

1 A bill to be entitled
2 An act relating to clerks of court; amending s. 40.32,
3 F.S.; authorizing jurors and witnesses to be paid by
4 check; amending s. 77.27, F.S.; conforming a provision
5 to changes made by the act; amending s. 77.28, F.S.;
6 requiring a party applying for garnishment to pay a
7 deposit to the garnishee, rather than in the registry
8 of the court; deleting a provision that requires the
9 clerk to collect a specified fee; amending s. 197.432,
10 F.S.; providing requirements for the sale of tax
11 certificates; amending s. 197.472, F.S.; revising
12 requirements for the redemption of tax certificates;
13 amending s. 197.502, F.S.; requiring the
14 certificateholder to pay costs of resale within 15
15 days under certain circumstances; providing
16 circumstances under which land shall be placed on a
17 specified list; prohibiting a county from applying for
18 a tax deed under certain circumstances; deleting a
19 provision relating to a notification procedure;
20 amending s. 197.542, F.S.; requiring the
21 certificateholder to pay a specified amount of the
22 assessed value of the homestead under certain
23 circumstances; providing circumstances under which
24 land shall be placed on a specified list; amending s.
25 197.582, F.S.; clarifying notice requirements;
26 providing for excess proceeds relating to unclaimed

27 property; requiring the clerk to ensure that excess
 28 funds are paid according to specified priorities;
 29 providing for interpleader actions and the award of
 30 reasonable fees and costs; providing an effective
 31 date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (3) of section 40.32, Florida
 36 Statutes, is amended to read:

37 40.32 Clerks to disburse money; payments to jurors and
 38 witnesses.—

39 (3) Jurors and witnesses shall be paid by the clerk of the
 40 court ~~either~~ in cash, by check, or by warrant within 20 days
 41 after completion of jury service or ~~of~~ completion of service as
 42 a witness.

43 (a) If ~~Whenever~~ the clerk of the court pays a juror or
 44 witness by cash, the juror or witness shall sign the payroll in
 45 the presence of the clerk, a deputy clerk, or some other person
 46 designated by the clerk.

47 (b) If ~~Whenever~~ the clerk pays a juror or witness by
 48 warrant, he or she shall endorse on the payroll opposite the
 49 juror's or witness's name the words "Paid by warrant," giving
 50 the number and date of the warrant.

51 Section 2. Section 77.27, Florida Statutes, is amended to
 52 read:

53 77.27 No appeal until fees are paid.—If the writ is
 54 dismissed or plaintiff fails to sustain his or her claim, an ~~ne~~
 55 appeal from the judgment is not ~~shall be~~ permitted until the
 56 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~
 57 ~~court~~.

58 Section 3. Section 77.28, Florida Statutes, is amended to
 59 read:

60 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,
 61 expenses; deposit required.—Before issuance of any writ of
 62 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~
 63 ~~the registry of the court which shall be paid~~ to the garnishee
 64 on the garnishee's demand at any time after the service of the
 65 writ for the payment or part payment of his or her attorney
 66 ~~attorney's~~ fee which the garnishee expends or agrees to expend
 67 in obtaining representation in response to the writ. ~~At the time~~
 68 ~~of deposit, the clerk shall collect the statutory fee provided~~
 69 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~
 70 ~~registry of the court.~~ On rendering final judgment, the court
 71 shall determine the garnishee's costs and expenses, including a
 72 reasonable attorney ~~attorney's~~ fee, and in the event of a
 73 judgment in favor of the plaintiff, the amount is ~~shall be~~
 74 subject to offset by the garnishee against the defendant whose
 75 property or debt owing is being garnished. In addition, the
 76 court shall tax the garnishee's costs and expenses as costs. The
 77 plaintiff may recover in this manner the sum advanced by him or
 78 her ~~plaintiff and paid into registry of court, and,~~ if the

79 amount allowed by the court is greater than the amount paid ~~of~~
 80 ~~the deposit,~~ together with any offset, judgment for the
 81 garnishee shall be entered against the party against whom the
 82 costs are taxed for the deficiency.

83 Section 4. Subsection (4) of section 197.432, Florida
 84 Statutes, is amended to read:

85 197.432 Sale of tax certificates for unpaid taxes.—

86 (4) A tax certificate representing less than \$250 in
 87 delinquent taxes on property that has been granted a homestead
 88 exemption for the year in which the delinquent taxes were
 89 assessed may not be sold at public auction or by electronic sale
 90 as provided in subsection (1) but must be issued by the tax
 91 collector to the county at the maximum rate of interest allowed.
 92 ~~The provisions of s. 197.4725 or s. 197.502(3) may not be~~
 93 ~~invoked if the homestead exemption is granted to the person who~~
 94 ~~received the homestead exemption for the year in which the tax~~
 95 ~~certificate was issued.~~ However, if all of the outstanding such
 96 tax certificates and accrued interest and the current tax
 97 certificate represent an amount of \$250 or more, the current tax
 98 certificate must be offered for sale pursuant to subsection (1).

99 A county that acquires a tax certificate pursuant to this
 100 subsection may not sell the tax certificate pursuant to s.
 101 ~~197.4725 s. 197.502(3) shall be used to determine whether the~~
 102 ~~county must apply for a tax deed.~~

103 Section 5. Subsection (1) of section 197.472, Florida
 104 Statutes, is amended to read:

105 197.472 Redemption of tax certificates.—

106 (1) ~~A Any~~ person may redeem a tax certificate at any time
 107 after the certificate is issued and before a tax deed is issued
 108 unless full payment for the tax deed is made to the clerk of the
 109 court, including documentary stamps and recording fees ~~or the~~
 110 ~~property is placed on the list of lands available for sale.~~ The
 111 person redeeming a tax certificate shall pay the tax collector
 112 the face amount plus all interest, costs, and charges.

113 Section 6. Subsections (2), (3), and (7) of section
 114 197.502, Florida Statutes, are amended to read:

115 197.502 Application for obtaining tax deed by holder of
 116 tax sale certificate; fees.—

117 (2) A certificateholder, other than the county, who makes
 118 application for a tax deed shall pay the tax collector at the
 119 time of application all amounts required for redemption or
 120 purchase of all other outstanding tax certificates, plus
 121 interest, any omitted taxes, plus interest, any delinquent
 122 taxes, plus interest, and current taxes, if due, covering the
 123 property. In addition, the certificateholder shall pay the costs
 124 of resale, if applicable, and failure to pay such costs within
 125 15 days after notice from the clerk shall result in the clerk's
 126 entering the land on a list entitled "lands available for
 127 taxes."

128 (3) The county in which the property described in the
 129 certificate is located shall apply for a tax deed on all county-
 130 held certificates on property valued at \$5,000 or more on the

131 property appraiser's most recent assessment roll, except
 132 deferred payment tax certificates, and may apply for tax deeds
 133 on certificates on property valued at less than \$5,000 on the
 134 property appraiser's most recent assessment roll. The
 135 application shall be made 2 years after April 1 of the year of
 136 issuance of the certificates or as soon thereafter as is
 137 reasonable. Upon application, the county shall deposit with the
 138 tax collector all applicable costs and fees as provided in
 139 subsection (1), but may not deposit any money to cover the
 140 redemption of other outstanding certificates covering the
 141 property. However, a county may not apply for a tax deed on a
 142 certificate held by the county if, in the year for which the
 143 most recent tax certificate was issued to the county, the value
 144 of that tax certificate and the outstanding tax certificates and
 145 accrued interest represented an amount of less than \$250 and the
 146 homestead exemption was granted to a person who received the
 147 exemption for that year.

148 (7) On county-held or individually held certificates for
 149 which there are no bidders at the public sale and for which the
 150 certificateholder fails to timely pay costs of resale or fails
 151 to pay the amounts due for issuance of a tax deed within 15 days
 152 after the sale, the clerk shall enter the land on a list
 153 entitled "lands available for taxes" and shall immediately
 154 notify the county commission ~~and all other persons holding~~
 155 ~~certificates against the property~~ that the property is
 156 available. During the first 90 days after the property is placed

157 on the list, the county may purchase the land for the opening
 158 bid or may waive its rights to purchase the property.
 159 Thereafter, any person, the county, or any other governmental
 160 unit may purchase the property from the clerk, without further
 161 notice or advertising, for the opening bid, except that if the
 162 county or other governmental unit is the purchaser for its own
 163 use, the board of county commissioners may cancel omitted years'
 164 taxes, as provided under s. 197.447. ~~If the county does not~~
 165 ~~elect to purchase the property, the county must notify each~~
 166 ~~legal titleholder of property contiguous to the property~~
 167 ~~available for taxes, as provided in paragraph (4) (h), before~~
 168 ~~expiration of the 90-day period.~~ Interest on the opening bid
 169 continues to accrue through the month of sale as prescribed by
 170 s. 197.542.

171 Section 7. Subsections (1) and (3) of section 197.542,
 172 Florida Statutes, are amended to read:

173 197.542 Sale at public auction.—

174 (1) Real property advertised for sale to the highest
 175 bidder as a result of an application filed under s. 197.502
 176 shall be sold at public auction by the clerk of the circuit
 177 court, or his or her deputy, of the county where the property is
 178 located on the date, at the time, and at the location as set
 179 forth in the published notice, which must be during the regular
 180 hours the clerk's office is open. The amount required to redeem
 181 the tax certificate, plus the amounts paid by the holder to the
 182 clerk in charges for costs of sale, redemption of other tax

183 certificates on the same property, and all other costs to the
184 applicant for tax deed, plus interest at the rate of 1.5 percent
185 per month for the period running from the month after the date
186 of application for the deed through the month of sale and costs
187 incurred for the service of notice provided for in s.

188 197.522(2), shall be the bid of the certificateholder for the
189 property. If tax certificates exist or if delinquent taxes
190 accrued subsequent to the filing of the tax deed application,
191 the amount required to redeem such tax certificates or pay such
192 delinquent taxes must be included in the minimum bid. However,
193 if the land to be sold is assessed on the latest tax roll as
194 homestead property, the bid of the certificateholder must be
195 increased to include an amount equal to one-half of the assessed
196 value of the homestead property as required by s. 197.502. If
197 there are no higher bids, the property shall be struck off and
198 sold to the certificateholder, who shall pay to the clerk any
199 amounts included in the minimum bid, the documentary stamp tax,
200 the and recording fees, and, if the property is homestead
201 property, the moneys to cover the one-half value of the
202 homestead within 15 days after the sale due. Upon payment, a tax
203 deed shall be issued and recorded by the clerk. If the
204 certificateholder fails to make full payment when due, the clerk
205 shall enter the land on a list entitled "lands available for
206 taxes."

207 (3) If the sale is canceled for any reason~~r~~ or the buyer
208 fails to make full payment within the time required, the clerk

209 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days
 210 after the buyer's nonpayment or, if canceled, within 30 days
 211 after the clerk receives the costs of resale. The sale shall be
 212 held within 30 days after readvertising ~~after the date the sale~~
 213 ~~was canceled.~~ Only one advertisement is necessary. The amount of
 214 the opening bid shall be increased by the cost of advertising,
 215 additional clerk's fees as provided for in s. 28.24(21), and
 216 interest as provided for in subsection (1). If, at the
 217 subsequent sale, there are no bidders at the tax deed sale and
 218 the certificateholder fails to pay the moneys due within 15 days
 219 after the sale, the clerk may not readvertise the sale and shall
 220 place the property on a list entitled "lands available for
 221 taxes." ~~This process must be repeated until the property is sold~~
 222 ~~and the clerk receives full payment or the clerk does not~~
 223 ~~receive any bids other than the bid of the certificateholder.~~
 224 The clerk must receive full payment before the issuance of the
 225 tax deed.

226 Section 8. Subsection (2) of section 197.582, Florida
 227 Statutes, is amended, and subsection (3) is added to that
 228 section, to read:

229 197.582 Disbursement of proceeds of sale.—

230 (2) If the property is purchased for an amount in excess
 231 of the statutory bid of the certificateholder, the excess must
 232 be paid over and disbursed by the clerk. If the property
 233 purchased is homestead property and the statutory bid includes
 234 an amount equal to at least one-half of the assessed value of

235 the homestead, that amount must be treated as excess and
236 distributed in the same manner. The clerk shall distribute the
237 excess to the governmental units for the payment of any lien of
238 record held by a governmental unit against the property,
239 including any tax certificates not incorporated in the tax deed
240 application and omitted taxes, if any. If the excess is not
241 sufficient to pay all of such liens in full, the excess shall be
242 paid to each governmental unit pro rata. If, after all liens of
243 governmental units are paid in full, there remains a balance of
244 undistributed funds, the balance shall be retained by the clerk
245 for the benefit of persons described in s. 197.522(1)(a), except
246 those persons described in s. 197.502(4)(h), as their interests
247 may appear. The clerk shall mail notices to such persons
248 notifying them of the funds held for their benefit. Such notice
249 constitutes compliance with the requirements of s. 717.117(4).
250 Any service charges, at the rate prescribed in s. 28.24(10), and
251 costs of mailing notices shall be paid out of the excess balance
252 held by the clerk. Excess proceeds shall be held and disbursed
253 in the same manner as unclaimed redemption moneys in s. 197.473.
254 For purposes of identifying unclaimed property pursuant to s.
255 717.113, excess proceeds shall be presumed payable or
256 distributable on the date the notice is sent. If excess proceeds
257 are not sufficient to cover the service charges and mailing
258 costs, the clerk shall receive the total amount of excess
259 proceeds as a service charge.

260 (3) If unresolved claims against the property exist on the

261 date the property is purchased, the clerk shall ensure that the
262 excess funds are paid according to the priorities of the claims.
263 If a lien appears to be entitled to priority and the lienholder
264 has not made a claim against the excess funds, payment may not
265 be made on any lien that is junior in priority. If potentially
266 conflicting claims to the funds exist, the clerk may initiate an
267 interpleader action against the lienholders involved, and the
268 court shall determine the proper distribution of the
269 interpleaded funds. The clerk may move the court for an award of
270 reasonable fees and costs from the interpleaded funds.

271 Section 9. This act shall take effect July 1, 2014.