

By Senator Deutch

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1 A bill to be entitled

2 An act relating to delinquent property taxes; amending s.
3 197.413, F.S; authorizing the tax collector to contract
4 for the collection of delinquent personal property taxes;
5 providing that the costs of collection may be added to the
6 amount owed by the taxpayer; providing that collection
7 costs may not be less than 20 percent of the taxes and
8 interest collected from the taxpayer; requiring the tax
9 collector to provide notice of the addition of collection
10 costs in the tax notice; amending s. 197.3635, F.S.;
11 conforming provisions to changes made by the act; amending
12 s. 192.0105, F.S.; conforming a cross-reference; providing
13 an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 197.413, Florida Statutes, is amended to
18 read:

19 197.413 Delinquent personal property taxes; legal
20 proceedings; ~~warrants; court order for levy and seizure of~~
21 ~~personal property; seizure; fees and costs of tax collectors.--~~

22 (1) Before ~~Prior to~~ May 1 of each year immediately
23 following the year of assessment, the tax collector shall prepare
24 a list of the unpaid personal property taxes containing the names
25 and addresses of the taxpayers and the property subject to the
26 tax as the same appear on the tax roll. Before ~~Prior to~~ April 30
27 of the next year, the tax collector shall prepare warrants
28 against the delinquent taxpayers providing for the levy upon, and
29 seizure of, tangible personal property. The cost of advertising

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30 delinquent tax shall be added to the delinquent taxes at the time
31 of advertising. The tax collector is not required to issue
32 warrants if delinquent taxes are less than \$50. However, such
33 taxes ~~shall~~ remain due and payable.

34 (2) Within 30 days after the date the ~~such~~ warrants are
35 prepared, the tax collector shall file ~~cause the filing of~~ a
36 petition in the circuit court for the county in which the tax
37 collector serves, which ~~petition shall~~ briefly describes ~~describe~~
38 the levies and nonpayment of taxes, the issuance of warrants, and
39 proof of the publication of notice as provided ~~for~~ in s. 197.402,
40 and lists ~~shall list~~ the names and addresses of the taxpayers who
41 failed to pay taxes, as the same appear on the assessment roll.
42 The ~~Such~~ petition shall pray for an order ratifying and
43 confirming the issuance of the warrants and directing the tax
44 collector or his or her deputy to levy upon and seize the
45 tangible personal property of each delinquent taxpayer to satisfy
46 the unpaid taxes set forth in the petition. This proceeding is
47 specifically provided to safeguard the constitutional rights of
48 the taxpayers in relation to their tangible personal property and
49 to allow the tax collector sufficient time to collect the ~~such~~
50 delinquent personal property taxes before the filing of petitions
51 in the circuit court and shall be conducted with these objectives
52 in mind.

53 ~~(3) The tax collector may employ counsel, and agree upon~~
54 ~~the counsel's compensation, for conducting such suit or suits and~~
55 ~~may pay such compensation out of the general office expense fund~~
56 ~~and include such item in the budget.~~

57 (3)(4) Immediately upon the filing of the ~~such~~ petition,
58 the tax collector shall request the earliest possible time for

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59 | hearing before the circuit court on the petition, at which
60 | hearing the tax roll shall be presented and the tax collector or
61 | ~~one of~~ his or her deputy ~~deputies~~ shall appear to testify under
62 | oath as to the nonpayment of the personal property taxes listed
63 | in the petition.

64 | (4)~~(5)~~ Upon the filing of the ~~such~~ petition, the clerk of
65 | the court shall notify each delinquent taxpayer listed in the
66 | petition that a petition has been filed and that upon
67 | ratification and confirmation of the petition, the tax collector
68 | ~~may will be authorized to~~ issue warrants and levy upon, seize,
69 | and sell so much of the taxpayer's tangible personal property as
70 | to satisfy the delinquent taxes, plus costs, interest, attorney's
71 | fees, and other charges. The ~~Such~~ notice shall be given by
72 | certified mail, return receipt requested.

73 | (5)~~(6)~~ If ~~it appears to~~ the circuit court determines that
74 | the taxes that appear on the tax roll are unpaid, the court shall
75 | issue an ~~its~~ order directing the tax collector or his or her
76 | deputy to levy upon and seize so much of the tangible personal
77 | property of the taxpayers who are listed in the petition as is
78 | necessary to satisfy the unpaid taxes, costs, interest,
79 | attorney's fees, and other charges.

80 | (6)~~(7)~~ The court shall retain jurisdiction over the matters
81 | raised in the petition in order to hear the ~~such~~ objections of
82 | taxpayers to the levy and seizure of their tangible personal
83 | property ~~as may be warranted under the statutes and laws of the~~
84 | ~~state.~~

85 | (7)~~(8)~~ A tax warrant issued by the tax collector for the
86 | collection of tangible personal property ~~taxes~~ shall, after the
87 | court has issued its order as set forth in subsection (5) ~~(6)~~,

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88 have the same force as a writ of garnishment upon any person who
89 has any goods, moneys, chattels, or effects of the delinquent
90 taxpayer in his or her hands, possession, or control or who is
91 indebted to the ~~such~~ delinquent taxpayer.

92 ~~(8)-(9)~~ If a ~~When any~~ tax warrant is levied upon any debtor
93 or person holding property of the delinquent taxpayer, the debtor
94 or person must ~~shall~~ pay the debt or deliver the property of the
95 ~~delinquent~~ taxpayer to the tax collector levying the warrant, and
96 the receipt of payment or property by the tax collector shall be
97 complete discharge to the ~~that~~ extent of that ~~the~~ debtor or
98 person holding the property. The tax collector shall make note of
99 the levy upon the tax warrant.

100 ~~(9)-(10)~~ The tax collector is entitled to a fee of \$2 from
101 each delinquent taxpayer at the time delinquent taxes are
102 collected. The tax collector is also entitled to receive an
103 additional \$8 for each warrant issued.

104 (10) The tax collector may contract with a private attorney
105 or law firm to conduct the legal proceedings described in this
106 section and, as provided in s. 197.332, may be awarded reasonable
107 attorney's fees and court costs in such actions, or may pay the
108 cost of the contract out of the general office expense fund and
109 include such item in the budget.

110 (11) The tax collector may also contract with a private
111 attorney or law firm to collect, by suit or otherwise, delinquent
112 personal property taxes and add the collection costs to the
113 delinquent taxes, interest, and costs owed by each taxpayer and
114 referred to the private attorney or law firm for collection. The
115 private attorney or law firm's compensation shall be negotiated
116 by the tax collector, but may not be less than 20 percent of the

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117 amount of the delinquent taxes and interest collected from each
118 delinquent taxpayer. A tax collector that has entered into a
119 contract for the collection of delinquent taxes must provide
120 notification in the form specified in s. 197.3635, and in any
121 additional tax notice mailed pursuant to s. 197.343, that:

122 (a) Any delinquent tangible personal property tax,
123 interest, and costs may be referred to a private attorney or law
124 firm for collection; and

125 (b) The private attorney or law firm's compensation and
126 other costs, including court costs, may be added to the total
127 amount owed by the delinquent taxpayer and, if added, is part of
128 the underlying personal property tax lien arising under s.
129 197.122(1).

130 Section 2. Paragraph (c) of subsection (10) of section
131 197.3635, Florida Statutes, is amended to read:

132 197.3635 Combined notice of ad valorem taxes and non-ad
133 valorem assessments; requirements.--A form for the combined
134 notice of ad valorem taxes and non-ad valorem assessments shall
135 be produced and paid for by the tax collector. The form shall
136 meet the requirements of this section and department rules and
137 shall be subject to approval by the department. By rule the
138 department shall provide a format for the form of such combined
139 notice. The form shall meet the following requirements:

140 (10) It shall provide instructions and useful information
141 to the taxpayer. Such information and instructions shall be
142 nontechnical to minimize confusion. The information and
143 instructions required by this section shall be provided by
144 department rule and shall include:

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145 (c) Notification about delinquency and interest for
146 delinquent payment, and the addition of any collection costs if
147 required under s. 197.413(11).

148 Section 3. Paragraph (j) of subsection (1) of section
149 192.0105, Florida Statutes, is amended to read:

150 192.0105 Taxpayer rights.--There is created a Florida
151 Taxpayer's Bill of Rights for property taxes and assessments to
152 guarantee that the rights, privacy, and property of the taxpayers
153 of this state are adequately safeguarded and protected during tax
154 levy, assessment, collection, and enforcement processes
155 administered under the revenue laws of this state. The Taxpayer's
156 Bill of Rights compiles, in one document, brief but comprehensive
157 statements that summarize the rights and obligations of the
158 property appraisers, tax collectors, clerks of the court, local
159 governing boards, the Department of Revenue, and taxpayers.
160 Additional rights afforded to payors of taxes and assessments
161 imposed under the revenue laws of this state are provided in s.
162 213.015. The rights afforded taxpayers to assure that their
163 privacy and property are safeguarded and protected during tax
164 levy, assessment, and collection are available only insofar as
165 they are implemented in other parts of the Florida Statutes or
166 rules of the Department of Revenue. The rights so guaranteed to
167 state taxpayers in the Florida Statutes and the departmental
168 rules include:

169 (1) THE RIGHT TO KNOW.--

170 (j) The right to be mailed notice when a petition has been
171 filed with the court for an order to seize and sell property and
172 the right to be mailed notice, and to be served notice by the
173 sheriff, before the date of sale, that application for tax deed

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174 | has been made and property will be sold unless back taxes are
175 | paid (see ss. 197.413 ~~197.413(5)~~, 197.502(4)(a), and
176 | 197.522(1)(a) and (2)).

177 | Section 4. This act shall take effect July 1, 2008.