

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Latvala offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.-

(1) The holder of a tax certificate at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75 and for reimbursement of the costs

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17 for providing online tax deed application services. If the tax
18 collector charges a combined fee in excess of \$75, applicants
19 may use ~~shall have the option of using~~ the online electronic tax
20 deed application process or may file applications without using
21 such service.

22 (2) A certificateholder, other than the county, who
23 applies ~~makes application~~ for a tax deed shall pay the tax
24 collector at the time of application all amounts required for
25 redemption or purchase of all other outstanding tax
26 certificates, plus interest, any omitted taxes, plus interest,
27 any delinquent taxes, plus interest, and current taxes, if due,
28 covering the property. In addition, the certificateholder shall
29 pay the costs required to bring the property to sale as provided
30 in ss. 197.532 and 197.542, including property information
31 searches, and mailing costs, as well as the costs of resale, if
32 applicable. If the certificateholder fails to pay the costs to
33 bring the property to sale within 30 days after notice from the
34 clerk, the tax collector shall cancel the tax deed application.
35 All taxes and costs associated with a cancelled tax deed
36 application shall earn interest at the bid rate of the
37 certificate on which the tax deed application was based., and
38 Failure to pay the such costs of resale, if applicable, within
39 30 days after notice from the clerk shall result in the clerk's
40 entering the land on a list entitled "lands available for
41 taxes."

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42 (5) (a) For purposes of determining who must be noticed and
43 provided the information required in subsection (4), the tax
44 collector must ~~may~~ contract with a title company or an abstract
45 company to provide a property information report as defined in
46 s. 627.7843(1) ~~the minimum information required in subsection~~
47 ~~(4), consistent with rules adopted by the department.~~ If
48 additional information is required, the tax collector must make
49 a written request to the title or abstract company stating the
50 additional requirements. The tax collector may select any title
51 or abstract company, regardless of its location, as long as the
52 fee is reasonable, the required ~~minimum~~ information is
53 submitted, and the title or abstract company is authorized to do
54 business in this state. The tax collector may advertise and
55 accept bids for the title or abstract company if he or she
56 considers it appropriate to do so.

57 1. The property information report must include the
58 letterhead of the person, firm, or company that makes the
59 search, and the signature of the individual who makes the search
60 or of an officer of the firm. The tax collector is not liable
61 for payment to the firm unless these requirements are met. The
62 report may be submitted to the tax collector in an electronic
63 format.

64 2. The tax collector may not accept or pay for a property
65 information report ~~any title search or abstract~~ if financial
66 responsibility is not assumed for the search. However,

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67 reasonable restrictions as to the liability or responsibility of
68 the title or abstract company are acceptable. Notwithstanding s.
69 627.7843(3), the tax collector may contract for higher maximum
70 liability limits.

71 3. In order to establish uniform prices for property
72 information reports within the county, the tax collector must
73 ensure that the contract for property information reports
74 includes ~~include~~ all requests for property information reports
75 ~~title searches or abstracts~~ for a given period of time.

76 (b) Any fee paid for initial property information reports
77 and any updates ~~for a title search or abstract~~ must be collected
78 at the time of application under subsection (1), and the amount
79 of the fee must be added to the opening bid.

80 (c) Upon receiving the tax deed application from the tax
81 collector, the clerk shall record a notice of tax deed
82 application in the official records, which constitutes notice of
83 the pendency of a tax deed application with respect to the
84 property and remains effective for 1 year from the date of
85 recording. A person acquiring an interest in the property after
86 the tax deed application notice has been recorded is deemed to
87 be on notice of the pending tax deed sale and no additional
88 notice is required. The sale of the property automatically
89 releases any recorded notice of tax deed application for that
90 property. If the property is redeemed, the clerk must record a
91 release of the notice of tax deed application upon payment of

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92 the fees as authorized in s. 28.24(8) and (12). The contents of
93 the notice shall be the same as the contents of the a notice of
94 publication required by s. 197.512. The cost of recording must
95 be collected at the time of application under subsection (1),
96 and added to the opening bid.

97 (d) The clerk ~~must shall~~ advertise and ~~administer~~ the sale
98 as set forth in s. 197.512, administer the sale as set forth in
99 s. 197.542, and receive such fees for the issuance of the deed
100 and sale of the property as provided in s. 28.24.

101 (e) A notice of the application of the tax deed in
102 accordance with ss. 197.512 and 197.522 that is sent to the
103 addresses shown on the statement described in subsection (4) is
104 deemed conclusively sufficient to provide adequate notice of the
105 tax deed application and the sale at public auction.

106 (6) The opening bid:

107 (a) On county-held certificates on nonhomestead property
108 shall be the sum of the value of all outstanding certificates
109 against the property, plus omitted years' taxes, delinquent
110 taxes, current taxes, if due, interest, and all costs and fees
111 paid by the county.

112 (b) On an individual certificate must include, in addition
113 to the amount of money paid to the tax collector by the
114 certificateholder at the time of application, the amount
115 required to redeem the applicant's tax certificate and all other
116 costs, and fees paid by the applicant, and any additional fees

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117 or costs incurred by the clerk, plus all tax certificates that
118 were sold subsequent to the filing of the tax deed application,
119 current taxes, if due, and omitted taxes, if any.

120 (c) On property assessed on the latest tax roll as
121 homestead property shall include, in addition to the amount of
122 money required for an opening bid on nonhomestead property, an
123 amount equal to one-half of the latest assessed value of the
124 homestead.

125 Section 2. Subsection (3) of section 197.522, Florida
126 Statutes, is renumbered as subsection (4), and a new subsection
127 (3) is added to that section to read:

128 197.522 Notice to owner when application for tax deed is
129 made.—

130 (3) When sending or serving a notice under this section,
131 the clerk of the circuit court may rely on the addresses
132 provided by the tax collector based on the certified tax roll
133 and property information report. The clerk of the circuit court
134 has no duty to seek further information as to the validity of
135 such addresses, because property owners are presumed to know
136 that taxes are due and payable annually under s. 197.122.

137 Section 3. Subsections (2) and (3) of section 197.582,
138 Florida Statutes, are amended, and subsections (4) through (9)
139 are added to that section, to read:

140 197.582 Disbursement of proceeds of sale.—

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141 (2) (a) If the property is purchased for an amount in
142 excess of the statutory bid of the certificateholder, the
143 surplus ~~excess~~ must be paid over and disbursed by the clerk as
144 set forth in subsections (3), (5), and (6). If the opening bid
145 included the homestead assessment pursuant to s. 197.502(6)(c).
146 ~~If the property purchased is homestead property and the~~
147 ~~statutory bid includes an amount equal to at least one-half of~~
148 ~~the assessed value of the homestead, that amount must be treated~~
149 ~~as surplus excess and distributed in the same manner. The clerk~~
150 ~~shall distribute the surplus excess to the governmental units~~
151 ~~for the payment of any lien of record held by a governmental~~
152 ~~unit against the property, including any tax certificates not~~
153 ~~incorporated in the tax deed application and omitted taxes, if~~
154 ~~any. If the excess is not sufficient to pay all of such liens in~~
155 ~~full, the excess shall be paid to each governmental unit pro~~
156 ~~rata. If, after all liens of governmental units are paid in~~
157 ~~full, there remains a balance of undistributed funds, the~~
158 ~~balance must shall~~ be retained by the clerk for the benefit of
159 persons described in s. 197.522(1)(a), except those persons
160 described in s. 197.502(4)(h), as their interests may appear.
161 The clerk shall mail notices to such persons notifying them of
162 the funds held for their benefit at the addresses provided in s.
163 197.502(4). Such notice constitutes compliance with the
164 requirements of s. 717.117(4). Any service charges, ~~at the rate~~

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165 ~~prescribed in s. 28.24(10)~~, and costs of mailing notices shall
166 be paid out of the excess balance held by the clerk.

167
168 Notice must be provided in substantially the following form:

169 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

170 CLERK OF COURT
171 . . . COUNTY, FLORIDA

172
173 Tax Deed #.....
174 Certificate #.....
175 Property Description:

176 Pursuant to chapter 197, Florida Statutes, the above
177 property was sold at public sale on ...(date of sale)....., and
178 a surplus of \$(amount).... (subject to change) will be held
179 by this office for 120 days beginning on the date of this notice
180 to benefit the persons having an interest in this property as
181 described in section 197.502(4), Florida Statutes, as their
182 interests may appear (except for those persons described in
183 section 197.502(4) (h), Florida Statutes).

184 To the extent possible, these funds will be used to satisfy
185 in full, each claimant with a senior mortgage or lien in the
186 property before distribution of any funds to any junior mortgage
187 or lien claimant or to the former property owner. To be
188 considered for funds when they are distributed, you must file a
189 notarized statement of claim with this office within 120 days of

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190 this notice. If you are a lienholder, your claim must include
191 the particulars of your lien and the amounts currently due. Any
192 lienholder claim that is not filed within the 120-day deadline
193 is barred.

194 A copy of this notice must be attached to your statement of
195 claim. After the office examine the filed claim statements, it
196 will notify you if you are entitled to any payment.

197 Dated:

198 Clerk of Court

199

200 (b) The mailed notice must include a form for making a
201 claim under subsection (3). Service charges at the rate set
202 forth in s. 28.24(10) and the costs of mailing must be paid out
203 of the surplus funds held by the clerk. If the clerk or
204 comptroller certifies that the surplus funds are not sufficient
205 to cover the service charges and mailing costs, the clerk shall
206 receive the total amount of surplus funds as a service charge.
207 ~~Excess proceeds shall be held and disbursed in the same manner~~
208 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~
209 ~~identifying unclaimed property pursuant to s. 717.113, excess~~
210 ~~proceeds shall be presumed payable or distributable on the date~~
211 ~~the notice is sent. If excess proceeds are not sufficient to~~
212 ~~cover the service charges and mailing costs, the clerk shall~~
213 ~~receive the total amount of excess proceeds as a service charge.~~

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214 (3) A person receiving the notice under subsection (2) has
215 120 days from the date of the notice to file a written claim
216 with the clerk for the surplus proceeds. A claim in
217 substantially the following form is deemed sufficient:

218 Claim to Receive Surplus Proceeds of a Tax Deed Sale

219 Complete and return to:

220 By mail:

221 By e-mail:

222 Note: The Clerk of the Court must pay all valid liens
223 before distributing surplus funds to a titleholder.

224 Claimant's name:

225 Contact name, if applicable:

226 Address:

227 Telephone Number: Email Address:

228 Tax No.

229 Date of sale (if known):

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

232 I claim surplus proceeds resulting from the above tax deed
233 sale.

234 I am a (check one)....Lienholder;Titleholder.

235 (1) LIENHOLDER INFORMATION (Complete if claim is based on
236 a lien against the sold property).

237 (a) Type of Lien:Mortgage;Court Judgment;

238 Other

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239 Describe in detail:
240 If your lien is recorded in the county's official records,
241 list the following, if known:
242 Recording date:; Instrument #....; Book #....; Page
243 #.....
244 (b) Original amount of lien: \$.....
245 (c) Amounts due: \$.....
246 1. Principal remaining due: \$.....
247 2. Interest due: \$.....
248 3. Fees and costs due, including late fees: \$.....
249 (describe costs in detail, include additional sheet if needed);
250 4. Attorney fees: \$.....(provide amount claimed):
251 \$.....
252 (2) TITLEHOLDER INFORMATION (Complete if claim is based on
253 title formerly held on sold property.)
254 (a) Nature of title (check one):Deed;
255Court Judgment;Other (describe in detail)
256
257 (b) If your former title is recorded in the county's
258 official records, list the following, if known: Recording
259 date:.....; Instrument#:.....Book #:.....; Page
260 #:.....
261 (c) Amount of surplus tax deed sale proceeds claimed:
262 \$.....

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263 (d) Does the titleholder claim the subject property was
264 homestead property?YesNo.

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

267 Date:

268 Signature:

269 STATE OF FLORIDA

270COUNTY.

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

272by ...(name of affiant).....

273 NOTARY PUBLIC or DEPUTY CLERK

274 ...(Print, Type, or Stamp Commissioned Name of Notary)...

275 Personally known, or

276 Produced identification;

277 Identification Produced:

278 ~~If unresolved claims against the property exist on the date the~~
279 ~~property is purchased, the clerk shall ensure that the excess~~
280 ~~funds are paid according to the priorities of the claims. If a~~
281 ~~lien appears to be entitled to priority and the lienholder has~~
282 ~~not made a claim against the excess funds, payment may not be~~
283 ~~made on any lien that is junior in priority. If potentially~~
284 ~~conflicting claims to the funds exist, the clerk may initiate an~~
285 ~~interpleader action against the lienholders involved, and the~~
286 ~~court shall determine the proper distribution of the~~

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287 ~~interpleaded funds. The clerk may move the court for an award of~~
288 ~~reasonable fees and costs from the interpleaded funds.~~

289 (4) A claim may be:

290 (a) Mailed using the United States Postal Service. The
291 filing date is the postmark on the mailed claim;

292 (b) Delivered using either a commercial delivery service
293 or in person. The filing date is the day of delivery; or

294 (c) Sent by fax or e-mail, as authorized by the clerk. The
295 filing date is the date the clerk receives the fax or e-mail.

296 (5) Except for a claim by a property owner, claims that
297 are not filed on or before close of business on the 120th day
298 after the date of the mailed notice as required by s.
299 197.582(2), are barred. A person, other than the property owner,
300 who fails to file a proper and timely claim is barred from
301 receiving any disbursement of the surplus funds. The failure of
302 any person described in s. 197.502(4), other than the property
303 owner, to file a claim for surplus funds within the 120 days
304 constitutes a waiver of interest in the surplus funds and all
305 claims thereto are forever barred.

306 (6) Within 90 days after the claim period expires, the
307 clerk may either file an interpleader action in circuit court to
308 determine the proper disbursement or pay the surplus funds
309 according to the clerk's determination of the priority of claims
310 using the information provided by the claimants under subsection
311 (3). The clerk may move the court to award reasonable fees and

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312 costs from the interpleaded funds. An action to require payment
313 of surplus funds is not ripe until the claim and review periods
314 expire. The failure of a person described in s. 197.502(4),
315 other than the property owner, to file a claim for surplus funds
316 within the 120 days constitutes a waiver of all interest in the
317 surplus funds and all claims for them are forever barred.

318 (7) A holder of a recorded governmental lien, other than
319 federal government lien or ad valorem tax liens, must file a
320 request for disbursement of surplus funds within 120 days after
321 the mailing of the notice of surplus funds. The clerk or
322 comptroller must disburse payments to each governmental unit to
323 pay any lien of record held by a governmental unit against the
324 property, including any tax certificate not incorporated in the
325 tax deed application and any omitted taxes, before disbursing
326 the surplus funds to nongovernmental claimants.

327 (8) The tax deed recipient may directly pay off all liens
328 to governmental units that could otherwise have been requested
329 from surplus funds, and, upon filing a timely claim under
330 subsection (3) with proof of payment, the tax deed recipient may
331 receive the same amount of funds from the surplus funds for all
332 amounts paid to each governmental unit in the same priority as
333 the original lienholder.

334 (9) If the clerk does not receive claims for surplus funds
335 within the 120 day claim period, as required in subsection (5),
336 there is a conclusive presumption that the legal titleholder of

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337 record described in s. 197.502(4) (a) is entitled to the surplus
338 funds. The clerk must process the surplus funds in the manner
339 provided in chapter 717, regardless of whether the legal
340 titleholder is a resident of the state or not.

341 Section 4. This act applies to tax deed applications filed
342 on or after October 1, 2018 with the tax collector pursuant to
343 s. 197.502, Florida Statutes.

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

345

346

347

348

T I T L E A M E N D M E N T

349

Remove everything before the enacting clause and insert:

350

A bill to be entitled

351

An act relating to tax deed sales; amending s.

352

197.502, F.S.; requiring a tax certificateholder to

353

pay specified costs required to bring the property on

354

which taxes are delinquent to sale; requiring the tax

355

collector to cancel a tax deed application if certain

356

costs are not paid within a specified period for

357

certain purposes; revising procedures for applying

358

for, recording, and releasing tax deed applications;

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revising provisions to require property information

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reports for certain purposes; prohibiting a tax

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collector from accept or paying for a property

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362 information report under certain circumstances;
363 amending s. 197.522, F.S.; authorizing a clerk to rely
364 on addresses provided by the tax collector for
365 specified purposes; amending s. 197.582, F.S.;
366 revising procedures for the disbursement of surplus
367 funds by clerks; providing forms for use in noticing
368 and claiming surplus funds; specifying methods for
369 delivering claims to the clerk's office; providing
370 deadlines for filing claims; providing procedures to
371 be used by clerks in determining disbursement of
372 surplus funds; authorizing a tax deed recipient to pay
373 specified liens; specifying procedures to be used by
374 the tax clerk if surplus funds are not claimed;
375 providing an effective date.

376