

By the Committee on Comprehensive Planning; and Senators
Sebesta and Crist

316-2220-03

1 A bill to be entitled
2 An act relating to subdivision property;
3 amending s. 197.502, F.S.; increasing the fee
4 for tax deed applications; providing
5 notification to legal titleholders of
6 contiguous property which is included in a tax
7 certificate for unpaid taxes; amending s.
8 197.502, F.S.; providing for notification to
9 the legal titleholder of lands contiguous to
10 land available for taxes prior to the sale of
11 said lands; amending s. 197.582, F.S., to
12 exclude from the requirement for the clerk of
13 court to retain certain fund balances above
14 those required to satisfy tax liens those
15 titleholders receiving notice pursuant to s.
16 197.502, F.S.; creating a prohibition of the
17 assessment of an ad valorem tax or non-ad
18 valorem assessment by certain entities against
19 property constituting the common elements of a
20 subdivision; requiring that the property
21 appraiser prorate the value of taxes and
22 special assessments against recreational
23 facilities, easements, and other common
24 elements of a subdivision and include such
25 prorated value among the lots within the
26 subdivision conveyed or intended to be conveyed
27 into private ownership; defining the term
28 "common element" for purposes of this act;
29 amending s. 197.522, F.S.; requiring the clerk
30 to give notice to certain individuals, by
31 certified mail with return receipt requested or

1 by registered mail, that the application for
2 tax deed has been made; providing that such
3 notice be mailed 20 days prior to the date of
4 sale; providing for no notice in certain
5 circumstances; creating a requirement for the
6 clerk of court to give certain prior notice to
7 persons listed in the tax collector's statement
8 regarding proposed sale of tax delinquent
9 properties; providing an effective date.

10

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

12

13 Section 1. Subsection (1) of section 197.502, Florida
14 Statutes, is amended, paragraph (h) is added to subsection (4)
15 of that section, and subsection (7) of that section is
16 amended, to read:

17 197.502 Application for obtaining tax deed by holder
18 of tax sale certificate; fees.--

19 (1) The holder of any tax certificate, other than the
20 county, at any time after 2 years have elapsed since April 1
21 of the year of issuance of the tax certificate and before the
22 expiration of 7 years from the date of issuance, may file the
23 certificate and an application for a tax deed with the tax
24 collector of the county where the lands described in the
25 certificate are located. The application may be made on the
26 entire parcel of property or any part thereof which is capable
27 of being readily separated from the whole. The tax collector
28 shall be allowed a tax deed application fee of ~~\$75~~\$15.

29 (4) The tax collector shall deliver to the clerk of
30 the circuit court a statement that payment has been made for
31 all outstanding certificates or, if the certificate is held by

1 the county, that all appropriate fees have been deposited, and
2 stating that the following persons are to be notified prior to
3 the sale of the property:

4 (h) Any legal titleholder of record or property that
5 is contiguous to the property described in the tax
6 certificate, when the property described is either submerged
7 land or common elements in a subdivision if the address of the
8 titleholder of contiguous property appears on the record of
9 conveyance of the land to that legal titleholder. However, if
10 the legal titleholder of property contiguous to the property
11 described in the tax certificate is the same as the person to
12 whom the property described in the tax certificate was
13 assessed on the tax roll for the year in which the property
14 was last assessed, the notice may only be mailed to the
15 address of the legal titleholder as it appears on the latest
16 assessment roll.

17 (7) On county-held certificates for which there are no
18 bidders at the public sale, the clerk shall enter the land on
19 a list entitled "lands available for taxes" and shall
20 immediately notify the county commission and all other persons
21 holding certificates against the land that the land is
22 available. During the first 90 days after the land is placed
23 on the list of lands available for taxes, the county may
24 purchase the land for the opening bid. Thereafter, any person,
25 the county, or any other governmental unit may purchase the
26 land from the clerk, without further notice or advertising,
27 for the opening bid, except that when the county or other
28 governmental unit is the purchaser for its own use, the board
29 of county commissioners may cancel omitted years' taxes, as
30 provided under s. 197.447. If the county does not elect to
31 purchase the land, before expiration of the 90-day period the

1 county must notify each legal titleholder of property
2 contiguous to the land available for taxes, as provided in
3 paragraph (4)(h).Interest on the opening bid continues to
4 accrue through the month of sale as prescribed by s. 197.542.
5 Section 2. Subsection (2) of section 197.528, Florida
6 Statutes, is amended to read:
7 197.582 Disbursement of proceeds of sale.--
8 (2) If the property is purchased for an amount in
9 excess of the statutory bid of the certificateholder, the
10 excess shall be paid over and disbursed by the clerk. If the
11 property purchased is homestead property and the statutory bid
12 includes an amount equal to at least one-half of the assessed
13 value of the homestead, that amount shall be treated as excess
14 and distributed in the same manner. The clerk shall distribute
15 the excess to the governmental units for the payment of any
16 lien of record held by a governmental unit against the
17 property. In the event the excess is not sufficient to pay all
18 of such liens in full, the excess shall then be paid to each
19 governmental unit pro rata. If, after all liens of record of
20 the governmental units upon the property are paid in full,
21 there remains a balance of undistributed funds, the balance of
22 the purchase price shall be retained by the clerk for the
23 benefit of the persons described in s. 197.522(1)(a), except
24 those persons described in s. 197.502(4)(h),as their
25 interests may appear. The clerk shall mail notices to such
26 persons notifying them of the funds held for their benefit.
27 Any service charges, at the same rate as prescribed in s.
28 28.24(13), and costs of mailing notices shall be paid out of
29 the excess balance held by the clerk. Excess proceeds shall be
30 held and disbursed in the same manner as unclaimed redemption
31 moneys in s. 197.473. In the event excess proceeds are not

1 sufficient to cover the service charges and mailing costs, the
2 clerk shall receive the total amount of excess proceeds as a
3 service charge.

4 Section 3. Taxes and special assessments against
5 subdivision property.--

6 (1) Ad valorem taxes and non-ad valorem assessments
7 shall be assessed against the lots within a platted
8 subdivision and not upon the subdivision property as a whole.
9 An ad valorem tax or non-ad valorem assessment, including a
10 tax or assessment imposed by a local special district or a
11 water management district, may not be assessed separately
12 against recreational facilities or other common elements,
13 regardless of ownership. The value of each parcel of land that
14 is or has been part of a platted subdivision and that is
15 designated on the plat or the approved site plan as a common
16 element shall, regardless of ownership, be prorated by the
17 property appraiser and included in the assessment of all the
18 lots within the subdivision which constitute inventory for the
19 developer and which are intended to be conveyed or which have
20 been conveyed into private ownership.

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

23 (a) Subdivision property not included within lots
24 constituting inventory for the developer which are intended to
25 be conveyed or which have been conveyed into private
26 ownership.

27 (b) An easement through the subdivision property, not
28 including the property described in paragraph (a), which has
29 been dedicated to the public or retained for the benefit of
30 the subdivision.

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1 (c) Any other part of the subdivision which has been
2 designated on the plat, or which is required to be designated
3 on the site plan, as a drainage pond, detention or retention
4 pond, or recreational feature and which is for the benefit of
5 the subdivision.

6 Section 4. Subsection (4) is added to section 197.522,
7 Florida Statutes, to read:

8 197.522 Notice to owner when application for tax deed
9 is made.--

10 (4) In addition, the clerk shall notify by certified
11 mail, return receipt requested, or by registered mail if the
12 notice is to be sent outside the continental United States,
13 the persons listed in the tax collector's statement pursuant
14 to s. 197.502(4)(h) that application for a tax deed has been
15 made. Such notice shall be mailed at least 20 days prior to
16 the date of sale. If no address is listed in the tax
17 collector's statement, then no notice shall be required.
18 Enclosed with the copy of the notice shall be a statement in
19 substantially the following form:

20 WARNING: There are unpaid taxes on property contiguous
21 to your property. The property with the unpaid taxes will be
22 sold at auction on (date) unless the back taxes are paid. To
23 make payment, or to receive further information about the
24 purchase of the property, contact the clerk of court
25 immediately at (address), (telephone number). Neither the
26 failure of the tax collector to include the list of contiguous
27 property owners pursuant to s. 197.502(4)(h) in his or her
28 statement to the clerk, nor the failure of the clerk to mail
29 this notice to any or all of the persons listed in the tax
30 collector's statement pursuant to s. 197.502(4)(h) shall be a
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1 basis to challenge the validity of the tax deed issued
2 pursuant to any notice under this section.

3 Section 5. This act shall take effect July 1, 2004.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1824

8 This CS differs from the bill as filed in the following ways:

- 9 * It limits the application of the bill to submerged land
10 or common elements in a platted subdivision;
11 * Consistent with the notification requirement in section
12 1, a new section is added to amend s. 197.522, F.S., to
13 prescribe the notice statement to persons owning property
14 contiguous to property that an application for a tax deed
15 has been made;
16 * Increases the tax deed application fee from \$15 to \$75;
17 and
18 * Makes a number of technical changes to the bill.