

By Senator Rouson

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1 A bill to be entitled
2 An act relating to tax deed sales; amending s.
3 197.502, F.S.; requiring certain tax
4 certificateholders applying for a tax deed to pay
5 certain costs required to bring the property to sale;
6 deleting abstract companies as entities tax collectors
7 may contract with for a certain purpose; requiring,
8 rather than authorizing, tax collectors to contract
9 with title companies for a certain purpose; revising
10 the information to be provided by such title companies
11 to tax collectors; defining the term "title company";
12 revising a requirement for fees collected at the time
13 of application and added to the opening bid; requiring
14 a clerk of the court, upon receiving the tax deed
15 application file from the tax collector, to record a
16 specified notice in the official records; providing
17 construction, procedures, and requirements relating to
18 such notice and the release of such notice; revising
19 requirements for the advertisement and administration
20 of tax deed sales by the clerk; providing construction
21 relating to a certain notice of a tax deed
22 application; revising requirements for opening bids;
23 conforming provisions to changes made by the act;
24 making technical changes; amending s. 197.522, F.S.;
25 providing construction relating to the clerk of the
26 circuit court's reliance on addresses provided by the
27 tax collector when sending or serving certain notices;
28 amending s. 197.582, F.S.; revising requirements and
29 procedures for the holding, payment, disbursement, and

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30 distribution by the clerk of certain excess proceeds
31 from a tax deed sale; revising requirements and
32 construction relating to the clerk's mailing of a
33 certain notice; requiring such notice to be in
34 substantially a specified form; revising requirements
35 for service charges and mailing costs by the clerk;
36 specifying a timeframe under which a person must file
37 a written claim with the clerk for the excess
38 proceeds; providing a form to claim surplus proceeds
39 of a tax deed sale; providing procedures for the
40 filing of such claims; providing that certain claims
41 are barred if not filed within a specified timeframe;
42 revising procedures and requirements relating to the
43 clerk's determination of the priority of claims,
44 payment of such claims, and the filing of a certain
45 interpleader action; deleting a provision authorizing
46 the clerk to move for an award of reasonable fees and
47 costs from interpleaded funds; providing construction
48 relating to the ripeness of actions to require payment
49 of surplus funds; providing that a failure by certain
50 persons to file a claim for excess funds within a
51 specified timeframe constitutes a waiver to such funds
52 and permanently bars such claims; specifying a
53 timeframe under which holders of certain governmental
54 liens must file requests for surplus funds
55 disbursement; requiring the clerk or comptroller to
56 disburse payments to governmental units for payment of
57 liens before any other disbursements; authorizing the
58 tax deed recipient to directly pay certain liens to

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59 governmental units; providing that such recipient,
60 under certain circumstances, is entitled to receive
61 all amounts paid to governmental units in the same
62 priority as the original lienholder; providing
63 construction and procedures if the clerk receives no
64 claims for the excess funds within a specified
65 timeframe; providing applicability; providing an
66 effective date.

67

68 Be It Enacted by the Legislature of the State of Florida:

69

70 Section 1. Subsections (1), (2), (5), and (6) of section
71 197.502, Florida Statutes, are amended to read:

72 197.502 Application for obtaining tax deed by holder of tax
73 sale certificate; fees.—

74 (1) The holder of a tax certificate, at any time after 2
75 years have elapsed since April 1 of the year of issuance of the
76 tax certificate and before the cancellation of the certificate,
77 may file the certificate and an application for a tax deed with
78 the tax collector of the county where the property described in
79 the certificate is located. The tax collector may charge a tax
80 deed application fee of \$75 and for reimbursement of the costs
81 for providing online tax deed application services. If the tax
82 collector charges a combined fee in excess of \$75, applicants
83 ~~shall~~ have the option of using the online electronic tax deed
84 application process or may file applications without using such
85 service.

86 (2) A certificateholder, other than the county, who applies
87 ~~makes application~~ for a tax deed shall pay the tax collector at

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88 the time of application all amounts required for redemption or
89 purchase of all other outstanding tax certificates, plus
90 interest, any omitted taxes, plus interest, any delinquent
91 taxes, plus interest, and current taxes, if due, covering the
92 property. In addition, the certificateholder shall pay costs
93 required to bring the property to sale as provided in ss.
94 197.532 and 197.542, including property information searches and
95 mailing costs, as well as the costs of resale, if applicable.
96 The, and failure to pay such costs within 30 days after notice
97 from the clerk shall result in the clerk's entering the land on
98 a list entitled "lands available for taxes."

99 (5) (a) For purposes of determining who must be given notice
100 and provided the information required in subsection (4), the tax
101 collector shall may contract with a title company ~~or an abstract~~
102 ~~company~~ to provide a property information report as defined in
103 s. 627.7843(1) the minimum information required in subsection
104 ~~(4), consistent with rules adopted by the department.~~ If
105 additional information is required, the tax collector must make
106 a written request to the title ~~or abstract~~ company, stating the
107 additional requirements. The tax collector may select any title
108 ~~or abstract~~ company, regardless of its location, as long as the
109 fee is reasonable, the required minimum information is
110 submitted, and the title ~~or abstract~~ company is authorized to do
111 business in this state. The tax collector may advertise and
112 accept bids for the title ~~or abstract~~ company if he or she
113 considers it appropriate to do so. As used in this section, the
114 term "title company" includes a title insurer, as defined in s.
115 627.7711, and licensed title insurance agencies and attorneys
116 authorized as agents for a title insurer licensed in this state.

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117 1. The property information report must include the
118 letterhead of the person, firm, or company that makes the
119 search, and the signature of the individual who makes the search
120 or of an officer of the firm. The tax collector is not liable
121 for payment to the firm unless these requirements are met. The
122 report may be submitted to the tax collector in an electronic
123 format.

124 2. The tax collector may not accept or pay for any property
125 information report ~~title search or abstract~~ if financial
126 responsibility is not assumed for the search. However,
127 reasonable restrictions as to the liability or responsibility of
128 the ~~title or abstract~~ company are acceptable. Notwithstanding s.
129 627.7843(3), the tax collector may contract for higher maximum
130 liability limits.

131 3. In order to establish uniform prices for property
132 information reports within the county, the tax collector must
133 ensure that the contract for property information reports
134 include all requests for property information reports ~~title~~
135 ~~searches or abstracts~~ for a given period of time.

136 (b) Any fee paid for initial property information reports
137 and any update within 60 days ~~a title search or abstract~~ must be
138 collected at the time of application under subsection (1), and
139 the amount of the fee must be added to the opening bid.

140 (c) Upon receipt of the tax deed application file from the
141 tax collector, the clerk shall record a notice of tax deed
142 application in the official records, which is notice of the
143 pendency of a tax deed application with respect to the property
144 and is effective for 1 year from the date of recording. Any
145 person acquiring an interest in the subject property after the

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146 recording of the notice of tax deed application is deemed to be
147 on notice of the pending tax deed sale, and no additional notice
148 is required. The sale of the property automatically releases any
149 recorded notice of tax deed application. If the property is
150 redeemed, the clerk must record a release of the notice of tax
151 deed application upon payment of fees authorized in s. 28.24(8)
152 and (12). The contents of the notice must be the same as the
153 contents of the notice of publication required by s. 197.512.
154 The cost of recording must be collected at the time of
155 application under subsection (1) and be added to the opening
156 bid.

157 (d)-(e) The clerk shall advertise the sale in accordance
158 with s. 197.512, and administer the sale in accordance with s.
159 197.542, and receive such fees for the issuance of the deed and
160 sale of the property as provided in s. 28.24.

161 (e) Notice of the application of the tax deed in accordance
162 with ss. 197.512 and 197.522 which is sent to the addresses
163 shown on the statement described in subsection (4) is
164 conclusively deemed sufficient to provide adequate notice of the
165 tax deed application and the sale at public auction.

166 (6) The opening bid:

167 (a) On county-held certificates on nonhomestead property
168 must ~~shall~~ be the sum of the value of all outstanding
169 certificates against the property, plus omitted years' taxes,
170 delinquent taxes, current taxes if due, interest, and all costs
171 and fees paid by the county.

172 (b) On an individual certificate must include, in addition
173 to the amount of money paid to the tax collector by the
174 certificateholder at the time of application, the amount

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175 required to redeem the applicant's tax certificate and all other
176 costs, ~~and~~ fees paid by the applicant, and any additional fees
177 or costs incurred by the clerk, plus all tax certificates that
178 were sold subsequent to the filing of the tax deed application,
179 current taxes, if due, and omitted taxes, if any.

180 (c) On property assessed on the latest tax roll as
181 homestead property must ~~shall~~ include, in addition to the amount
182 of money required for an opening bid on nonhomestead property,
183 an amount equal to one-half of the latest assessed value of the
184 homestead.

185 Section 2. Present subsection (3) of section 197.522,
186 Florida Statutes, is redesignated as subsection (4), and a new
187 subsection (3) is added to that section, to read:

188 197.522 Notice to owner when application for tax deed is
189 made.—

190 (3) When sending or serving notices under this section, the
191 clerk of the circuit court is entitled to rely on the addresses
192 provided by the tax collector and has no duty to seek further
193 information as to the validity of such addresses, nor incurs any
194 liability if an address provided is incorrect.

195 Section 3. Section 197.582, Florida Statutes, is amended to
196 read:

197 197.582 Disbursement of proceeds of sale.—

198 (1) If the property is purchased by any person other than
199 the certificateholder, the clerk shall forthwith pay to the
200 certificateholder all of the sums he or she has paid, including
201 the amount required for the redemption of the certificate or
202 certificates together with any and all subsequent unpaid taxes
203 plus the costs and expenses of the application for deed, with

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204 interest on the total of such sums for the period running from
205 the month after the date of application for the deed through the
206 month of sale at the rate of 1.5 percent per month. The clerk
207 shall distribute the amount required to redeem the certificate
208 or certificates and the amount required for the redemption of
209 other tax certificates on the same land with omitted taxes and
210 with all costs, plus interest thereon at the rate of 1.5 percent
211 per month for the period running from the month after the date
212 of application for the deed through the month of sale, in the
213 same manner as he or she distributes money received for the
214 redemption of tax certificates owned by the county.

215 (2) If the property is purchased for an amount in excess of
216 the statutory bid of the certificateholder, the excess must be
217 paid over and disbursed by the clerk according to subsections
218 (3), (5), and (6). If the opening bid included the homestead
219 assessment under s. 197.502(6)(c) ~~property purchased is~~
220 ~~homestead property and the statutory bid includes an amount~~
221 ~~equal to at least one-half of the assessed value of the~~
222 ~~homestead~~, that amount must be treated as excess and distributed
223 in the same manner. The clerk shall distribute the excess ~~to the~~
224 ~~governmental units~~ for the payment of ~~any lien of record held by~~
225 ~~a governmental unit against the property~~, including any tax
226 certificates not incorporated in the tax deed application and
227 omitted taxes, if any. ~~If the excess is not sufficient to pay~~
228 ~~all of such liens in full, the excess shall be paid to each~~
229 ~~governmental unit pro rata~~. If, ~~after all liens of governmental~~
230 ~~units are paid in full~~, there remains a balance of undistributed
231 funds, the balance must ~~shall~~ be retained by the clerk for the
232 benefit of persons described in s. 197.522(1)(a), except those

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233 persons described in s. 197.502(4) (h), as their interests may
 234 appear. The clerk shall mail notices to such persons at the
 235 addresses provided in s. 197.502(4), notifying them of the funds
 236 held for their benefit. ~~Such notice constitutes compliance with~~
 237 ~~the requirements of s. 717.117(4).~~ Any service charges, ~~at the~~
 238 ~~rate prescribed in s. 28.24(10),~~ and costs of mailing notices
 239 must shall be paid out of the excess balance held by the clerk.
 240 Notice must be in substantially the following form:

241
 242 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

243
 244 CLERK OF COURT

245 COUNTY, FLORIDA

246 Tax Deed #:....

247 Certificate #:....

248 Property Description:....

249
 250 Pursuant to chapter 197, Florida Statutes, the above
 251 property was sold at public sale on ...(date of sale)..., and a
 252 surplus of \$...(amount)..., subject to change, will be held by
 253 this office for a period of 120 days after the date of this
 254 notice for the benefit of persons having an interest in this
 255 property as described in s. 197.502(4), Florida Statutes, as
 256 their interests may appear, except for those persons described
 257 in s. 197.502(4) (h), Florida Statutes.

258
 259 These funds will be used to satisfy in full, to the extent
 260 possible, each claimant with a senior mortgage or lien in the
 261 property before distribution of any funds to any junior mortgage

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262 or lien claimant or to the former property owners. To be
263 considered for distribution of any funds, you must file a
264 notarized statement of claim with this office within 120 days
265 after the date of this notice. If you are a lienholder, your
266 claim must include the particulars of your lien and the amounts
267 currently due. Lienholder claims that are not filed within the
268 120-day deadline are barred.

269
270 A copy of this notice must be attached to your statement of
271 claim. After examination of the statements of claim filed, this
272 office will notify you if you are entitled to any payment.

273
274 Dated:
275 Clerk of Court

276
277 The mailed notice must include a form for making a claim under
278 subsection (3). Any service charges, at the rate prescribed in
279 s. 28.24(10), and costs of mailing must be paid out of the
280 excess balance held by the clerk. If the clerk or comptroller
281 certifies that excess proceeds are not sufficient to cover the
282 service charges, and mailing costs, if any, the clerk must
283 receive the total amount of excess proceeds as a service charge
284 ~~Excess proceeds shall be held and disbursed in the same manner~~
285 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~
286 ~~identifying unclaimed property pursuant to s. 717.113, excess~~
287 ~~proceeds shall be presumed payable or distributable on the date~~
288 ~~the notice is sent. If excess proceeds are not sufficient to~~
289 ~~cover the service charges and mailing costs, the clerk shall~~
290 ~~receive the total amount of excess proceeds as a service charge.~~

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291 (3) A person receiving the notice under subsection (2) has
 292 120 days after the date of the notice to file a written claim
 293 with the clerk for the excess proceeds. A claim in substantially
 294 the following form is deemed sufficient:

295
 296 CLAIM TO SURPLUS PROCEEDS OF A TAX DEED SALE

297
 298 Complete and return to ...(clerk of the court)...

299 By mail:

300 By e-mail:

301 Note: The Clerk of the Court must pay all valid liens before
 302 distributing to a titleholder.

303
 304 Claimant's name:

305 Contact name, if applicable:

306 Address:

307 Telephone no.: E-mail address:

308 Tax deed no.: Date of sale (if known):

309
 310 (check one)

311 I am not making a claim and waive any claim I might
 312 have to the surplus funds on this tax deed sale.

313 I claim surplus proceeds resulting from the above tax
 314 deed sale. I am a (check one) Lienholder Titleholder.

315
 316 (1) LIENHOLDER INFORMATION (Complete if claim is based on a
 317 lien against the sold property)

318 (a) Type of lien (check one): Mortgage; Court
 319 Judgment; Other; describe in detail:

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320 If your lien is recorded in the county's official records,
321 list the following, if known: Recording date:; Instrument
322 #:; Book #:; Page #:

323 (b) Original amount of lien \$....

324 (c) Amounts due:

325 1. Principal remaining due: \$....

326 2. Interest due: \$....

327 3. Fees and costs due, including late fees: \$.... (describe
328 costs in detail, include additional sheet if needed)

329 4. Attorney fees: \$.... (provide agreement to show
330 entitlement to attorney fees)

331 (d) Total amount claimed: \$....

332 (2) TITLEHOLDER INFORMATION (Complete if claim is based on
333 title formerly held on sold property)

334 (a) Nature of title (check one): Deed; Court
335 Judgment; Other; describe in detail:

336 If your former title is recorded in the county's official
337 records, list the following, if known: Recording date:;
338 Instrument #:; Book #:; Page #:

339 (b) Amount of surplus tax deed sale proceeds claimed: \$....

340 (c) Does titleholder claim the subject property was
341 homestead? Yes No

342 (3) I hereby swear or affirm that all of the above
343 information is true and correct.

344
345 Date:

346 Signature:

347
348 STATE OF FLORIDA

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349 COUNTY

350 Sworn to or affirmed and signed before me on ...(date)...

351 by ...(name of affiant)...

352

353 NOTARY PUBLIC or DEPUTY CLERK

354 ...(Print, type, or stamp commissioned name of notary)...

355 Personally known, or

356 Produced identification; type of identification

357 produced: ~~If unresolved claims against the property exist~~

358 ~~on the date the property is purchased, the clerk shall ensure~~

359 ~~that the excess funds are paid according to the priorities of~~

360 ~~the claims. If a lien appears to be entitled to priority and the~~

361 ~~lienholder has not made a claim against the excess funds,~~

362 ~~payment may not be made on any lien that is junior in priority.~~

363 ~~If potentially conflicting claims to the funds exist, the clerk~~

364 ~~may initiate an interpleader action against the lienholders~~

365 ~~involved, and the court shall determine the proper distribution~~

366 ~~of the interpleaded funds. The clerk may move the court for an~~

367 ~~award of reasonable fees and costs from the interpleaded funds.~~

368 (4) A claim may be mailed using the United States Postal

369 Service, delivered by a commercial delivery service or in

370 person, faxed, or e-mailed as authorized by the clerk or

371 comptroller. The postmark on a mailed claim is the filing date

372 of the claim. For a claim submitted using a commercial delivery

373 service or delivered in person, the date of delivery is the

374 filing date. The filing date for a faxed or e-mailed claim is

375 the date of receipt by the clerk or comptroller.

376 (5) Except for a claim by a property owner, a claim is

377 barred if it is not filed with the clerk or comptroller on or

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378 before close of business on the 120th day after the date of the
379 mailed notice as required by subsection (2). Any person, other
380 than the property owner, who fails to file a proper and timely
381 claim is barred from receiving any disbursement of the excess
382 funds.

383 (6) Within 90 days after the claim period expires, the
384 clerk or comptroller may either file an interpleader action in
385 circuit court to determine proper disbursement or pay the excess
386 funds according to the clerk's determination of the priority of
387 proper claims as provided in subsection (3). The filing of an
388 action to require payment of surplus funds is not ripe until the
389 claim and review periods expire. The failure of any person
390 described in s. 197.502(4), other than the property owner, to
391 file a claim for excess funds within the 120 days constitutes a
392 waiver of all interest in the excess funds, and all claims
393 thereto are forever barred.

394 (7) A holder of a governmental lien of record, other than a
395 federal government lien or ad valorem taxes, must file a request
396 for disbursement of surplus funds within 120 days after the
397 mailing of the notice of surplus funds. The clerk or comptroller
398 must disburse payments to governmental units for the payment of
399 any lien of record held by a governmental unit against the
400 property, including any tax certificates not incorporated in the
401 tax deed application, and omitted taxes, if any, before any
402 other disbursements from the surplus funds.

403 (8) The tax deed recipient may directly pay any and all
404 liens to governmental units which could have been requested from
405 surplus funds, and, upon filing a timely claim under subsection
406 (3) with proof of payment, the tax deed recipient is entitled to

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407 receive from the surplus funds payment for any and all amounts
408 paid to governmental units in the same priority as the original
409 lienholder.

410 (9) If the clerk receives no claims for the excess funds
411 within the 120-day claim period as required under subsection
412 (5), there is a conclusive presumption that the legal
413 titleholder of record described in s. 197.502(4)(a) is entitled
414 to the excess funds, which become unclaimed moneys under s.
415 116.21. The clerk shall process the unclaimed moneys in the
416 manner provided for in s. 116.21.

417 Section 4. This act applies to tax deed applications filed
418 with the tax collector for sales pursuant to s. 197.542, Florida
419 Statutes, which occur on or after October 1, 2018.

420 Section 5. This act shall take effect July 1, 2018.