



2013-024

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Don Armstrong  
Shelby County Property Tax Commissioner  
Post Office Box 1269  
Columbiana, Alabama 35051

Tax Sales – Notice – Taxes –  
Revenue Commissioners

Section 40-10-12 of the Code of Alabama authorizes the property tax commissioner to post notice of a tax sale at the courthouse in Shelby County and at some other public place in each precinct within the county within which the real estate is located in lieu of publication in a newspaper published in the county.

Dear Mr. Armstrong:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Does section 40-10-12 of the Code of Alabama authorize the property tax commissioner to post notice of a tax sale at the courthouse in Shelby County and at some other public place in each precinct within the county within which the real estate is located in lieu of the publication for three consecutive weeks in some newspaper published in the county?

FACTS AND ANALYSIS

As the Property Tax Commissioner of Shelby County, you state that it is your duty to provide notice of tax sales pursuant to section 40-10-12 of the Code of Alabama. The office of Property Tax Commissioner was

created by the combining of the former offices of tax assessor and tax collector pursuant to a local act and a constitutional amendment. 2001 Ala. Acts No. 2001-509, 914; ALA. CONST. LOCAL AMENDS., Shelby County § 3 (amend. 707).

Section 40-10-12 states, in pertinent part, as follows:

[The property tax commissioner] . . . shall give notice for 30 days before the day of sale, by publication for three successive weeks in some newspaper published in the county, *or at least three weeks before the day of sale shall post a notice at the courthouse of his county and at some public place in the precinct in which the real estate is situated* that at the time specified therein he will proceed to sell such real estate. . . .

ALA. CODE § 40-10-12 (2011) (emphasis added).

This provision provides that the notice may be given by publication in a newspaper published in the county **or** by posting notice at the county courthouse and at some public place in the precinct in which the real estate to be sold is situated. The term “or” is defined as “a function word to indicate (1) an alternative between different or unlike things, states, or actions.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1585 (2002). The Legislature used the word “or” in section 40-10-12 of the Code to indicate an alternative method of notice.

In some instances, publication in a newspaper of general circulation in the county or municipality is required but, if there is no newspaper of general circulation in the county or the municipality, then posting of notice at a public place is allowed. (*See, e.g.*, ALA. CODE § 11-52-77 (2008)). This provision of the Code does not contain language that requires publication in a newspaper of general publication in the county. Instead, the use of the word “or” in section 40-10-12 of the Code allows the property tax commissioner to use either of the two methods of providing notice.

#### CONCLUSION

Section 40-10-12 of the Code of Alabama authorizes the property tax commissioner to post notice of a tax sale at the courthouse in Shelby County and at some other public place in each precinct within the county

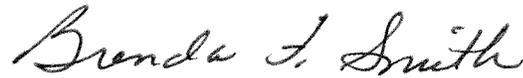
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within which the real estate is located in lieu of publication in a newspaper published in the county.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

LS/BFS

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