

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

1 197.502, F.S.; providing for notification to
2 the legal titleholder of lands contiguous to
3 land available for taxes prior to the sale of
4 said lands; amending s. 197.582, F.S., to
5 exclude from the requirement for the clerk of
6 court to retain certain fund balances above
7 those required to satisfy tax liens those
8 titleholders receiving notice pursuant to s.
9 197.502, F.S.; creating a prohibition of the
10 assessment of an ad valorem tax or non-ad
11 valorem assessment by certain entities against
12 property constituting the common elements of a
13 subdivision; requiring that the property
14 appraiser prorate the value of taxes and
15 special assessments against recreational
16 facilities, easements, and other common
17 elements of a subdivision and include such
18 prorated value among the lots within the
19 subdivision conveyed or intended to be conveyed
20 into private ownership; defining the term
21 "common element" for purposes of this act;
22 amending s. 197.522, F.S.; requiring the clerk
23 to give notice to certain individuals, by
24 certified mail with return receipt requested or
25 by registered mail, that the application for
26 tax deed has been made; providing that such
27 notice be mailed 20 days prior to the date of
28 sale; providing for no notice in certain
29 circumstances; creating a requirement for the
30 clerk of court to give certain prior notice to
31 persons listed in the tax collector's statement

1 regarding proposed sale of tax delinquent
2 properties; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Subsection (1) of section 197.502, Florida
7 Statutes, is amended, paragraph (h) is added to subsection (4)
8 of that section, and subsection (7) of that section is
9 amended, to read:

10 197.502 Application for obtaining tax deed by holder
11 of tax sale certificate; fees.--

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

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

28 (h) Any legal titleholder of record of property that
29 is contiguous to the property described in the tax
30 certificate, when the property described is either submerged
31 land or common elements of a subdivision, if the address of

1 the titleholder of contiguous property appears on the record
2 of conveyance of the land to that legal titleholder. However,
3 if the legal titleholder of property contiguous to the
4 property described in the tax certificate is the same as the
5 person to whom the property described in the tax certificate
6 was assessed on the tax roll for the year in which the
7 property was last assessed, the notice may be mailed only to
8 the address of the legal titleholder as it appears on the
9 latest assessment roll.

10 (7) On county-held certificates for which there are no
11 bidders at the public sale, the clerk shall enter the land on
12 a list entitled "lands available for taxes" and shall
13 immediately notify the county commission and all other persons
14 holding certificates against the land that the land is
15 available. During the first 90 days after the land is placed
16 on the list of lands available for taxes, the county may
17 purchase the land for the opening bid. Thereafter, any person,
18 the county, or any other governmental unit may purchase the
19 land from the clerk, without further notice or advertising,
20 for the opening bid, except that when the county or other
21 governmental unit is the purchaser for its own use, the board
22 of county commissioners may cancel omitted years' taxes, as
23 provided under s. 197.447. If the county does not elect to
24 purchase the land, the county must notify each legal
25 titleholder of property contiguous to the land available for
26 taxes, as provided in paragraph (4)(h), before expiration of
27 the 90-day period. Interest on the opening bid continues to
28 accrue through the month of sale as prescribed by s. 197.542.

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

31 197.582 Disbursement of proceeds of sale.--

1 (2) If the property is purchased for an amount in
2 excess of the statutory bid of the certificateholder, the
3 excess shall be paid over and disbursed by the clerk. If the
4 property purchased is homestead property and the statutory bid
5 includes an amount equal to at least one-half of the assessed
6 value of the homestead, that amount shall be treated as excess
7 and distributed in the same manner. The clerk shall distribute
8 the excess to the governmental units for the payment of any
9 lien of record held by a governmental unit against the
10 property. In the event the excess is not sufficient to pay all
11 of such liens in full, the excess shall then be paid to each
12 governmental unit pro rata. If, after all liens of record of
13 the governmental units upon the property are paid in full,
14 there remains a balance of undistributed funds, the balance of
15 the purchase price shall be retained by the clerk for the
16 benefit of the persons described in s. 197.522(1)(a), except
17 those persons described in s. 197.502(4)(h), as their
18 interests may appear. The clerk shall mail notices to such
19 persons notifying them of the funds held for their benefit.
20 Any service charges, at the same rate as prescribed in s.
21 28.24(13), and costs of mailing notices shall be paid out of
22 the excess balance held by the clerk. Excess proceeds shall be
23 held and disbursed in the same manner as unclaimed redemption
24 moneys in s. 197.473. In the event excess proceeds are not
25 sufficient to cover the service charges and mailing costs, the
26 clerk shall receive the total amount of excess proceeds as a
27 service charge.

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

30 197.522 Notice to owner when application for tax deed
31 is made.--

1 (2)(a) In addition to the notice provided in
2 subsection (1), the sheriff of the county in which the legal
3 titleholder resides shall, at least 20 days prior to the date
4 of sale, notify the legal titleholder of record of the
5 property on which the tax certificate is outstanding. The
6 original notice and sufficient copies shall be prepared by the
7 clerk and provided to the sheriff. Such notice shall be served
8 as specified in chapter 48; if the sheriff is unable to make
9 service, he or she shall post a copy of the notice in a
10 conspicuous place at the legal titleholder's last known
11 address. The inability of the sheriff to serve notice on the
12 legal titleholder shall not affect the validity of the tax
13 deed issued pursuant to the notice. A legal titleholder of
14 record who resides outside the state may be notified by the
15 clerk as provided in subsection (1). The notice shall be in
16 substantially the following form:

17

18 WARNING

19

20 There are unpaid taxes on the property which you own.
21 The property will be sold at public auction on
22 ... (date) ... unless the back taxes are paid. To make
23 arrangements for payment, or to receive further information,
24 contact the clerk of court at ... (address) ...,
25 ... (telephone number)

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27 In addition, if the legal titleholder does not reside
28 in the county in which the property to be sold is located, a
29 copy of such notice shall be posted in a conspicuous place on
30 the property by the sheriff of the county in which the
31 property is located. However, no posting of notice shall be

1 required if the property to be sold is classified for
2 assessment purposes, according to use classifications
3 established by the department, as nonagricultural acreage or
4 vacant land.

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

16 WARNING

17 There are unpaid taxes on property contiguous to your
18 property. The property with the unpaid taxes will be sold at
19 auction on ... (date) ... unless the back taxes are paid. To
20 make payment, or to receive further information about the
21 purchase of the property, contact the clerk of court
22 immediately at ... (address) ..., ... (telephone number)

23 Neither the failure of the tax collector to include the
24 list of contiguous property owners pursuant to s.
25 197.502(4)(h) in his or her statement to the clerk nor the
26 failure of the clerk to mail this notice to any or all of the
27 persons listed in the tax collector's statement pursuant to s.
28 197.502(4)(h) shall be a basis to challenge the validity of
29 the tax deed issued pursuant to any notice under s. 197.522.

30 Section 4. Ad valorem taxes and non-ad valorem
31 assessments against subdivision property.--

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

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

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

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

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

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