not to exceed ten thousand (\$10,000) per annum. The Bill was codified as § 11-2A-1 *et seq.* This amount would then be part of the base salary of the revenue commissioner at their next term of office and would also entitle them to the same uniform increases in compensation, including cost-of-living increases, longevity increases, merit raises, and bonuses that are granted to county employees by the county commission at the time of the approval of the county budget.

Certain revenue commissioners were not affected by this law, as they were recipients of other local legislative pay increases or their county commissions elected not to adopt a resolution declaring their intent to participate.

Assistant tax assessors and tax collectors who are elected receive 90% of the salary established for the tax assessor or tax collector. §40-6A-1 and 3.

The money for these salaries is taken from the ad valorem taxes collected during the tax year and deposited into the county general fund. The salaries are paid from that fund in equal installments. Each fund, agency, or municipality which receives ad valorem taxes pays the greater of either a pro rata share of the salary, or fees and commissions. § 40-6A-2.

POWERS AND DUTIES

Because a revenue commissioner generally performs the duties of both the former tax assessor and tax collector's offices, an understanding of his or her duties can be gained by reviewing Chapters II and V dealing with the assessment and collection of taxes.

ETHICS LEGISLATION

The revenue commissioner meets the definition of "public official" under § 36-25-1(27) and therefore is subject to the Alabama Ethics Law. The Alabama Ethics Law is located in §§ 36-25-1 through 30. (See pages 8 to 11, *supra*, for a more detailed explanation of the ethics law.)

VACANCY IN OFFICE

A vacancy in the office of revenue commissioner occurs if the incumbent dies or resigns, if the commissioner ceases to be a resident of the county in which he or she is elected, if a competent tribunal declares invalid the election in which he or she was elected, if the Legislature abridges the term of office, or if there is a failure to elect a successor at any general election, if the person holding office is convicted by any court of the United States of a felony or, if the commissioner is adjudged to be of unsound mind. §§ 36-9-1, 36-9-2, 36-9-3, 36-9-5. Once it is determined that there is a vacancy in the office, the Governor appoints a successor to fill the unexpired term. § 36-9-17.

VII.

LICENSE COMMISSIONER

CREATION AND METHOD OF SELECTION

The office of license commissioner (or an office with a similar title) has been legislatively created by the ten Alabama counties listed in the table below. (A typical Act creating a county licensing official's office is included as Appendix B). The method of selecting this officer varies among these counties, but in any event the office is filled either by appointment or by election. In some counties the license commissioner is appointed by the County Commission under the provisions of the merit system operative in the county. In other counties, however, the office is elective.

If the method of selection is by appointment, then the license commissioner's term is indefinite as he or she serves at the pleasure of the County Commission and thus is subject to county politics which may change the composition of the Commission and its collective view of the desirability of retaining the current license commissioner.

TERM OF OFFICE

In all of the counties, except one, which provide for the selection of a license commissioner by election, the term of office is for six years. In Mobile, the license commissioner has a four-year term of office.

PRESENT STATUS OF THE LICENSE COMMISSIONER'S OFFICE

Below is a table of counties having a License Commissioner.

<u>County</u>	<u>Method of Selection</u>	<u>Term</u>	<u>Year Office Created</u>
Calhoun	Election	6 yr.	1965
Clarke	Election	6 yr.	1990
Dallas	Appointment	Indefinite	1985

Lauderdale	Election	6 yr.	1979
Limestone	Election	6 yr.	1989
Madison	Election	6 yr.	2002
Mobile	Election	4 yr.	1961
Morgan	Election	6 yr.	1965
Russell	Election	6 yr.	1985
Tuscaloosa	Merit System	Indefinite	1962

(Current as of 2018)

COMPENSATION

As a general rule, license commissioners are compensated on a salary basis. In 1985 the Legislature passed Act No. 85-791 which amended Section 40-6A-2 of the Code of Alabama which set forth a minimum annual salary for tax assessors, tax collectors, revenue commissioners and license commissioners based on the population of a county as measured by the 1980 federal decennial census.

In 1990 the Legislature again amended § 40-6A-2 with the passage of Legislative Act No. 90-694. Section 3 of that Act provides for a mandatory salary increase of \$7,500 for tax assessors, tax collectors, revenue commissioners, and license commissioners in those counties that have approved either the 1982 or the 1985 minimum annual salary embodied in § 40-6A-2 of the Code of Alabama (see Section 2 of the Act). These sections were placed in the Act to avoid the result in Hamilton v. Walker County, 521 So. 2d 35 (Ala. Civ. App. 1987). In that case the court held that Walker County was not bound to pay the revenue commissioner the amount provided in the 1985 amendment of Section 40-6A-2 of the Code of Alabama unless and until the county adopted the pay schedule embodied in that amendment. The Court further held that the county's adoption of the 1982 Act and pay schedule under Section 40-6A-2 did not bind the county to the 1985 amendment of that pay schedule. It is this last holding that the 1990 amendment was designed to change. This Act does not affect those counties which have not adopted the pay schedule contained in Section 40-6A-2.

The amendment increased the salary for each population bracket by \$7,500 while reducing the population level required to get into the highest salary bracket by 16,000 people. The population level of a county in regard to the pay schedule is still determined by the 2000 Federal decennial census.

In 2000, the Omnibus Salary Bill was enacted by the Alabama Legislature providing an expense allowance to the License Commissioner in amounts not to exceed ten thousand (\$10,000) per annum. See §11-2A-1 *et seq.* This amount would then be part of the base salary of the License Commissioner at their next term of office and would also entitle them to the same uniform increases in compensation, including cost-of-living increases, longevity increases, merit raises, and bonuses that are granted to county employees by the county commission at the time of the approval of the county budget. Certain License Commissioners were not affected by this law, as they were recipients of other local legislative pay increases or their county commissions elected to adopt a resolution declaring their intent not to participate.

Assistant tax assessors and tax collectors who hold an office separate and apart from the tax assessor or tax collector's office and who are elected receive 90% of the salary established for the tax assessor or tax collector.

Below is a table reflecting the provisions of the 1990 and the 2000 pay schedules for the office of license commissioner.

Salary of License Commissioner

<u>In Counties Having a Population of</u>	<u>Annual Salary Under 1990 Act</u>	<u>Annual Salary Under 2000 Act</u>
25,000 or less	\$32,500	\$42,500
25,001 to 75,000	\$37,500	\$47,500
75,001 to 119,000	\$40,000	\$50,000
More than 119,000	\$42,500	\$52,500

The money for these salaries is taken from the ad valorem taxes collected during the tax year and deposited into the County

General Fund. Salaries are paid from that fund in equal installments. Each fund, agency, or municipality which receives ad valorem taxes pays a pro rata share of the salaries.

POWERS AND DUTIES

A license commissioner's exact duties may vary from county to county but generally this office issues licenses for exercising any right or privilege for which a license is required by the State of Alabama or by the county and collects the revenue derived therefrom with the exception of marriage licenses. These licenses include driver's licenses, conservation licenses, those dealing with the operation of motor vehicles, and the many licenses imposed on a wide variety of business, professional and occupational activities. The license commissioner also generally performs the duties regarding the assessment and collection of ad valorem taxes on motor vehicles that are ordinarily performed by the tax assessor and the tax collector. This allows the assessment and collection of ad valorem taxes on motor vehicles and licenses to be incorporated into one county office. The license commissioner is responsible for registering boats under the new system of staggered registration for boat owners discussed below. The license commissioner also generally collects the general and casual sales tax. Additionally, some license commissioners may process title applications and collect registration fees for manufactured homes.

In those counties not having a license commissioner, those duties are performed by the probate judge's office, revenue commissioner office, tax assessor's office and tax collector's office or a combination of those offices.

ETHICS LEGISLATION

The license commissioner meets the definition of "public official" under § 36-25-1(27) and therefore is subject to the Alabama Ethics Law. The Alabama Ethics Law is located in §§ 36-25-1 through 30. (See pages 8 through 11, *supra*, for a more detailed explanation of the ethics law.)

DUTIES REGARDING MOTOR VEHICLES

Inherent in the license commissioner's responsibilities regarding motor vehicles are numerous other duties. The commissioner issues all drivers' licenses, driving permits and identification cards for non-drivers. The office is responsible for recordation of vehicle titles and title transfers. The duties include the arrangement for the inspection of new vehicles for titles, and the commissioner issues all motor vehicle tags. Associated with the duties of the commissioner relating to the issuance of motor vehicle tags are numerous forms and reports. Two examples of those are FRMS 5-A (Rev. 01-18) (Summary Statement Motor Vehicle Tags) page 116 and Form MVR 32-6-230 (Application for Handicapped Parking Privileges) pages 118-119.

The following are examples of some of the diverse motor vehicle tags issued by a county licensing official's office replacement tags (for lost tags), personalized tags, radio operators' tags, and the tags of disabled veterans. Examples of other tags also available are specialized tags for armed forces retired; civil air patrol; firefighter; handicap; National Guard; prisoner of war; and rescue squad. Some of these are at a slightly greater cost to the licensee than regular tags, while some are exempt from license fees.

as follows:

I am this day remitting collections for the month of

114

Form MVR 32-6-230 (Rev. 11/16)



ALABAMA DEPARTMENT OF REVENUE
MOTOR VEHICLE DIVISION
Application For Disability Access Parking Privileges

NOTICE: Return This Application To Your County Licensing Office

MVR 32-6-230 11/16

COUNTY USE ONLY LICENSE PLATE / PLACARD NUMBER(S)

APPLICANT'S NAME		TELEPHONE NUMBER ()
STREET ADDRESS - PHYSICAL LOCATION		MAILING ADDRESS
CITY	COUNTY STATE ZIP	CITY STATE ZIP

Individuals with qualified disabilities must obtain a licensed physician's certification prior to the initial issuance of disability access placards and/or license plates. Individuals with long-term disabilities may self-certify their qualifying disability if they are renewing their disability access placards and/or license plates.

Indicate below which privilege is being requested:

- ☐ **DISABILITY ACCESS LICENSE PLATE(S)** (to include disability access military and motorcycle plates) — Issued only for vehicles owned by (a) persons with a disability as described below; and (b) organizations that transport persons with a disability as described below.
- ☐ **DISABILITY ACCESS PLACARD(S)** — Issued only to persons with a disability, as described below, who have a LONG-TERM limitation or impairment in their ability to walk.
- ☐ **TEMPORARY DISABILITY ACCESS PLACARD(S)** — Issued only to persons with a disability, as described below, who have a TEMPORARY limitation or impairment in their ability to walk (not to exceed six months).

I certify, under penalty of perjury, that I meet the requirements necessary to receive a disability access license plate/placard.

APPLICANT'S SIGNATURE (OR LEGAL GUARDIAN)

DATE

REQUIREMENTS AND PHYSICIAN'S CERTIFICATION

Disability Access license plates and placards may be issued to:

- (a) persons with a disability which limits or impairs their ability to walk; or
- (b) organizations that transport persons with a disability which limits or impairs their ability to walk (except that organizations **shall not** be eligible for placards).

As determined by a licensed physician, persons with disabilities which limit or impair their ability to walk means persons who:

- ☐ (1) Cannot walk two hundred feet without stopping to rest; or
- ☐ (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or
- ☐ (3) Are restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm.hg on room air at rest; or
- ☐ (4) Use portable oxygen; or
- ☐ (5) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
- ☐ (6) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

Physician, check the number(s) above representing the applicant's specific disability which limits or impairs his/her ability to walk and indicate below the length of disability if temporary.

- ☐ Long-term Disability.
- ☐ Temporary Disability (period not to exceed six months). Beginning Date: _____ Ending Date: _____

The undersigned affirms under penalty of perjury that the applicant listed above has the specific disability(ies) as checked above.

LICENSED PHYSICIAN'S SIGNATURE	()	TELEPHONE NUMBER
TYPE OR PRINT NAME	CITY	STATE

DISABILITY ACCESS APPLICANT'S SELF-CERTIFICATION

I certify, under penalty of perjury, that I continue to meet the requirements for the disability access license plate/placard.

APPLICANT'S SIGNATURE (OR LEGAL GUARDIAN)

DATE

See Reverse Side For Organizational Certification, Fees, Quantities, and Other Important Information

Form MVR 32-6-230, page 2

ORGANIZATIONS ONLY

☐ For Organizational Use. If you are an organization that transports persons with disabilities as described above, check here and **DO NOT** complete the Physician's Certification section.

I certify that the vehicle being registered is primarily used to transport persons with disabilities as described above:

ORGANIZATION NAME AND ADDRESS

AUTHORIZED OFFICIAL'S SIGNATURE

TELEPHONE NUMBER

FEES, QUANTITIES AND OTHER IMPORTANT INFORMATION

- Return this application to your county licensing office to acquire disability access license plates and/or disability access placards.
- Fees for disability access parking privileges: **\$23.00** regular license plate fee for each private passenger automobile; **\$15.00** regular license plate fee for each motorcycle plate; **no charge** for disability access placards.
Fees (or exemption from fees) for disability access military license plates, such as a disabled veteran disability access plate, shall be the same as the distinctive military license plate.
- Qualified applicants are entitled to **one disability access plate for each motor vehicle they own**. They may also obtain **one** disability access placard regardless of the vehicles owned by the applicant. Qualified applicants not obtaining a disability access license plate are eligible for one additional placard (for a maximum of two).
- Applicants who are temporarily qualified may receive **one** temporary disability access placard.
- Placards must be displayed in a manner which allows them to be viewed from the front and rear of the vehicle, hung from the front windshield rearview mirror, and utilized in a parking space reserved for persons with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard. **Remove** the placard from sight when not parked.
- Disability access license plates, placards, and temporary disability access placards are the only recognized means of identifying vehicles permitted to utilize disability access parking spaces.
- Federal law requires that all states recognize disability access license plates, placards, and temporary disability access placards from all other states and countries.
- A separate physician's certification is not required to obtain additional disability access license plates, placards, or temporary disability access placards.

COMPLETE THE SECTION BELOW FOR REPLACEMENT OF LOST, STOLEN, OR MUTILATED DISABILITY ACCESS PLATES OR PLACARDS

FORMER LICENSE PLATE NUMBER
REPLACEMENT LICENSE PLATE NUMBER

ALABAMA DEPARTMENT OF REVENUE
MOTOR VEHICLE DIVISION
**Application For Replacement
Disability Access License Plate and/or Placard**
**NOTICE: Return This Application To Your County Licensing Office
To Acquire Disability Access Placards and/or License Plates.**

FORMER PLACARD NUMBER
REPLACEMENT PLACARD NUMBER

APPLICANT'S NAME

TELEPHONE NUMBER

STREET ADDRESS - PHYSICAL LOCATION

MAILING ADDRESS

CITY COUNTY STATE ZIP

CITY STATE ZIP

PRIVILEGE TO BE REPLACED AFFIDAVIT

Indicate below which privilege is being replaced:

- ☐ **DISABILITY ACCESS LICENSE PLATE(S)** (to include disability access motorcycle plates).
- ☐ **DISABILITY ACCESS PLACARD(S)** — for persons who have a LONG-TERM limitation or impairment in their ability to walk.
- ☐ **TEMPORARY DISABILITY ACCESS PLACARD(S)** — for persons who have a TEMPORARY limitation or impairment in their ability to walk (not to exceed six months).

I certify, under penalty of perjury, that the disability access privilege indicated above is being replaced for the reason checked below:

☐ Lost ☐ Stolen ☐ Mutilated

APPLICANT'S SIGNATURE (OR LEGAL GUARDIAN)

DATE

THE STAGGERED REGISTRATION PLAN (MOTOR VEHICLES)

The Alabama Legislature passed an act requiring that the licensing, registration and ad valorem taxation for all motor vehicles be on a staggered basis. This staggered registration plan, which of course affect primarily duties in either the offices of probate judges or license commissioners, commenced on October 1, 1980. §§ 32-6-60 through 67.

Since January 1, 1981, all owners of private passenger vehicles and pickup trucks of 12,000 pounds or less have registered their vehicles during the month assigned to the first initial of their last name. The Legislature has assigned the months for registration according to the last initial of the registrant as follows (§ 32-6-61):

January-----	A, D
February-----	B
March-----	C, E
April-----	F, G, N
May-----	H, O
June-----	M, I
July-----	P, L
August-----	J, K, R
September-----	Q, S, T
October-----	U, V, W, X, Y, Z, trucks, commercial and fleet vehicles
November-----	Trucks, commercial and fleet vehicles

Act 2004-554, effective January 1, 2005, provides that registrations expire on the last day of the designated renewal month. There are no “grace periods” associated with renewing motor vehicle registrations. The result of the change is that the renewal and expiration month is now the same. The penalty for late registrations is \$15.00 (§ 32-6-65(b)). This figure does not include interest on monthly ad valorem charges.

A registrant may also elect to renew a motor vehicle registration for a two-year period. The registrant must pay the local issuance fee and the license taxes, ad valorem taxes, and registration fees for both years of the two-year registration period at the time of election. § 32-6-62.2.

All persons who acquire a motor vehicle which is located in this state and required to be registered in this state shall within 20 calendar days from date of purchase register the vehicle. § 32-6-61. Failure to register the vehicle within 20 calendar days calls for the imposition of a \$15.00 penalty.

For easy identification, permanent color-coded tags for municipal, county and state vehicles are issued through the State Department of Revenue. Municipal and county tags are blue with black lettering, state tags are white with blue lettering. (Dealer tags are available from the county licensing official's office.)

STAGGERED REGISTRATION (BOATS)

In 1988 the Legislature passed Act No. 88-552 which provided for a staggered registration system for boat owners based on and designed to coincide with the alphabetical staggered system for automobile registration. This allows for the renewal registration of boats and vehicles within the same month each year. Boat registration and transfer of ownership can be accomplished at the county judge of probate office; county licensing official's office, or at the marine police headquarters in Montgomery. Boat dealers and rental boat operators must register with the marine police. Pursuant to Section 33-5-13, the renewal month for boat registration will be based on the first letter of the boat owner's last name, as indicated:

January-----	A, D
February-----	B
March-----	C, E
April-----	F, G, N
May-----	H, O
June-----	M, I
July-----	P, L
August-----	J, K, R

September-----	Q, S, T
October-----	U, V, W, X, Y, Z, boat dealers, rental boats, and boat manufacturers

THE CASUAL SALES TAX

See pages 33 and 34.

BOND AND OATH OF THE OFFICE OF LICENSE COMMISSIONER

Before entering upon the duties of the office, the commissioner of licenses must take the oath of office prescribed by the Alabama Constitution and enter into a bond in such sum as may be fixed by the county commission, giving as surety a bonding company authorized to do business in Alabama. The bond must be approved by the county commission and must be filed and recorded with the judge of probate of the county. Premiums on the bond are paid out of the general fund of the county. § 36-2-10.

OFFICE, SUPPLIES, AND STAFF

The county commission is responsible for supplying the license commissioner with suitable office space, stationery, equipment, supplies, and postage necessary for the conduct of that office. An exception to this is the stationery and supplies that the law requires to be furnished by the State Department of Revenue, the State Department of Finance, or the State Comptroller. Form DFC 5 (Rev. 12-88), distributed by the state, is used to report monthly totals to the Department of Revenue.

In some counties, the commissioner of licenses may have the power to appoint a deputy commissioner of licenses who, in the commissioner's absence, would have the power and authority granted to the commissioners of licenses. The license commissioner is generally given the authority to appoint a sufficient number of clerks and assistants to perform the duties of the county licensing official's office properly.

In the counties having merit systems, these appointments must be made in conformity with the existing merit system unless specifically exempt by statute. Compensation for the license commissioner's staff is usually provided for out of the general fund of the county in the same manner as the salaries of other county employees.

SUMMARY STATEMENT

STATE USE ONLY

CERTIFICATE #

910

County _____

I am this day remitting collections for the month of _____, as follows:
Month / Year

Privilege Licenses - General Fund

1/2 State / 1/2 County (40-12-40/179)..... \$ _____

All State (40-12-[43-48-99-135-155-178])..... _____

2/3 State / 1/3 County (40-12-170)..... _____

Physician - 3/5 (40-12-126)..... _____

Dentist - 1/4 (40-12-92)..... _____

Chiropractor - 1/4 (40-12-136)..... _____

State Citations (40-12-10)..... _____

	Fund	Dept	Rev Src	
01. Total Privilege Licenses & St. Citations - General Fund.....	0100	910	0200	\$ _____
02. Physician Lic - 2/5 to Co. Medical Soc. (40-12-126).....	0522	057	0164	_____
03. Board of Dental Examiners - 3/4 (40-12-92).....	0523	057	0147	_____
04. Board of Chiropractic Examiners - 3/4 (40-12-136).....	0402	306	0144	_____
05. Forestry Fund - 1/2 (40-12-[90-121-122-154-175-177]).....	0312	009	0300	_____
06. State Board of Public Accountancy - CPA (40-12-71).....	0352	300	0140	_____
07. Private Examiner License - 1/2 (40-12-43.1).....	0954	368	0138	_____
08. Deed Tax (40-22-1) _____ Total X 65%.....	0100	910	0021	_____
09. Mineral Tax (40-20-37) _____ Total X 28 1/2%...	0100	910	0022	_____
10. Mortgage Tax (40-22-2) _____ Total X 63 1/3%...	0100	910	0023	_____
11. Driver Licenses (32-6-5).....	0100	910	0391	_____
12. Driver Licenses - Public Safety Fund (32-6-[5&15]).....	1629	381	0391	_____
13. Dom. Violence Trust Fund (30-6-11) _____ X \$60.00.	1681	066	0375	_____
14. _____				_____

Total \$ _____

Copies: 2 for State Comptroller's Office
1 for County Office

Provider Code **C** _____

Collection Official Signature / Date _____

VIII.

SUPERNUMERARY TAX COLLECTORS, TAX ASSESSORS, REVENUE COMMISSIONERS AND LICENSE COMMISSIONERS

QUALIFICATIONS

A tax collector, tax assessor, revenue commissioner, license commissioner or other elected or appointed official charged with the assessment and/or collection of ad valorem taxes in any county in the State of Alabama having a population of less than 600,000 people according to the latest federal decennial census may be commissioned as a supernumerary official if he or she meets one of the following qualifications:

- (1) served for 14 years as such official in any county of Alabama and has become permanently and totally disabled, proof of which must be certified by three reputable physicians; or
- (2) served for 12 years as a county official for any county of Alabama, at least 10 years or more continuously as tax collector, tax assessor, revenue commissioner, license commissioner or other official charged with the assessment and/or collection of ad valorem taxes, or in a county of less than 600,000 inhabitants served for 18 years as a county official, the last 6 or more as tax collectors, tax assessor, revenue commissioner, license commissioner, or other elected official charged with collection or assessment of ad valorem taxes, and prior thereto at least 12 years as chief clerk to one of the above named officials or prior thereto at least 12 years as county commissioner and not less than age 60. § 40-6-1.

However, local Constitutional Amendments in some counties have eliminated future Supernumeraries.

PROCEDURE FOR OBTAINING COMMISSION

Any official meeting the above qualifications¹ becomes commissioned as a supernumerary official upon filing a written declaration, setting out his or her qualifications to be commissioned as a supernumerary official, with the Governor of the State of Alabama. If the Governor finds that the person filing the declaration meets the necessary qualifications he is required to issue a commission. Persons serving as supernumeraries on April 27, 1977 are not affected by this section. § 40-6-1.

A person is prohibited from serving as both a supernumerary tax official and a member of the board of registrars because both positions are offices of profit. AG Op. 2005-031.

TERM AND COMPENSATION

A person commissioned as a supernumerary serves for life and that person's salary is based on the number of years that he or she served as an official charged with assessing and collecting ad valorem taxes and the average pay received during those years as follows:

- (1) For 12 years service that person shall receive 60 percent of his average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes;
- (2) For 14 years service that person shall receive 65 percent of such average compensation;
- (3) For 16 years that person shall receive 70 percent of such average compensation; and
- (4) For 18 or more years that person shall receive 75 percent of such average compensation.

¹ See section entitled compensation to estate after death, for exception to 60 years of age requirement.

However, no person shall receive more than \$49,600 per year, except that a county may elect to increase or remove the limitation for any supernumerary that assumed the status after September 30, 1993. § 40-6-3.

SOURCE OF SALARY

The funds for these salaries are paid by the official charged with collecting ad valorem taxes in the county, out of the first money collected by him or her to the county commission for payment to the supernumerary official. During an official's term in office that person pays 7 percent of his or her annual salary or commission as that person's contribution to the funds used to pay that person's salary. § 40-6-4.

The supernumerary officials of a county provided for in this section shall be entitled to receive the same cost-of-living increases in compensation, that are granted to county retirees by the county commission, if approved by a resolution of a majority of the county commission. The increases shall be in the same amount or percentage and at the same time, as the case may be, as that amount or percentage increase provided to the other retirees of the county and, if not uniform, the increase shall be equal to the average increase granted to all county retirees who receive an increase. § 40-6-3.

An official who is covered by these provisions who ends that person's tenure of office prior to becoming a supernumerary may elect to have the total amount paid by him or her as contribution to that person's supernumerary salary refunded, or if qualified by length of service but not age, may elect to wait until reaching age 60 and then receive the annual salary as provided in Section § 40-6-4.

In 1994, the Alabama Legislature passed a law affecting anyone eligible to participate in the supernumerary program. This law states that a supernumerary must choose either to participate in the supernumerary program as described in this section, or to participate in the state's retirement program. However, an individual may not participate in both. § 40-6-4.1.

DUTIES AND OATH OF OFFICE

Each supernumerary must take the oath of office required of elected officials. In the event that a vacancy occurs in the elected office, the supernumerary official assumes the duties, powers and authority of that official until the Governor appoints a successor. § 40-6-2.

COMPENSATION TO ESTATE UPON DEATH

Even if a person hasn't reached the age of 60 years before his or her death, if that person would have been qualified to receive a commission as a supernumerary official except for age then at death; if he or she has a surviving spouse to which that person was legally married to at the time of his or her death then that surviving spouse shall be paid a monthly allowance equal to 50% of the salary the official would have been entitled to had he or she reached the age of 60. This payment will continue for a period of 15 years or until the marriage of the surviving spouse, whichever first occurs. § 40-6-3.

Also, if there is no surviving spouse, the estate of the supernumerary official or person qualified except for age will receive any unpaid portion of the deceased person's contribution to his salary. (The 7% deducted from his or her annual salary during that person's tenure in office). § 40-6-4.

Any surplus remaining from contributions made by a supernumerary official who dies after becoming a supernumerary, without leaving a surviving spouse, but before he or she has drawn out as much as he or she paid in prior to becoming a supernumerary official, shall be paid to his or her estate. § 40-6-4.

APPENDIX A

Bill to Establish a Revenue Commissioner

AN ACT

Relating to _____ County; providing for the establishment of a consolidated and unified system of assessment and collection of taxes under the supervision of a county revenue commissioner; prescribing the powers, duties, term of office and compensation of said county revenue commissioner, and providing for his election; abolishing the county offices to tax assessor and tax collector in _____ County; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. At the expiration of the terms of office, or if a vacancy occurs in either the office of tax assessor or the office of tax collector of _____ County before such date, then immediately upon the occurrence of such vacancy there shall be established the office of county revenue commissioner in _____ County. If such office is established upon the occurrence of a vacancy in either the office of tax assessor or tax collector, then the tax assessor or tax collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term for which he was elected. A revenue commissioner shall be elected at an election called for that purpose and every six year thereafter. He shall serve for a term of office of six years.

Section 2. The county revenue commissioner shall do and perform all acts, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for ad valorem taxation, the collection of such taxes, the keeping of records and the making of reports concerning assessments for and the collection of taxes.

Section 3. Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies,

clerks and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

Section 4. Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

Section 5. The county commission shall provide the necessary offices for the county revenue commissioner in the courthouse and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

Section 6. The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of any duty imposed by law on any such officers and hereby transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his office, the county revenue commissioner will receive a minimum salary of _____ per annum, as provided by section 40-6A-2, Code of Alabama 1975, payable in twelve equal monthly installments, with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office. If no action is taken by the county commission before the county revenue commissioner takes office at each term, his salary will be _____.

Section 7. The offices of tax assessor and tax collector of County are hereby abolished effective on the last day of the term to

which they are elected, or on such earlier date, as is prescribed in Section 1 hereof, if a vacancy occurs in either the office of tax assessor or tax collector.

Section 8. It is the purpose of this act to conserve revenue and promote the public convenience in _____ County by consolidating the offices of tax assessor and tax collector into one county office.

Section 9. The provision of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. All laws or parts of law which conflict with this act are hereby repealed.

Section 11. This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of _____ County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as election on amendments to the Constitution, and shall be held on the same day as the next special, general or primary election held in _____ County next following final passage of this act. Notice of the election shall be given by the judge of probate of _____ County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law abolishing the offices of tax assessor and tax collector and establishing in lieu thereof the office of revenue commissioner? Yes () No ().”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of _____ County shall certify the results of the election to the Secretary of State immediately after the returns have been certified.

Section 12. If the office of tax assessor or tax collector should become vacant between the time of ratification of this act by the electors of _____ County and the expiration of the term of office of either the tax assessor or tax collector, this act shall become effective immediately and the election thereon shall be called within forty-five days of such vacancy.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

APPENDIX B

Bill to Establish a License Commissioner

AN ACT¹

To create the office of commissioner of licenses in _____ County; to provide for the issuance of all licenses except marriage licenses; to prescribe the powers, duties and authority of the commissioner of licenses; to provide for the election of such commissioner, his term, the fixing of his salary, and the furnishing of quarters, supplies, and assistants to him; to transfer to such officer the duties and records of the probate judge relative to the issuance of all licenses, except marriage licenses, and the distribution of motor vehicle license tags, the duties of the tax assessor and tax collector, respectively, relative to assessing and collecting ad valorem taxes on motor vehicles, and all the duties of the license inspector of such county; to relieve the above named officers of the duties hereby imposed on the commissioner of licenses shall be prescribed; and to provide for an advisory referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Effective _____, there is hereby created the office of commissioner of licenses. The salary of the commissioner of licenses shall be in the amount of _____ annually. Said annual salary shall be payable in equal biweekly installments from the general funds of the county, as all other county employees are paid.

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This Act was adopted by Clarke County to establish a county licensing official's office there.

(b) The office of commissioner of licenses shall be established upon the occurrence of a vacancy before _____, in either the office of tax assessor or tax collector, then, in that event, the officer remaining after the office of revenue commissioner is established, shall be the revenue commissioner for the remainder of the unexpired term for which he was elected as either tax assessor or as tax collector, as the case may be, and the said license commissioner shall be appointed by the county commission for the remainder of said term.

(c) A license commissioner shall be elected in the primaries and general election of _____, and in the general election each six years thereafter. The commissioner of licenses shall serve for a term of office of six years from the first day of _____ next succeeding his election and until his successor is similarly elected, qualified and takes office. Vacancies in said office shall be filled as provided for by the Code of Alabama 1975, for filling vacancies in the tax assessor's and tax collector's offices.

Section 2. Before entering upon the duties of his office, the commissioner of licenses shall take the oath of office prescribed by the constitution, and enter into bond in such sum as may be required by the Code of Alabama 1975, giving as surety thereon a bonding company authorized to do business in this state. The bond shall be conditioned as other official bonds are conditioned and shall be approved by the state comptroller and filed with the judge of probate of the county.

Section 3. Suitable office space and all stationery, equipment and supplies necessary for the conduct of said office shall be furnished by the county commission to the commissioner of licenses except such stationery and supplies as the law now requires to be furnished by the state department of revenue or the state department of finance or the state comptroller.

Section 4. The commissioner of licenses herein provided for shall appoint a chief clerk who shall, in his absence, have the power and authority herein granted to the commissioner of licenses. The commissioner of licenses shall also appoint a license inspector and a sufficient number of clerks and assistants to

properly perform the duties of his office; however, all such appointments shall be made in strict conformity with the provisions of the civil service or merit system law of the county, and the commissioner of licenses shall be deemed to be the appointing authority within the meaning of any civil service or merit system law. The salary of the chief clerk and all other clerks so appointed shall be set by the county commission.

Section 5. It shall be the duty of the commissioner of licenses to collect and issue all licenses for exercising any rights or privileges for which a license is required, including but not limited to, hunting licenses, driver's licenses, licenses for motor vehicles, and any and all other licenses which are now or which may hereafter be required by law to be paid to the State of Alabama or the counties thereof, except marriage licenses which shall continue to be issued by the judge of probate.

Section 6. Before any person, firm or corporation shall engage in or carry on any business or do any act in any county to which this act applies for which a license is required by law, he, they, or it, except as otherwise provided, shall pay to the commissioner of licenses the amount required for such licenses, and shall comply with all the other requirements of this act; and upon the payment of such amount to the commissioner of licenses for the issuance of such license, and all costs and fees and penalties which shall have accrued, or for which such person, firm or corporation shall have become liable in any proceedings commenced for the collection of each such license or to enforce payment thereof, and upon compliance with all other provisions of this act by the applicant, such commissioner of licenses shall issue the license countersigned by him, in the form and on the blank to be furnished to him by the state comptroller, which shall set forth and specify the name of the person, firm or corporation applying therefore, the business or act which it is proposed to carry on or do thereunder, the name of the street or location where it is reported to carry on the same, if such location shall be in a city or town and have a street number, and if not, then the location and amount paid for each such license, and the time for which it is issued; and if the license is for a peddler it shall state whether he proposed to travel on foot or on horseback or on wagon or motor vehicle; and such

license shall not be transferable, nor shall it entitle the holder thereof to carry on any other business or do any other act than that named therein, not at any other location than that therein specified.

Provided, that in case that it should become necessary to remove any business for which a license is required by this section, from one location to another location in the same city or town, and such business be contained as the same kind and character and by the same person or firm as that carried on at the former location, another license shall not be required for such business for the same license year.

Section 7. In all cases where the amount to be paid for license depends upon the amount of capital invested or the value of the goods or stock, or the amount of sale, or receipts, or any other fact or condition hereinbefore recited, it shall be the duty of the person applying for such license to render to the commissioner of licenses a sworn statement of the amount of the capital invested, of the value of the goods or stock, or of the amount of sales or receipts, and to make under oath such further proof or affidavit s may be required by the commissioner of licenses to determine the character of the license, and the amount to be paid for the same.

Section 8. Upon the issuance of any license the commissioner of licenses must before detaching the license from the stub, fill up the blank spaces in the stub to correspond in all respects, with the licenses as issued, and sign his name thereto.

Section 9. The commissioner of licenses shall keep in a book prepared for that purpose an accurate account of all licenses received by him from the comptroller, and of the disposition made of them, and of all money received from licenses issued by him, and make receipt thereof to the comptroller within twenty days after the expiration of the fiscal year, at which time he shall return to the comptroller all unused licenses, and shall also return to the comptroller the stubs of all licenses issued by him and the commissioner of licenses shall on demand of the comptroller, at any time, exhibit to him or to any agent appointed by the comptroller for that purpose, such license record and the original of all licenses then remaining in his hands, and all stubs of licenses issued.

Section 10. All fees prescribed under the general law for the performance of duties required under the terms of this act to be performed by the commissioner of licenses shall be paid to or collected by the commissioner of licenses and by said commissioner paid to the treasurer to the county or to the official performing the duties of county treasurer, and all of said fees shall be the property of the county.

Section 11. If any person through a mistake or error on the part of the commissioner of licenses has paid to the commissioner of licenses money that was not due from him for such license, or by such mistake has paid to the commissioner of licenses for such license an amount in excess of that required by law for the business to be carried on by such person under the license, such person shall be entitled to have refunded to him the amount in either event so erroneously collected by the commissioner of licenses; provided, no refund shall be made unless application therefore is made within two years from date of payment.

Section 12. On the application of any such person, his executor, administrator, or assignee, the commissioner of licenses shall proceed to ascertain the amount due such applicant under the provisions of the preceding section, and shall grant such certificate as will enable the comptroller and the county governing body to draw his warrant or their order, respectively, and such warrant or order shall be paid out of any moneys in the state treasury, or the county treasury, not otherwise appropriated.

Section 13. To prevent motor vehicles from escaping taxation and to provide for the more efficient assessment and collection of taxes due on same, no license shall be issued to operate a motor vehicle on the public highways of this state, nor shall any transfer be made by the commissioner of licenses as provided under this act, until the ad valorem tax on such vehicle shall have been paid in the county for the preceding year, as evidenced by a receipt of the commissioner of licenses, if said motor vehicle belongs to a resident of such county or is principally used or operated in such county. Every person, firm or corporation residing in or owning a motor vehicle which is principally used in such county who desires to operate a motor vehicle on the public

highways of Alabama shall first return such motor vehicle for ad valorem taxation to the commissioner of licenses of such county, for the preceding tax year, and the commissioner of licenses of such county, for the preceding tax year, and the commissioner of licenses of such county shall deliver to such person who makes the return as herein required, a certificate of assessment on a form prescribed by the department of revenue, and such certificate shall be the warrant of the commissioner of licenses to collect the tax as shown thereon. Motor vehicles within the meaning of this act shall not be included in any assessment made to the tax assessor by any person, firm or corporation, and such motor vehicles shall not be considered as escaped property by reason of failure to include same in any tax return, but shall be assessed as herein provided. The commissioner of licenses upon issuing a license for the operator of motor vehicles as herein provided shall make a duplicate of the tax receipt and keep same on file in his office. The license tag shall be evidence of the payment of the license and ad valorem tax due as provided under this act. Valuation for ad valorem assessment shall not be more than thirty percent of the fair and reasonable value of same. A motor vehicle brought into the state during any tax year or new motor vehicles for which licenses have never been issued, sold from the stock of a dealer during any tax year shall be subject to taxation the same as if it had been held or owned in the state on the first day of October, except that taxes thereon shall be assessed on a quarterly declining basis. Every motor vehicle shall be presumed to have been in Alabama during the taxable year and taxes thereon shall be assessed unless the person, firm, or corporation apply for exemption from ad valorem taxation furnish the commissioner of licenses with a certificate showing that such vehicle was registered in another state after the preceding October, such certificate to be signed by the proper official of such state and also an affidavit signed by the person, or in the case of a firm, association, or corporation its authorized agent, claiming the exemption, stating the exact date the car came into Alabama provided, however, that where application is made for exemption from taxation on a new motor vehicle for which there has never been a tag purchased, a bona fide bill of sale showing the date of purchase shall be sufficient proof for exemption by the commissioner of licenses provided the date of purchase, the name and address of the dealer and the invoice

number is shown on the assessment sheet. The state department of revenue shall furnish the commissioner of licenses with blank certificates for claiming exemptions authorized in this section. The commissioner of licenses is authorized to issue a motor vehicle license for any vehicle for which an exemption from taxation has been claimed as authorized above, and for any vehicle which is not subject to taxation. The commissioner of licenses, in addition to assessing and collecting the ad valorem taxes due the state and county on motor vehicles, shall collect the ad valorem taxes on motor vehicles due all cities and towns located in the county. The commissioner of licenses shall report and pay over the money collected for said cities and towns at the same time and in the same manner as state and county taxes are reported and paid over by him. The commissioner of licenses shall receive a commission of five percent for collecting city and town ad valorem taxes and shall deduct said commissions from the amount collected before paying the same over to the city or town, and he shall pay said commissions into the county treasury, and said commissions so collected and paid into the county treasury, shall not issue a license to operate a motor vehicle on the highways of this state until all ad valorem taxes due the state, such county, and any city or town in such county are paid for the preceding year. Nothing herein shall be construed as affecting the assessment of the stock of goods, wares and merchandises of motor vehicle dealers, or the inclusion of motor vehicles or capital invested therein making such assessments; nor shall the provisions hereof be construed as imposing an ad valorem tax upon a motor vehicle for the tax year in which application for such motor vehicle license is made, unless such motor vehicle was subject to such assessment, otherwise than as constituting a part of the stock of goods, wares and merchandise of a dealer.

Section 14. The state comptroller is hereby required to furnish to such license commissioner all books, records, and blanks now or hereafter required by law to be furnished to the probate judge of the state in connection with the performance of their duties in the issuance or collection of licenses or privilege taxes.

Section 15. All duties required by law of probate judges in this state, with reference to the issuance of and collection of state,

county, and other licenses except marriage licenses, shall be performed by the commissioner of licenses, and the commissioner of licenses shall be entitled to collect all fees, commissions, charges and allowances fixed by law, except as otherwise herein provided, for probate judges respecting the issuance and collection of licenses; and he shall be liable to all the pains and penalties, with reference to the collection of such licenses imposed on the probate judges in this state, and the probate judge of said county is relieved from any and all duties, liabilities and responsibilities now imposed by law for the collection of licenses in the county.

Section 16. All duties required by law of tax assessors and tax collectors with reference to the assessment and collection of ad valorem taxes on automobiles, trucks, or other motor vehicles shall be performed and exercised by the commissioner of licenses, including but not limited to the casual sales tax on vehicles now collected by the tax collector, and the tax assessor and tax collector of any county to which this act applies are hereby relieved of all duties and responsibilities in reference thereto.

Section 17. The commissioner of licenses shall receive for the assessing and collecting of state and county ad valorem taxes on motor vehicles the same fees, charges and commissions fixed by law to be paid to tax assessors and tax collectors for the like services and paid into the general fund of the county, except as otherwise herein provided.

Section 18. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 19. All laws or parts of laws which conflict with this act are hereby repealed.

Section 20. This act shall be effective and operative only if it shall have been approved by a majority of the qualified electors of _____ County who vote thereon at an advisory referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held at

the first of any special, primary or general election after the expiration of the legislature. Notice of the election shall be given by the judge of probate of _____ County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the _____ Regular Session of the Legislature which provides for the creation, appointment, powers and duties of a commissioner of licenses in _____ County and affects the manner and method of issuing all licenses except for marriage licenses?

Yes ()

No ().”

If a majority of the votes cast at the advisory election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no legal effect. The judge of probate of _____ County shall certify the results of the election to the secretary of state and to the state revenue department immediately after the returns have been certified.

Section 21. This act shall become effective upon its passage and approval by the Governor, except as otherwise herein provided.

Approved _____

Time: _____.

