

By Senator Norman

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1 A bill to be entitled
2 An act relating to the enforcement of county and
3 municipal codes and ordinances; amending s. 162.12,
4 F.S.; authorizing notices relating to a code violation
5 to be sent by certified mail to the property owner at
6 an address provided to the local government for the
7 purposes of receiving notices or to the registered
8 agent of a corporation for property owned by a
9 corporation; deleting a requirement for such notices
10 to be sent by first-class mail; amending s. 162.21,
11 F.S.; authorizing a code enforcement officer to
12 immediately issue a citation for a code violation if
13 the violator is engaged in violations of an itinerant
14 or transient nature; amending s. 173.01, F.S.;
15 authorizing a municipality or its assignee to
16 foreclose on an abatement assessment lien against real
17 property; amending s. 173.03, F.S.; authorizing a
18 foreclosure for an abatement assessment lien after the
19 conclusion of proceedings to challenge the lien or
20 after a certain period after the lien is recorded in
21 the official records; making grammatical and technical
22 changes; amending s. 173.04, F.S.; authorizing a
23 municipality or its assignee to enforce an abatement
24 assessment lien in circuit court by a bill in chancery
25 that describes the delinquent lien and the lands to
26 which the lien applies; making grammatical and
27 technical changes; creating s. 173.16, F.S.;
28 authorizing a municipality to assign an abatement
29 assessment lien to a private party under certain

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30 circumstances; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 162.12, Florida Statutes, is amended to
35 read:

36 162.12 Notices.—

37 (1) All notices required by this part shall be provided to
38 the alleged violator by:

39 (a) Certified mail, return receipt requested to, ~~provided~~
40 ~~if such notice is sent under this paragraph to the owner of the~~
41 ~~property in question at the address listed in the tax~~
42 ~~collector's office for tax notices~~ or to, ~~and at~~ any other
43 address provided by the property owner in writing to the local
44 government for the purposes of receiving notices. For property
45 owned by a corporation, notices may be provided by certified
46 mail, return receipt requested, to the registered agent of the
47 corporation. If any notice sent by certified mail by such owner
48 and is not signed as received within 30 days after the date of
49 mailing returned as unclaimed or refused, notice may be provided
50 by posting as described in subparagraphs (2) (b)1. and 2. and by
51 first class mail directed to the addresses furnished to the
52 local government with a properly executed proof of mailing or
53 affidavit confirming the first class mailing;

54 (b) Hand delivery by the sheriff or other law enforcement
55 officer, code inspector, or other person designated by the local
56 governing body;

57 (c) Leaving the notice at the violator's usual place of
58 residence with any person residing therein who is above 15 years

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59 of age and informing such person of the contents of the notice;
60 or

61 (d) In the case of commercial premises, leaving the notice
62 with the manager or other person in charge.

63 (2) In addition to providing notice as set forth in
64 subsection (1), at the option of the code enforcement board,
65 notice may also be served by publication or posting, as follows:

66 (a)1. Such notice shall be published once during each week
67 for 4 consecutive weeks (four publications being sufficient) in
68 a newspaper of general circulation in the county where the code
69 enforcement board is located. The newspaper shall meet such
70 requirements as are prescribed under chapter 50 for legal and
71 official advertisements.

72 2. Proof of publication shall be made as provided in ss.
73 50.041 and 50.051.

74 (b)1. In lieu of publication as described in paragraph (a),
75 such notice may be posted at least 10 days prior to the hearing,
76 or prior to the expiration of any deadline contained in the
77 notice, in at least two locations, one of which shall be the
78 property upon which the violation is alleged to exist and the
79 other of which shall be, in the case of municipalities, at the
80 primary municipal government office, and in the case of
81 counties, at the front door of the courthouse or the main county
82 governmental center in said county.

83 2. Proof of posting shall be by affidavit of the person
84 posting the notice, which affidavit shall include a copy of the
85 notice posted and the date and places of its posting.

86 (c) Notice by publication or posting may run concurrently
87 with, or may follow, an attempt or attempts to provide notice by

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88 hand delivery or by mail as required under subsection (1).

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90 Evidence that an attempt has been made to hand deliver or mail
91 notice as provided in subsection (1), together with proof of
92 publication or posting as provided in subsection (2), is ~~shall~~
93 ~~be~~ sufficient to show that the notice requirements of this part
94 have been met, without regard to whether or not the alleged
95 violator actually received such notice.

96 Section 2. Subsection (3) of section 162.21, Florida
97 Statutes, is amended to read:

98 162.21 Enforcement of county or municipal codes or
99 ordinances; penalties.—

100 (3) (a) A code enforcement officer is authorized to issue a
101 citation to a person when, based upon personal investigation,
102 the officer has reasonable cause to believe that the person has
103 committed a civil infraction in violation of a duly enacted code
104 or ordinance and that the county court will hear the charge.

105 (b) Prior to issuing a citation, a code enforcement officer
106 shall provide notice to the person that the person has committed
107 a violation of a code or ordinance and shall establish a
108 reasonable time period within which the person must correct the
109 violation. Such time period shall be no more than 30 days. If,
110 upon personal investigation, a code enforcement officer finds
111 that the person has not corrected the violation within the time
112 period, a code enforcement officer may issue a citation to the
113 person who has committed the violation. A code enforcement
114 officer does not have to provide the person with a reasonable
115 time period to correct the violation prior to issuing a citation
116 and may immediately issue a citation if:

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- 117 1. A repeat violation is found; ~~or~~
- 118 2. ~~If~~ The code enforcement officer has reason to believe
- 119 that the violation presents a serious threat to the public
- 120 health, safety, or welfare, or if the violation is irreparable
- 121 or irreversible; or
- 122 3. The violator is engaged in violations of an itinerant or
- 123 transient nature, as defined in the local code or ordinance.
- 124 (c) A citation issued by a code enforcement officer shall
- 125 be in a form prescribed by the county or the municipality and
- 126 shall contain:
- 127 1. The date and time of issuance.
- 128 2. The name and address of the person to whom the citation
- 129 is issued.
- 130 3. The date and time the civil infraction was committed.
- 131 4. The facts constituting reasonable cause.
- 132 5. The number or section of the code or ordinance violated.
- 133 6. The name and authority of the code enforcement officer.
- 134 7. The procedure for the person to follow in order to pay
- 135 the civil penalty or to contest the citation.
- 136 8. The applicable civil penalty if the person elects to
- 137 contest the citation.
- 138 9. The applicable civil penalty if the person elects not to
- 139 contest the citation.
- 140 10. A conspicuous statement that if the person fails to pay
- 141 the civil penalty within the time allowed, or fails to appear in
- 142 court to contest the citation, the person shall be deemed to
- 143 have waived his or her right to contest the citation and that,
- 144 in such case, judgment may be entered against the person for an
- 145 amount up to the maximum civil penalty.

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146 Section 3. Section 173.01, Florida Statutes, is amended to
147 read:

148 173.01 Foreclosure of municipal tax certificates and
149 abatement assessment liens authorized.—The lien of any and all
150 taxes, except those ad valorem taxes collectible by the county
151 tax collector, tax certificates, ~~and~~ special assessments, and
152 abatement assessment liens imposed by any municipality
153 ~~incorporated city or town~~ in the state upon real estate may be
154 foreclosed by such municipality or its assignees ~~city or town~~ by
155 suit in chancery. The practice, pleading, and procedure in any
156 such suit must ~~shall~~ be in substantial accordance with the
157 practice, pleading, and procedure for the foreclosure of
158 mortgages of real estate, except as herein otherwise provided.

159 Section 4. Section 173.03, Florida Statutes, is amended to
160 read:

161 173.03 Conditions determining when suit may be brought;
162 lands and claims included.—

163 (1) Suit may be brought at any time after any one or more
164 of the following events, respectively:

165 (a) After the expiration of 2 years from the date of any
166 tax certificate issued and held by a municipality ~~city or town~~
167 whose charter provides for or requires the issuing of tax
168 certificates for delinquent taxes;

169 (b) After the expiration of 2 years from the date any tax
170 becomes delinquent which was imposed by a municipality ~~city or~~
171 ~~town~~ whose charter does not provide for or require the issuing
172 of tax certificates; ~~or~~

173 (c) After the expiration of 1 year from the date any
174 special assessment or installment thereof becomes due and

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175 payable; or

176 (d) After the expiration of 1 year from the date of
 177 recording of an abatement assessment lien in the public records
 178 of the county where the property is located or upon the
 179 conclusion of any administrative or judicial proceeding
 180 challenging the lien, whichever is later.

181 (2) The suit may include ~~There may be included in any suit~~
 182 all or any part of the lands upon which tax certificates have
 183 been outstanding, ~~or~~ taxes have remained delinquent, ~~or~~ any
 184 special assessment or installment thereof ~~shall~~ have been in
 185 default, or an abatement assessment lien has been unsatisfied
 186 for the respective periods specified in subsection (1). The suit
 187 may also include ~~aforsaid, and there may be included therein~~
 188 all claims and demands of the municipality ~~said city or town~~
 189 against the ~~said~~ lands or any part thereof for taxes, tax
 190 certificates, and special assessments or installments thereof
 191 which may be due and payable to the municipality ~~such city or~~
 192 ~~town~~ at the time of the institution of the ~~such~~ suit.

193 Section 5. Subsection (1) of section 173.04, Florida
 194 Statutes, is amended to read:

195 173.04 Procedure for bringing foreclosure suit; certificate
 196 of attorney as to notice of suit; jurisdiction obtained by
 197 publication of notice of suit; form of notice.—

198 (1) Any suit ~~hereby~~ authorized by this chapter shall be
 199 commenced by bill in chancery in the circuit court of the county
 200 in which the municipality ~~such city or town~~ is situated. The
 201 suit may be brought by the municipality or an assignee of the
 202 municipality to enforce the, ~~in the name of the city or town~~
 203 ~~whose~~ taxes, tax certificates, and special assessments, and

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204 ~~abatement assessment liens that are sought to be enforced, as~~
205 ~~complainant, and against any or all lands upon which any taxes,~~
206 ~~tax certificates and special assessments are delinquent (as the~~
207 ~~ease may be) for the periods described in s. 173.03(1). The~~
208 ~~period aforesaid, as defendant, in which bill in chancery must~~
209 ~~there shall be briefly describe~~ described ~~the levy or imposition~~
210 ~~and nonpayment of taxes, and special assessments, or abatement~~
211 ~~assessments that which are delinquent for the period aforesaid,~~
212 ~~and of all other taxes and special assessments then due and~~
213 ~~payable to said city or town and sought to be recovered in such~~
214 ~~bill, the lands proceeded against, and the amount chargeable to~~
215 ~~each parcel or tract. It is shall be unnecessary to name in such~~
216 ~~bill or proceedings any person owning or having any interest in~~
217 ~~or lien upon such lands as defendants. At least 30 days before~~
218 ~~prior to~~ the filing of any such bill in chancery, written notice
219 of intention to file the same shall be sent by registered mail
220 to the last known address of the holder of the record title and
221 to the holder of record of each mortgage or other lien, except
222 judgment liens, upon each tract of land to be included in said
223 bill in chancery; such notice shall briefly describe the
224 particular lot or parcel of land, shall state the amount of tax
225 certificate and special assessment liens sought to be enforced,
226 and shall warn the ~~said~~ owner and holders of liens, mortgages,
227 or other liens that on or after the day therein named said bill
228 in chancery to enforce the same will be filed, unless paid on or
229 before said date.

230 Section 6. Section 173.16, Florida Statutes, is created to
231 read:

232 173.16 Assignment of abatement assessment liens to a

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233 private party.-A municipality that imposes a lien against real
234 property for the assessment of costs to abate conditions on the
235 property which pose a threat to the public health, safety, and
236 welfare may assign the lien to a private party for consideration
237 if the lien has been recorded in the official records in the
238 county in which the property is located.

239 Section 7. This act shall take effect July 1, 2011.