



1 A bill to be entitled

2 An act relating to subdivision property; amending s.
3 197.502, F.S.; increasing a tax deed application fee;
4 providing notification to legal titleholders of contiguous
5 property which is included in a tax certificate for unpaid
6 taxes; requiring a county to notify the legal titleholder
7 of property contiguous to land available for taxes prior
8 to sale under certain circumstances; amending s. 197.582,
9 F.S.; excluding certain persons as beneficiaries of
10 certain undistributed remainder funds; amending s.
11 197.522, F.S.; requiring notification to certain persons
12 when an application for a tax deed is made; providing for
13 a statement to accompany such notice; prohibiting the
14 assessment of ad valorem taxes and non-ad valorem
15 assessments by certain entities against property
16 constituting the common elements of a subdivision;
17 requiring that the property appraiser prorate the value of
18 ad valorem taxes and non-ad valorem assessments against
19 easements and other common elements of a subdivision and
20 include such prorated value among the lots within the
21 subdivision conveyed or intended to be conveyed into
22 private ownership; defining the term "common element";
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26



27 Section 1. Subsections (1) and (7) of section 197.502,
28 Florida Statutes, are amended and paragraph (h) is added to
29 subsection (4) of said section, to read:

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

32 (1) The holder of any tax certificate, other than the
33 county, at any time after 2 years have elapsed since April 1 of
34 the year of issuance of the tax certificate and before the
35 expiration of 7 years from the date of issuance, may file the
36 certificate and an application for a tax deed with the tax
37 collector of the county where the lands described in the
38 certificate are located. The application may be made on the
39 entire parcel of property or any part thereof which is capable
40 of being readily separated from the whole. The tax collector
41 shall be allowed a tax deed application fee of \$75 ~~\$15~~.

42 (4) The tax collector shall deliver to the clerk of the
43 circuit court a statement that payment has been made for all
44 outstanding certificates or, if the certificate is held by the
45 county, that all appropriate fees have been deposited, and
46 stating that the following persons are to be notified prior to
47 the sale of the property:

48 (h) Any legal titleholder of record of property that is
49 contiguous to the property described in the tax certificate,
50 when the property described is either submerged land or common
51 elements of a subdivision, if the address of the titleholder of
52 contiguous property appears on the record of conveyance of the
53 land to that legal titleholder. However, if the legal
54 titleholder of property contiguous to the property described in



55 the tax certificate is the same as the person to whom the
56 property described in the tax certificate was assessed on the
57 tax roll for the year in which the property was last assessed,
58 the notice may be mailed only to the address of the legal
59 titleholder as it appears on the latest assessment roll.

60 (7) On county-held certificates for which there are no
61 bidders at the public sale, the clerk shall enter the land on a
62 list entitled "lands available for taxes" and shall immediately
63 notify the county commission and all other persons holding
64 certificates against the land that the land is available. During
65 the first 90 days after the land is placed on the list of lands
66 available for taxes, the county may purchase the land for the
67 opening bid. Thereafter, any person, the county, or any other
68 governmental unit may purchase the land from the clerk, without
69 further notice or advertising, for the opening bid, except that
70 when the county or other governmental unit is the purchaser for
71 its own use, the board of county commissioners may cancel
72 omitted years' taxes, as provided under s. 197.447. If the
73 county does not elect to purchase the land, the county must
74 notify each legal titleholder of property contiguous to the land
75 available for taxes, as provided in paragraph (4)(h), before
76 expiration of the 90-day period. Interest on the opening bid
77 continues to accrue through the month of sale as prescribed by
78 s. 197.542.

79 Section 2. Subsection (2) of section 197.582, Florida
80 Statutes, is amended to read:

81 197.582 Disbursement of proceeds of sale.--



82 (2) If the property is purchased for an amount in excess
83 of the statutory bid of the certificateholder, the excess shall
84 be paid over and disbursed by the clerk. If the property
85 purchased is homestead property and the statutory bid includes
86 an amount equal to at least one-half of the assessed value of
87 the homestead, that amount shall be treated as excess and
88 distributed in the same manner. The clerk shall distribute the
89 excess to the governmental units for the payment of any lien of
90 record held by a governmental unit against the property. In the
91 event the excess is not sufficient to pay all of such liens in
92 full, the excess shall then be paid to each governmental unit
93 pro rata. If, after all liens of record of the governmental
94 units upon the property are paid in full, there remains a
95 balance of undistributed funds, the balance of the purchase
96 price shall be retained by the clerk for the benefit of the
97 persons described in s. 197.522(1)(a), except those persons
98 described in s. 197.502(4)(h), as their interests may appear.
99 The clerk shall mail notices to such persons notifying them of
100 the funds held for their benefit. Any service charges, at the
101 same rate as prescribed in s. 28.24(13), and costs of mailing
102 notices shall be paid out of the excess balance held by the
103 clerk. Excess proceeds shall be held and disbursed in the same
104 manner as unclaimed redemption moneys in s. 197.473. In the
105 event excess proceeds are not sufficient to cover the service
106 charges and mailing costs, the clerk shall receive the total
107 amount of excess proceeds as a service charge.

108 Section 3. Subsection (2) of section 197.522, Florida
109 Statutes, is amended to read:



110 197.522 Notice to owner when application for tax deed is
 111 made.--

112 (2)(a) In addition to the notice provided in subsection
 113 (1), the sheriff of the county in which the legal titleholder
 114 resides shall, at least 20 days prior to the date of sale,
 115 notify the legal titleholder of record of the property on which
 116 the tax certificate is outstanding. The original notice and
 117 sufficient copies shall be prepared by the clerk and provided to
 118 the sheriff. Such notice shall be served as specified in chapter
 119 48; if the sheriff is unable to make service, he or she shall
 120 post a copy of the notice in a conspicuous place at the legal
 121 titleholder's last known address. The inability of the sheriff
 122 to serve notice on the legal titleholder shall not affect the
 123 validity of the tax deed issued pursuant to the notice. A legal
 124 titleholder of record who resides outside the state may be
 125 notified by the clerk as provided in subsection (1). The notice
 126 shall be in substantially the following form:

127
 128 WARNING

129
 130 There are unpaid taxes on the property which you own. The
 131 property will be sold at public auction on ... (date) ...
 132 unless the back taxes are paid. To make arrangements for
 133 payment, or to receive further information, contact the clerk of
 134 court at ... (address) ..., ... (telephone number)

135
 136 In addition, if the legal titleholder does not reside in the
 137 county in which the property to be sold is located, a copy of



138 such notice shall be posted in a conspicuous place on the
 139 property by the sheriff of the county in which the property is
 140 located. However, no posting of notice shall be required if the
 141 property to be sold is classified for assessment purposes,
 142 according to use classifications established by the department,
 143 as nonagricultural acreage or vacant land.

144 (b) In addition to the notice provided in subsection (1),
 145 the clerk shall notify by certified mail with return receipt
 146 requested, or by registered mail if the notice is to be sent
 147 outside the continental United States, the persons listed in the
 148 tax collector's statement pursuant to s. 197.502(4)(h) that
 149 application for a tax deed has been made. Such notice shall be
 150 mailed at least 20 days prior to the date of sale. If no address
 151 is listed in the tax collector's statement, then no notice shall
 152 be required. Enclosed with the copy of the notice shall be a
 153 statement in substantially the following form:

154
 155 WARNING

156
 157 There are unpaid taxes on property contiguous to your
 158 property. The property with the unpaid taxes will be sold
 159 at auction on ... (date) ... unless the back taxes are
 160 paid. To make payment, or to receive further information
 161 about the purchase of the property, contact the clerk of
 162 court immediately at ... (address) ..., ... (telephone
 163 number)



165 Neither the failure of the tax collector to include the list of
166 contiguous property owners pursuant to s. 197.502(4)(h) in his
167 or her statement to the clerk nor the failure of the clerk to
168 mail this notice to any or all of the persons listed in the tax
169 collector's statement pursuant to s. 197.502(4)(h) shall be a
170 basis to challenge the validity of the tax deed issued pursuant
171 to any notice under s. 197.522

172 Section 4. Ad valorem taxes and non-ad valorem assessments
173 against subdivision property.--

174 (1) Ad valorem taxes and non-ad valorem assessments shall
175 be assessed against the lots within a platted residential
176 subdivision and not upon the subdivision property as a whole. An
177 ad valorem tax or non-ad valorem assessment, including a tax or
178 assessment imposed by a county, municipality, special district,
179 or water management district, may not be assessed separately
180 against common elements utilized exclusively for the benefit of
181 lot owners within the subdivision, regardless of ownership. The
182 value of each parcel of land that is or has been part of a
183 platted subdivision and that is designated on the plat or the
184 approved site plan as a common element for the exclusive benefit
185 of lot owners shall, regardless of ownership, be prorated by the
186 property appraiser and included in the assessment of all the
187 lots within the subdivision which constitute inventory for the
188 developer and are intended to be conveyed or have been conveyed
189 into private ownership for the exclusive benefit of lot owners
190 within the subdivision.

191 (2) As used in this section, the term "common element"
192 includes:



193 (a) Subdivision property not included within lots
194 constituting inventory for the developer which are intended to
195 be conveyed or have been conveyed into private ownership.

196 (b) An easement through the subdivision property, not
197 including the property described in paragraph (a), which has
198 been dedicated to the public or retained for the benefit of the
199 subdivision.

200 (c) Any other part of the subdivision which has been
201 designated on the plat or is required to be designated on the
202 site plan as a drainage pond, or detention or retention pond,
203 for the exclusive benefit of the subdivision.

204 Section 5. This act shall take effect January 1, 2004.