

1 A bill to be entitled
2 An act relating to tax deed sales; amending s.
3 197.502, F.S.; requiring a tax certificateholder to
4 pay specified costs required to bring the property on
5 which taxes are delinquent to sale; requiring the tax
6 collector to contract with title company to determine
7 who must be noticed and provided property information
8 reports; defining the term "title company" for
9 purposes of this requirement; revising provisions to
10 require property information reports, excluding title
11 searches or abstracts; amending s. 197.522, F.S.;
12 authorizing a clerk to rely on addresses provided by
13 the tax collector for specified purposes; amending s.
14 197.582, F.S.; revising procedures for the
15 disbursement of surplus funds by clerks; providing
16 forms for use in noticing and claiming surplus funds;
17 specifying methods for delivering claims to the
18 clerk's office; providing deadlines for filing claims;
19 providing procedures to be used by clerks in
20 determining disbursement of surplus funds; authorizing
21 a tax deed recipient to pay specified liens;
22 specifying procedures to be used by the tax clerk if
23 surplus funds are not claimed; providing an effective
24 date.
25

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 | Section 1. Subsections (1), (2), (5), and (6) of section
29 | 197.502, Florida Statutes, are amended to read:

30 | 197.502 Application for obtaining tax deed by holder of
31 | tax sale certificate; fees.—

32 | (1) The holder of a tax certificate at any time after 2
33 | years have elapsed since April 1 of the year of issuance of the
34 | tax certificate and before the cancellation of the certificate,
35 | may file the certificate and an application for a tax deed with
36 | the tax collector of the county where the property described in
37 | the certificate is located. The tax collector may charge a tax
38 | deed application fee of \$75 and for reimbursement of the costs
39 | for providing online tax deed application services. If the tax
40 | collector charges a combined fee in excess of \$75, applicants
41 | may use ~~shall have the option of using~~ the online electronic tax
42 | deed application process or may file applications without using
43 | such service.

44 | (2) A certificateholder, other than the county, who
45 | applies ~~makes application~~ for a tax deed shall pay the tax
46 | collector at the time of application all amounts required for
47 | redemption or purchase of all other outstanding tax
48 | certificates, plus interest, any omitted taxes, plus interest,
49 | any delinquent taxes, plus interest, and current taxes, if due,
50 | covering the property. In addition, the certificateholder shall

51 | pay the costs required to bring the property to sale as provided
52 | in ss. 197.532 and 197.542, including the costs for property
53 | information searches, mailing, and the costs of resale, if
54 | applicable, and failure to pay such costs within 30 days after
55 | notice from the clerk shall result in the clerk's entering the
56 | land on a list entitled "lands available for taxes."

57 | (5) (a) For purposes of determining who must be noticed and
58 | provided the information required in subsection (4), the tax
59 | collector ~~must~~ ~~may~~ contract with a title company ~~or an abstract~~
60 | ~~company~~ to provide a property information report as defined in
61 | s. 627.7843(1) ~~the minimum information required in subsection~~
62 | ~~(4), consistent with rules adopted by the department. If~~
63 | additional information is required, the tax collector must make
64 | a written request to the title ~~or abstract~~ company stating the
65 | additional requirements. The tax collector may select any title
66 | ~~or abstract~~ company, regardless of its location, as long as the
67 | fee is reasonable, the ~~minimum~~ information is submitted, and the
68 | title ~~or abstract~~ company is authorized to do business in this
69 | state. The tax collector may advertise and accept bids for the
70 | title ~~or abstract~~ company if he or she considers it appropriate
71 | to do so. For purpose of this section, the term "title company"
72 | includes a title insurer, as defined in s. 627.7711(3), and any
73 | licensed title insurance agencies and attorneys who are
74 | authorized agents for a Florida licensed title insurer.

75 | 1. The property information report must include the

76 letterhead of the person, firm, or company that makes the
77 search, and the signature of the individual who makes the search
78 or of an officer of the firm. The tax collector is not liable
79 for payment to the firm unless these requirements are met. The
80 report may be submitted to the tax collector in an electronic
81 format.

82 2. The tax collector may not accept or pay for a property
83 information report ~~any title search or abstract~~ if financial
84 responsibility is not assumed for the search. However,
85 reasonable restrictions as to the liability or responsibility of
86 the title ~~or abstract~~ company are acceptable. Notwithstanding s.
87 627.7843(3), the tax collector may contract for higher maximum
88 liability limits.

89 3. In order to establish uniform prices for property
90 information reports within the county, the tax collector must
91 ensure that the contract for property information reports
92 includes ~~include~~ all requests for property information reports
93 ~~title searches or abstracts~~ for a given period of time.

94 (b) Any fee paid to obtain an initial property information
95 report and any fee paid for a 60-day update ~~for a title search~~
96 ~~or abstract~~ must be collected at the time of application under
97 subsection (1), and the amount of the fee must be added to the
98 opening bid.

99 (c) The clerk shall record a Notice of Tax Deed
100 Application in the official records to provide notice of the

101 pendency of a tax deed application after the tax collector
102 submits a tax deed application to the clerk. The tax deed
103 application notice remains effective for 1 year from the date of
104 recording. A person acquiring an interest in the property after
105 the tax deed application notice has been recorded is deemed to
106 be on notice of the pending tax deed sale and the clerk is not
107 required to provide additional notice. The sale of the property
108 automatically releases any recorded tax deed application notices
109 for that property. If the property is redeemed, the clerk must
110 record a release of the tax deed application notice upon payment
111 of the fees as required in ss. 28.24(8) and 28.24(12). The
112 contents of the notice shall be the same as the contents which
113 are required for a notice of publication as set forth in s.
114 197.512. The cost of recording the notice must be collected at
115 the time of application under subsection (1), and must be
116 included in the opening bid.

117 (d) The clerk ~~must~~ shall advertise and ~~administer~~ the sale
118 as set forth in s. 197.512 and must administer the sale as set
119 forth in s. 197.542 and receive such fees for the issuance of
120 the deed and sale of the property as provided in s. 28.24.

121 (e) The notice of the application of the tax deed in
122 accordance with ss. 197.512 and 197.522 sent to the addresses
123 shown on the statement described in subsection (4) is
124 conclusively deemed sufficient to provide adequate notice of the
125 tax deed application and the sale at public auction.

126 (6) The opening bid:

127 (a) On county-held certificates on nonhomestead property
 128 shall be the sum of the value of all outstanding certificates
 129 against the property, plus omitted years' taxes, delinquent
 130 taxes, current taxes, if due, interest, and all costs and fees
 131 paid by the county.

132 (b) On an individual certificate must include, in addition
 133 to the amount of money paid to the tax collector by the
 134 certificateholder at the time of application, the amount
 135 required to redeem the applicant's tax certificate and all other
 136 costs, ~~and~~ fees paid by the applicant, and additional fees or
 137 costs incurred by the clerk, plus all tax certificates that were
 138 sold subsequent to the filing of the tax deed application,
 139 current taxes, if due, and omitted taxes, if any.

140 (c) On property assessed on the latest tax roll as
 141 homestead property shall include, in addition to the amount of
 142 money required for an opening bid on nonhomestead property, an
 143 amount equal to one-half of the latest assessed value of the
 144 homestead.

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

148 197.522 Notice to owner when application for tax deed is
 149 made.—

150 (3) The clerk of the circuit court when sending or serving

151 a notice under this section may rely on the addresses provided
152 by the tax collector and is not required to seek additional
153 information to verify an address, and assumes no liability if
154 the address provided is incorrect.

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

158 197.582 Disbursement of proceeds of sale.—

159 (2)(a) If the property is purchased for an amount in
160 excess of the statutory bid of the certificateholder, the
161 surplus ~~excess~~ must be paid over and disbursed by the clerk as
162 set forth in subsections (3), (5), and (6). If the opening bid
163 included the homestead assessment pursuant to s. 197.502(6)(c)—
164 ~~If the property purchased is homestead property and the~~
165 ~~statutory bid includes an amount equal to at least one-half of~~
166 ~~the assessed value of the homestead,~~ that amount must be treated
167 as surplus ~~excess~~ and distributed in the same manner. The clerk
168 shall distribute the excess to the governmental units for the
169 payment of any lien of record held by a governmental unit
170 against the property, including any tax certificates not
171 incorporated in the tax deed application and omitted taxes, if
172 any. If the surplus ~~excess~~ is not sufficient to pay all of such
173 liens in full, the excess shall be paid to each governmental
174 unit pro rata. If, after all liens of governmental units are
175 paid in full, there remains a balance of undistributed funds,

176 the balance shall be retained by the clerk for the benefit of
 177 persons described in s. 197.522(1)(a), except those persons
 178 described in s. 197.502(4)(h), as their interests may appear.
 179 The clerk shall mail notices to such persons notifying them of
 180 the funds held for their benefit at the addresses provided in s.
 181 197.502(4). ~~Such notice constitutes compliance with the~~
 182 ~~requirements of s. 717.117(4).~~ Any service charges, ~~at the rate~~
 183 ~~prescribed in s. 28.24(10),~~ and costs of mailing notices shall
 184 be paid out of the excess balance held by the clerk. Notice must
 185 be provided in substantially the following form:

Notice of Surplus Funds

CLERK OF COURT

STATE OF FLORIDA

COUNTY OF

Tax Deed #.....

Certificate #.....

Property description:

Pursuant to chapter 197, Florida Statutes, the above
 194 property was sold at public sale on, and a surplus of \$
 195 (subject to change) will be held by this office for 120
 196 days beginning on the date of this notice to benefit the persons
 197 having an interest in this property as described in section
 198 197.502(4), Florida Statutes, as their interests may appear
 199 (except for those persons described in section 197.502(4)(h),
 200 Florida Statutes).

201 To the extent possible, these funds will be used to satisfy
 202 in full, each claimant with a senior mortgage or lien in the
 203 property before distribution of any funds to a junior mortgage
 204 or lien claimant or to the former property owner. To be
 205 considered when funds are distributed, you must file a notarized
 206 statement of claim with this office within 120 days of this
 207 notice. If you are a lienholder, your claim must describe the
 208 particulars of your lien and the amounts currently due. A
 209 lienholder claim that is not filed within the 120-day deadline
 210 is barred.

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

214 Dated:

215 Clerk of Court

216 (b) The mailed notice must include a form for making a
 217 claim under subsection (3). Service charges at the rate set
 218 forth in s. 28.24(10), and the costs of mailing must be paid out
 219 of the surplus funds held by the clerk. If the clerk certifies
 220 that the surplus funds are not sufficient to cover the service
 221 charges and mailing costs, the clerk shall receive the total
 222 amount of surplus funds as a service charge.

223 ~~Excess proceeds shall be held and disbursed in the same manner~~
 224 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~
 225 ~~identifying unclaimed property pursuant to s. 717.113, excess~~

226 | ~~proceeds shall be presumed payable or distributable on the date~~
 227 | ~~the notice is sent. If excess proceeds are not sufficient to~~
 228 | ~~cover the service charges and mailing costs, the clerk shall~~
 229 | ~~receive the total amount of excess proceeds as a service charge.~~

230 | (3) Persons receiving the notice of surplus funds have 120
 231 | days from the date of the notice to file a written claim with
 232 | the clerk for such funds. A claim in substantially the following
 233 | form is sufficient:

234 | Claim to Receive Surplus Proceeds of a Tax Deed Sale

235 | Complete and return to:

236 | By mail:

237 | By e-mail:

238 | Note: The clerk must pay all valid liens before
 239 | distributing surplus funds to a titleholder.

240 | Claimant's name:

241 | Contact name, if different:

242 | Address:

243 | Telephone Number:

244 | Tax Deed #:

245 | Date of Sale (if known):

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

248 | I claim surplus proceeds resulting from the above tax deed
 249 | sale.

250 | I am aLienholder;Titleholder.

251 1. LIENHOLDER INFORMATION (complete if claim is based on a
 252 lien against the sold property).

253 A. Type of Lien:Mortgage;Court Judgment;
 254Other

255 Describe in detail:

256 If your lien is recorded in the county's Official Records,
 257 list the following, if known:

258 Recording Date:; Instrument #....; Book #....; Page
 259 #.....

260 B. Original Amount of Lien: \$.....

261 C. Amount due: \$.....

262 (1) Principal remaining: \$.....

263 (2) Interest due: \$.....

264 (3) Fees and costs due, including late fees: \$.....

265 (describe costs in detail, include additional sheet if needed);

266 (4) Attorney fees: \$.....(provide agreement to show
 267 entitlement to attorney fees)

268 D. Total Amount Claimed: \$.....

269 2. TITLEHOLDER INFORMATION (Complete if claim is based on
 270 title formerly held on sold property.)

271 A. Nature of title:Deed;Court Judgment;
 272Other.

273 B. Amount of surplus tax deed sale proceeds claimed:
 274 \$.....

275 C. Does the titleholder claim the subject property was

276 | homestead property?YesNo.

277 | 3. I hereby swear or affirm that all of the above

278 | information is true and correct.

279 | Date:

280 | Signature:

281 | STATE OF FLORIDA

282 | COUNTY OF

283 | Sworn to or affirmed and signed before me onby

284 | ...(Signature of Notary Public - State of Florida)...

285 | ...(Print, Type, or Stamp Commissioned Name of Notary

286 | Public or deputy clerk)...

287 | Personally Known OR Produced Identification

288 |

289 | Type of Identification Produced:

290 | ~~If unresolved claims against the property exist on the date the~~

291 | ~~property is purchased, the clerk shall ensure that the excess~~

292 | ~~funds are paid according to the priorities of the claims. If a~~

293 | ~~lien appears to be entitled to priority and the lienholder has~~

294 | ~~not made a claim against the excess funds, payment may not be~~

295 | ~~made on any lien that is junior in priority. If potentially~~

296 | ~~conflicting claims to the funds exist, the clerk may initiate an~~

297 | ~~interpleader action against the lienholders involved, and the~~

298 | ~~court shall determine the proper distribution of the~~

299 | ~~interpleaded funds. The clerk may move the court for an award of~~

300 | ~~reasonable fees and costs from the interpleaded funds.~~

301 (4) Claims may be:

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

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

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

308 (5) Except for claims by property owners, claims that are
309 not filed on or before close of business on the 120th day after
310 the date of the mailed notice as required by s. 197.582(2), are
311 barred. A person, other than the property owner, who fails to
312 file a proper and timely claim may not receive disbursement of
313 the surplus funds. The failure of any person described in s.
314 197.502(4), other than the property owner, to file a claim for
315 excess funds within the 120 days constitutes a waiver of
316 interest in the excess funds and all claims thereto are forever
317 barred.

318 (6) Within 90 days after the claim period expires, the
319 clerk may file an interpleader action in circuit court to
320 determine the proper disbursement or pay the surplus funds
321 according to the clerk's determination of the priority of claims
322 using the information provided by the claimants under subsection
323 (3). A declaratory action to require payment of surplus funds
324 may not be filed until the claim and review periods have
325 expired.

326 (7) Holders of recorded governmental liens, other than
327 federal government liens and ad valorem tax liens, must file a
328 request for disbursement of surplus funds within 120 days of the
329 mailing of the notice of surplus funds. The clerk must disburse
330 payments to each governmental unit to pay any lien of record
331 held by it against the property, including any tax certificate
332 not incorporated in the tax deed application and any omitted
333 tax, before disbursing the surplus funds to nongovernmental
334 claimants.

335 (8) The tax deed recipient may directly pay off liens to
336 governmental units that could otherwise have been requested to
337 be paid by the holder of the governmental lien, and, upon filing
338 a timely claim and proof of payment, the tax deed recipient may
339 receive the same amount of funds from the surplus funds that was
340 paid to each governmental unit, in the same priority as the
341 original lienholder.

342 (9) If the clerk does not receive claims for surplus funds
343 within the 120 day claim period, the legal titleholder of record
344 described in s. 197.502(4)(a) shall be entitled to the surplus
345 funds. Funds that are not claimed by the titleholder of record
346 become unclaimed moneys and the clerk must process them in the
347 manner provided in s. 116.21.

348 Section 4. This act shall take effect July 1, 2018.