

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: SB 878

SPONSOR: Senator Baker

SUBJECT: Delinquent Property Taxes

DATE: February 28, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	<b>Favorable</b>
2.	_____	_____	GE	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill reduces from three to one the number of times real property with delinquent taxes must be advertised before the tax certificate sale. The advertisement must occur at least 21 days prior to the tax certificate sale.

This bill substantially amends sections 197.402 and 197.403 of the Florida Statutes.

## II. Present Situation:

**Notification of Taxes** - Section 197.332, F.S., provides that the tax collector has the authority and obligation to collect all taxes, as listed on the county tax roll, by their delinquency date or to collect delinquent taxes, interest, and costs, by sale of tax certificates on real property and by seizure and sale of personal property.

Section 197.333, F.S., provides that all taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice, whichever is later. If the delinquency date for ad valorem taxes is later than April 1 of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding delinquent taxes are extended a like number of days.

Section 197.343, F.S., requires an additional tax notice to be mailed by April 30 to each taxpayer whose payment has not been received. The notice must include a description of the property and the following statement: "If the taxes for the (year) on your property are not paid, a tax certificate

will be sold for these taxes, and your property may be sold at a future date. Contact the tax collector's office at once.”

**Advertisement and Sale of Tax Certificates** - Subsection (3) of s. 197.402, F.S., requires the tax collector, except as provided in s. 197.432(4), F.S., on or before June 1 or the 60th day after the date of delinquency, whichever is later, to advertise once each week for 3 weeks and sell tax certificates on all real property with delinquent taxes.<sup>1</sup> The tax collector makes a list of such properties in the same order in which the lands were assessed, specifying the amount due on each parcel, including interest at the rate of 18 percent per year from the date of delinquency to the date of sale; the cost of advertising; and the expense of sale.

Pursuant to s.197.403, F.S., the newspaper publishing the notice of tax sale must send a copy of the paper containing each notice to the tax collector within 10 days after the last required publication. Unless otherwise provided, s. 197.432, F.S., authorizes the tax collector to commence the sale of tax certificates on those lands on which taxes are delinquent.

Section 197.102(3), Florida Statutes, defines a “tax certificate” to mean:

a legal document, representing unpaid delinquent real property taxes, non-ad valorem assessments, including special assessments, interest, and related costs and charges, issued in accordance with this chapter against a specific parcel of real property and becoming a first lien thereon, superior to all other liens, except as provided by s. 197.573(2).

The Department of Revenue, by rule, requires that the face amount of the tax certificate is to include: (1) delinquent taxes; (2) interest on the taxes which has accrued between the date of delinquency and the date of sale calculated monthly at 18 percent per year; and (3) costs and other charges. (Rule 12D-13.045(3), F.A.C.)

The Department’s rules further provide that the sale of tax certificates is to begin on or before June 1, or the 60th day after the date of delinquency, whichever is later. (Rule 12D-13.045(1), F.A.C.) The sale is to continue from day to day or until all tax certificates are sold. If there are no bidders, then the tax certificates are to be issued to the county.

**Redemption of Tax Certificates** - Pursuant to s. 197.472, F.S., any person may redeem a tax certificate at any time after the tax certificate is issued and before a tax deed is issued or the land is placed on the list indicating that it is available for sale. The person redeeming the tax certificate must pay all the delinquent taxes, interest, costs, charges, and omitted taxes, if any. When a tax certificate is redeemed, in whole or in part, the tax collector determines the identity of the certificate holders entitled to the proceeds of the redemption and distributes the monies accordingly.

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<sup>1</sup> Section 197.402, F.S., was created by ch. 85-342, L.O.F, and directed tax collectors to advertise tax certificates once each week for 4 weeks. Chapter 94-353, L.O.F., revised this section to provide that tax collectors must advertise tax certificates once each week for 3 weeks.

**Tax Deeds** - Section 197.502, F.S., provides that if the tax certificate is not redeemed, the certificate holder may, at any time after 2 years from April 1 of the year of issuance of the tax certificate and prior to 7 years from the date of issuance, file the tax certificate and an application for a tax deed with the tax collector of the county where the land is located. This application is to serve as notice to the tax collector that the applicant desires the lands.

Any certificate holder, other than the county, who makes an application for a tax deed must pay the tax collector the following at the time of the application: all amounts required for redemption or purchase of all other outstanding tax certificates, plus interest; any omitted taxes, plus interest; any delinquent taxes, plus interest and current taxes, if due. The tax collector delivers the deed application and certification to the Clerk of the Circuit Court and requests that a public auction be held on the deed to the property. After meeting specified public notice requirements and providing notice to the owner of the property (s. 197.522, F.S.), the Clerk holds a public auction to sell the deed to the property at the highest price possible in order to protect the land owner. In addition to the amount of money paid to the tax collector at the time of the application, s. 197.502(6)(b), F.S., provides that the certificate holder include in his opening bid for the tax deed the amount required to redeem all outstanding tax certificates, delinquent taxes and other specified costs and fees.

### III. Effect of Proposed Changes:

**Section 1** amends s.197.402, F.S., to reduce from three to one the number of times real property with delinquent taxes must be advertised before the tax certificate sale. The subsection is further amended to require the advertisement to occur at least 21 days prior to the tax certificate sale.

**Section 2** amends s.197.403, F.S., to clarify that there is only one advertisement of the sale of tax certificates.

**Section 3** provides this bill take effect upon becoming law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The reduction in advertising costs resulting from the bill will be reflected in the prices paid by individuals purchasing tax certificates, which will be reflected in the costs to redeem tax certificates or to purchase tax deeds.

**C. Government Sector Impact:**

The bill will decrease expenditures by tax collectors for advertising tax certificate sales.

To the extent the bill reduces advertising costs associated with tax certificate sales, revenues received by the tax collector from purchases of tax certificates will be reduced by the reduction in advertising costs for each parcel for which a tax certificate is purchased.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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