

By Senator Peaden

1-1308-01

1 A bill to be entitled
2 An act relating to taxation; amending s. 28.24,
3 F.S.; increasing the amount of the service
4 charges received by the clerk of court for
5 processing an application for a tax deed sale
6 and for disbursing the excess proceeds of a tax
7 deed sale; amending s. 197.502, F.S.;
8 increasing the amount of the tax deed
9 application fee which is allowed to the tax
10 collector; providing that certain fees must be
11 paid at the time of application; amending
12 procedures that apply if there are no bidders
13 at a public sale of property against which tax
14 certificates are held; prescribing the period
15 during which interest on the opening bid
16 continues to accrue; amending s. 197.512, F.S.;
17 specifying the length of time for which notice
18 of application for a tax deed must be
19 published; providing an exception to certain
20 recording duties of the clerk; amending s.
21 197.542, F.S.; revising procedures relating to
22 the sale at public auction of lands on which an
23 application for tax deed has been obtained;
24 requiring the high bidder to post a
25 nonrefundable cash deposit at the time of the
26 sale; amending s. 197.582, F.S.; revising
27 provisions governing the disbursement of the
28 proceeds of a sale; amending s. 199.135, F.S.;
29 increasing the percentage of the tax collected
30 under s. 199.133, F.S., which the clerk retains
31 as collection costs; amending s. 201.02, F.S.;

1 increasing the tax imposed on deeds and other
2 instruments relating to real property;
3 providing for the clerk to retain a specified
4 amount; amending s. 201.022, F.S.; increasing
5 the amount retained by the clerk if the clerk
6 must file a return that is required as a
7 condition precedent to the recordation of any
8 deed that transfers an interest in real
9 property; amending s. 201.05, F.S.; increasing
10 the tax on stock certificates; providing that
11 the clerk retains a portion of the tax;
12 amending s. 201.07, F.S.; increasing the tax on
13 bonds, debentures, and certificates of
14 indebtedness; providing that the clerk retains
15 a portion of the tax; amending s. 201.08, F.S.;
16 increasing the tax on promissory or
17 nonnegotiable notes, written obligations to pay
18 money, or assignments of wages or other
19 compensation; providing that the clerk retains
20 a portion of the tax; amending s. 201.11, F.S.;
21 increasing the amount of collection costs that
22 agents for the collection of the tax imposed
23 under ch. 201, F.S., receive; providing
24 applicability of provisions of this act which
25 relate to tax deeds; providing an effective
26 date.

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

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30 Section 1. Subsections (26) and (27) of section 28.24,
31 Florida Statutes, are amended to read:

1 28.24 Service charges by clerk of the circuit
2 court.--The clerk of the circuit court shall make the
3 following charges for services rendered by the clerk's office
4 in recording documents and instruments and in performing the
5 duties enumerated. However, in those counties where the
6 clerk's office operates as a fiscal unit of the county
7 pursuant to s. 145.022(1), the clerk shall not charge the
8 county for such services.

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Charges

(26) For processing an application for a tax deed sale
(includes application, sale, issuance, and preparation of tax
deed, and disbursement of proceeds of sale), other than excess
proceeds.....100.00 ~~60.00~~

(27) For disbursement of excess proceeds of tax deed
sale, first \$100 or fraction thereof.....25.00 ~~10.00~~

Section 2. Subsections (1), (5), and (7) 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 any tax certificate, other than the
county, at any time after 2 years have elapsed since April 1
of the year of issuance of the tax certificate and before the
expiration of 7 years from the date of issuance, may file the
certificate and an application for a tax deed with the tax
collector of the county where the lands described in the
certificate are located. The application may be made on the
entire parcel of property or any part thereof which is capable
of being readily separated from the whole. The tax collector
shall be allowed a tax deed application fee of \$100 ~~\$15~~.

1 (5) The clerk shall advertise and administer the sale
2 and receive such fees for the issuance and recordation of the
3 deed and sale of the property as are provided in s. 28.24. All
4 such fees must be paid at the time of application, together
5 with the amount required for documentary stamp tax on the
6 certificateholder's statutory opening bid. This documentary
7 stamp tax is not considered to be part of the opening bid.

8 (7) On county-held certificates for which ~~if~~ there are
9 no bidders at the public sale, the clerk shall enter the land
10 on a list entitled "lands available for taxes" and shall
11 immediately notify the county commission and all other persons
12 holding certificates against the land that the land is
13 available. During the first 90 days after the land is placed
14 on the list of lands available for taxes, the county may
15 purchase the land for the opening bid. Thereafter, any
16 person, the county, or any other governmental unit may
17 purchase the land from the clerk, without further notice or
18 advertising, for the opening bid, except that when the county
19 or other governmental unit is the purchaser for its own use,
20 the board of county commissioners may cancel omitted years'
21 taxes, as provided under s. 197.447. Interest on the opening
22 bid continues to accrue through the month of sale as
23 prescribed by s. 197.542.

24 Section 3. Subsections (1) and (3) of section 197.512,
25 Florida Statutes, are amended to read:

26 197.512 Notice, form of publication for obtaining tax
27 deed by holder.--

28 (1) Upon the receipt of the application as provided by
29 s. 197.502, and after the proper charges have been paid, the
30 clerk shall publish a notice once each week for 2 ~~4~~
31 consecutive weeks at weekly intervals in a newspaper selected

1 as provided in s. 197.402. The form of notice of the
2 application for a tax deed shall be as prescribed by the
3 department. No tax deed sale shall be held until 30 days
4 after the first publication of the notice.

5 (3) Except when the land is redeemed from sale
6 according to law ~~Upon ultimate disposition of the application~~
7 ~~for a tax deed~~, the clerk shall record ~~enter~~ his or her
8 certificate of notice and his or her certificate of
9 advertising in the public records of the county with such
10 other relevant documents as may be required by the department.

11 Section 4. Section 197.542, Florida Statutes, is
12 amended to read:

13 197.542 Sale at public auction.--

14 (1) The lands advertised for sale to the highest
15 bidder as a result of an application filed under s. 197.502
16 shall be sold at public auction by the clerk of the circuit
17 court, or his or her deputy, of the county where the lands are
18 located on the date, at the time, and at the location as set
19 forth in the published notice, which shall be during the
20 regular hours the clerk's office is open. At the time and
21 place, the clerk shall read the notice of sale and shall offer
22 the lands described in the notice for sale to the highest
23 bidder for cash at public outcry. The amount required to
24 redeem the tax certificate, plus the amounts paid by the
25 holder to the clerk of the circuit court in charges for costs
26 of sale, redemption of other tax certificates on the same
27 lands, and all other costs to the applicant for tax deed, plus
28 interest thereon at the rate originally bid on the certificate
29 ~~of 1.5 percent per month~~ for the period running from the month
30 after the date of application for the deed through the month
31 of sale and costs incurred for the service of notice provided

1 for in s. 197.522(2), shall be considered the bid of the
2 certificateholder for the property. However, if the land to be
3 sold is assessed on the latest tax roll as homestead property,
4 the bid of the certificateholder shall be increased to include
5 an amount equal to one-half of the assessed value of the
6 homestead property as required by s. 197.502. If there are no
7 higher bids, the land shall be struck off and sold to the
8 certificateholder, and a tax deed shall thereupon be issued
9 and recorded by the clerk.

10 (2) If there are other bids, the certificateholder
11 shall have the right to bid as others present may bid, and the
12 property shall be struck off and sold to the highest bidder.
13 The high bidder shall post with the clerk a nonrefundable cash
14 deposit of \$200 at the time of the sale, to be applied to the
15 sale price at the time of full payment. Notice of this deposit
16 requirement must be posted at the auction site. If full
17 payment of the final bid and of documentary stamp tax and
18 recording fees is not made within 24 hours, excluding weekends
19 and legal holidays, the clerk shall cancel all bids,
20 readvertise the sale as provided in this section, and pay all
21 costs of the sale from the deposit. Any remaining funds must
22 be applied toward the opening bid.The clerk may refuse to
23 recognize the bid of any person who has previously bid and
24 refused, for any reason, to honor such bid.

25 ~~(3)(2) The clerk of the circuit court shall demand~~
26 ~~immediate payment of an amount equal to the highest bid plus~~
27 ~~applicable documentary stamp taxes and recording fees. If full~~
28 ~~payment is not received by the clerk within 24 hours after the~~
29 ~~advertised time of the sale, the clerk shall cancel the bids~~
30 ~~and readvertise the property for sale.~~If the sale is canceled
31 for any reason, the clerk shall immediately readvertise the

1 sale to be held no later than 30 days after ~~from~~ the date the
2 sale was canceled. Only one advertisement is ~~shall be~~
3 necessary. No further notice is ~~shall be~~ required. The amount
4 of the statutory (opening) bid shall be increased by the cost
5 of advertising, additional clerk's fees as provided for in s.
6 28.24(26), and interest as provided for in subsection (1).
7 The clerk shall receive full payment prior to the issuance of
8 the tax deed.

9 Section 5. Subsection (1) of section 197.582, Florida
10 Statutes, is amended to read:

11 197.582 Disbursement of proceeds of sale.--

12 (1) If the property is purchased by any person other
13 than the certificateholder, the clerk shall forthwith pay to
14 the certificateholder all of the sums he or she has paid,
15 including the amount required for the redemption of the
16 certificate or certificates together with any and all
17 subsequent unpaid taxes plus the costs and expenses of the
18 application for deed, with interest on the total of such sums
19 for the period running from the month after the date of
20 application for the deed through the month of sale at the rate
21 originally bid on the certificate ~~of 1.5 percent per month~~.
22 The clerk shall distribute the amount required to redeem the
23 certificate or certificates and the amount required for the
24 redemption of other tax certificates on the same land with
25 omitted taxes and with all costs, plus interest thereon at the
26 rate originally bid on the certificate ~~of 1.5 percent per~~
27 ~~month~~ for the period running from the month after the date of
28 application for the deed through the month of sale, in the
29 same manner as he or she distributes money received for the
30 redemption of tax certificates owned by the county.

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1 Section 6. Subsection (3) of section 199.135, Florida
2 Statutes, is amended to read:

3 199.135 Due date and payment of nonrecurring tax.--The
4 nonrecurring tax imposed on notes, bonds, and other
5 obligations for payment of money secured by a mortgage, deed
6 of trust, or other lien evidenced by a written instrument
7 presented for recordation shall be due and payable when the
8 instrument is presented for recordation. If there is no
9 written instrument or if it is not so presented within 30 days
10 following creation of the obligation, then the tax shall be
11 due and payable within 30 days following creation of the
12 obligation.

13 (3) No later than 7 working days after the end of each
14 week, each clerk shall transmit to the department all
15 nonrecurring intangible taxes collected during the preceding
16 week, together with a report certifying the amount of tax
17 collected with respect to all instruments upon which the tax
18 was paid. Each clerk shall be compensated 5 ~~0.5~~ percent of
19 any tax he or she collects under s. 199.133 as collection
20 costs in the form of a deduction from the amount of tax due
21 and remitted by the clerk, and the department shall allow the
22 deduction to the clerk remitting the tax in the manner as
23 provided by the department.

24 Section 7. Subsection (1) of section 201.02, Florida
25 Statutes, is amended to read:

26 201.02 Tax on deeds and other instruments relating to
27 real property or interests in real property.--

28 (1) On deeds, instruments, or writings whereby any
29 lands, tenements, or other real property, or any interest
30 therein, shall be granted, assigned, transferred, or otherwise
31 conveyed to, or vested in, the purchaser or any other person

1 by his or her direction, on each \$100 of the consideration
2 therefor the tax shall be 75 ~~70~~ cents, 5 cents of which shall
3 be retained by the clerk. When the full amount of the
4 consideration for the execution, assignment, transfer, or
5 conveyance is not shown in the face of such deed, instrument,
6 document, or writing, the tax shall be at the rate of 75 ~~70~~
7 cents for each \$100 or fractional part thereof of the
8 consideration therefor, 5 cents of which shall be retained by
9 the clerk. For purposes of this section, consideration
10 includes, but is not limited to, the money paid or agreed to
11 be paid; the discharge of an obligation; and the amount of any
12 mortgage, purchase money mortgage lien, or other encumbrance,
13 whether or not the underlying indebtedness is assumed. If the
14 consideration paid or given in exchange for real property or
15 any interest therein includes property other than money, it is
16 presumed that the consideration is equal to the fair market
17 value of the real property or interest therein.

18 Section 8. Subsection (3) of section 201.022, Florida
19 Statutes, is amended to read:

20 201.022 Consideration for realty; filing of return
21 condition precedent to recordation; penalty; compensation of
22 clerks; failure to file does not impair validity.--

23 (3) If the return required by this section is not
24 executed and filed, the clerk of the circuit court is required
25 to execute and file the return with the department. The clerk
26 shall be compensated 1.5 ~~1.0~~ percent of the tax paid on deeds
27 as the cost of processing the return required by this section
28 in the form of a deduction from the amount of the tax due and
29 remitted by the clerk, and the department shall allow the
30 deduction to the clerk paying and remitting the tax in the
31 manner provided by the department. However, no deduction or

1 allowance shall be granted when there is a manifest failure to
2 maintain proper records or make proper reports. The
3 compensation provided herein shall be in addition to that
4 provided in s. 201.11(2).

5 Section 9. Subsection (1) of section 201.05, Florida
6 Statutes, is amended to read:

7 201.05 Tax on stock certificates.--

8 (1) On each original issue, whether organization or
9 reorganization, of certificates of stock or shares however
10 designated issued in the state or of certificates of profits
11 or of interest in property or accumulations, by any
12 corporation or by any joint stock company or other association
13 as set forth in subsection (2), on each \$100 of face value or
14 fraction thereof the tax shall be 40 ~~35~~ cents, 5 cents of
15 which shall be retained by the clerk; provided that when a
16 certificate is issued without face value, the tax shall be 40
17 ~~35~~ cents on each \$100 of actual value or fraction thereof, 5
18 cents of which shall be retained by the clerk. The tax imposed
19 by this section shall be shown on the stock books and not on
20 the certificates issued. The provisions of this section do
21 not apply to any stock or share issued in this state of an
22 open-end or closed-end management company or a unit investment
23 trust registered under the Investment Company Act of 1940, as
24 amended.

25 Section 10. Section 201.07, Florida Statutes, is
26 amended to read:

27 201.07 Tax on bonds, debentures, and certificates of
28 indebtedness.--On all bonds, debentures, or certificates of
29 indebtedness issued in the state by any person, and all
30 instruments and documents, however termed, issued by any
31 corporation with interest coupons or in registered form, on

1 each \$100 of the face value or fraction thereof, the tax shall
2 be 40 35 cents, 5 cents of which shall be retained by the
3 clerk; provided, however, that only that part of the value of
4 the bonds, debentures, or certificates of indebtedness issued
5 by any such person, the property of which is located within
6 the state shall bear to the whole value of the property
7 described in said instrument or obligation shall be taxed
8 hereunder.

9 Section 11. Subsection (1) and paragraph (a) of
10 subsection (2) of section 201.08, Florida Statutes, are
11 amended to read:

12 201.08 Tax on promissory or nonnegotiable notes,
13 written obligations to pay money, or assignments of wages or
14 other compensation; exception.--

15 (1) On promissory notes, nonnegotiable notes, written
16 obligations to pay money, or assignments of salaries, wages,
17 or other compensation made, executed, delivered, sold,
18 transferred, or assigned in the state, and for each renewal of
19 the same, the tax shall be 40 35 cents on each \$100 or
20 fraction thereof of the indebtedness or obligation evidenced
21 thereby, 5 cents of which shall be retained by the clerk. On
22 mortgages, trust deeds, security agreements, or other
23 evidences of indebtedness filed or recorded in this state, and
24 for each renewal of the same, the tax shall be 40 35 cents on
25 each \$100 or fraction thereof of the indebtedness or
26 obligation evidenced thereby, 5 cents of which shall be
27 retained by the clerk. Mortgages, including, but not limited
28 to, mortgages executed without the state and recorded in the
29 state, which incorporate the certificate of indebtedness, not
30 otherwise shown in separate instruments, are subject to the
31 same tax at the same rate. When there is both a mortgage,

1 trust deed, or security agreement and a note, certificate of
2 indebtedness, or obligation, the tax shall be paid on the
3 mortgage, trust deed, or security agreement at the time of
4 recordation. A notation shall be made on the note,
5 certificate of indebtedness, or obligation that the tax has
6 been paid on the mortgage, trust deed, or security agreement.
7 If the mortgage, trust deed, security agreement, or other
8 evidence of indebtedness subject to the tax levied by this
9 section secures future advances, as provided in s. 697.04, the
10 tax shall be paid at the time of recordation on the initial
11 debt or obligation secured, excluding future advances; at the
12 time and so often as any future advance is made, the tax shall
13 be paid on all sums then advanced regardless of where such
14 advance is made. Notwithstanding the aforestated general rule,
15 any increase in the amount of original indebtedness caused by
16 interest accruing under an adjustable rate note or mortgage
17 having an initial interest rate adjustment interval of not
18 less than 6 months shall be taxable as a future advance only
19 to the extent such increase is a computable sum certain when
20 the document is executed. Failure to pay the tax shall not
21 affect the lien for any such future advance given by s.
22 697.04, but any person who fails or refuses to pay such tax
23 due by him or her is guilty of a misdemeanor of the first
24 degree. The mortgage, trust deed, or other instrument shall
25 not be enforceable in any court of this state as to any such
26 advance unless and until the tax due thereon upon each advance
27 that may have been made thereunder has been paid.

28 (2)(a) On promissory notes, nonnegotiable notes,
29 written obligations to pay money, or other compensation, made,
30 executed, delivered, sold, transferred, or assigned in the
31 state, in connection with sales made under retail charge

1 account services, incident to sales which are not conditional
2 in character and which are not secured by mortgage or other
3 pledge of purchaser, the tax shall be 40 ~~35~~ cents on each \$100
4 or fraction thereof of the gross amount of the indebtedness
5 evidenced by such instruments, 5 cents of which shall be
6 retained by the clerk, payable quarterly on such forms and
7 under such rules and regulations as ~~may be promulgated by the~~
8 Department of Revenue adopts.

9 Section 12. Subsection (2) of section 201.11, Florida
10 Statutes, is amended to read:

11 201.11 Administration of law by Department of
12 Revenue.--

13 (2) The county comptroller or, if there be none, then
14 the clerk of the circuit court, shall serve ex officio, and
15 the Department of Revenue may appoint others, as agents for
16 the collection of the tax imposed by this chapter. The
17 department may adopt rules and regulations requiring the
18 agents to meet certain standards, including, without
19 limitation, a demonstrated volume of business or a
20 geographical distribution. All agents shall be subject to
21 audit and shall post a bond as may be required by the
22 Department of Revenue. The Department of Revenue may purchase
23 a blanket bond; however, all costs associated with such a bond
24 shall be allocated by department regulation to those agents so
25 bonded. An agent shall be compensated 1.5 ~~0.5~~ percent of the
26 tax collected as collection costs in the form of a deduction
27 from the amount of the tax due and remitted by the agent, and
28 the department shall allow the said deduction to the agent
29 paying and remitting the tax in the manner as provided for by
30 the department. However, no deduction or allowance shall be
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1 granted when there is a manifest failure to maintain proper
2 records or make proper reports.

3 Section 13. The provisions of this act which relate to
4 tax deeds apply to tax deeds for which the respective
5 applications are filed on or after the effective date of this
6 act.

7 Section 14. This act shall take effect October 1,
8 2001.

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11 SENATE SUMMARY

12 Increases the amount of the service charges received by
13 the clerk of court for processing an application for a
14 tax deed sale and for disbursing the excess proceeds of a
15 tax deed sale. Increases the amount of the tax deed
16 application fee which is allowed to the tax collector.
17 Provides that certain fees must be paid at the time of
18 application. Revises procedures that apply if there are
19 no bidders at a public sale of property against which tax
20 certificates are held. Prescribes the period during which
21 interest on the opening bid at such public sales
22 continues to accrue. Decreases the number of weeks during
23 which notice of application for a tax deed must be
24 published. Provides an exception to certain recording
25 duties of the clerk. Revises procedures relating to the
26 sale at public auction of lands on which an application
27 for tax deed has been obtained. Requires the high bidder
28 to post a nonrefundable cash deposit at the time of the
29 sale. Increases the percentage of the tax collected under
30 s. 199.133, F.S., which the clerk retains as collection
31 costs. Increases the tax imposed on deeds and other
instruments relating to real property, and provides for
the clerk to retain a specified amount. Increases the
amount retained by the clerk if the clerk must file a
return that is required as a condition precedent to the
recordation of a deed that transfers an interest in real
property. Increases the tax on stock certificates, on
bonds, debentures, and certificates of indebtedness, and
on promissory or nonnegotiable notes, written obligations
to pay money, or assignments of wages or other
compensation, and provides that the clerk retains a
portion of each such tax. Increases the amount of
collection costs received by agents for the collection of
the tax imposed under ch. 201, F.S. Provides
applicability of provisions of this act which relate to
tax deeds.