

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/SB 734

INTRODUCER: Community Affairs Committee and Senator Bogdanoff

SUBJECT: Tax Deeds

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.	Tell	Hrdlicka	CM	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This CS authorizes tax collector reimbursement for the cost of electronic deed application services.

This CS substantially amends s. 197.502, F.S.

II. Present Situation:

Tax Collections, Sales and Liens

Chapter 197, F.S., governs tax collections, sales, and liens.

The Florida tax certificate and tax deed processes are administered in the manner explained below:

Notice of tax owed on property

Pursuant to s. 197.322, F.S., the tax collector will send a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls. The notice states the current amount due and advises the taxpayer of discounts provided for early

payment, and that delinquent taxes are outstanding.¹ This normally occurs on November 1. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent.² An additional tax notice is sent, electronically or by postal mail, by April 30 to each taxpayer whose payment has not been received, notifying these taxpayers that a tax certificate on the property will be sold for delinquent taxes that are not paid.³

Tax certificate auction

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes⁴ which “shall be awarded to the person who will pay the taxes, interest, costs, and charges and will demand the lowest rate of interest, not in excess of the maximum rate of interest allowed by this chapter.”⁵ A tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.⁶ Tax certificates that are not sold are issued to the county at the maximum interest rate (18 percent). A tax certificate is a first lien on property which is superior to all other liens. A person who purchases a tax certificate does not acquire any property rights to the property on which the certificate applies.⁷

In 2003, s. 197.432, F.S., was amended to permit tax collectors to conduct tax certificate sales through electronic means.⁸ Since that time, many tax collectors have begun conducting tax certificate sales through Internet websites. To participate in an online tax certificate sale, bidders merely register with the county tax collector. At the time the sale begins, the bidder can use the Internet website to bid on available tax certificates.

Tax certificate redemption

Any person may redeem a tax certificate at any time after the certificate is issued and before a tax deed is issued or the property is placed on the list of lands available for sale.⁹ The person redeeming a tax certificate shall pay the tax collector the face amount plus all interest, costs, and charges as well as a fee of \$6.25 for each tax certificate redeemed.¹⁰

Filing by tax-certificate owner of an application for a tax deed

The holder of a tax certificate, at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation¹¹ of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the

¹ Section 197.322 (1), F.S. *See also* s. 197.222, F.S., for taxpayers who elect to prepay their taxes by installment “based upon the estimated tax equal to the actual taxes levied upon the subject property in the prior year.”

² Section 197.333, F.S.

³ Section 197.343, F.S.

⁴ Section 197.432(1), F.S.

⁵ Section 197.432(6), F.S.

⁶ Section 197.432(5), F.S.

⁷ Section 197.102, F.S.; *see also* s. 197.432(2), F.S.

⁸ Chapter 2003-22 ss. 1-2, L.O.F.; HB 267 (2003).

⁹ “Any person” has been construed to mean land owners or others who have a legal or valid interest in the land which is subject to a tax lien. *See generally Culmer v. Office Realty Co.*, 137 Fla. 675, 189 So. 52 (1939).

¹⁰ Section 197.472, F.S.; *see also* 52 Fla. Jur 2d Taxation s. 1742 *Redemption* (2011).

¹¹ Section 197.482, F.S. “If a tax deed has not been applied for, and no other administrative or legal proceeding, including a bankruptcy, has existed of record, the tax certificate is null and void and shall be canceled.”

property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75.¹²

Tax deed auction

Following the filing of an application for a tax deed, real property which has been advertised for sale may be sold at a public auction by the Clerk of Court of the county where the property is located.¹³

However, the certificate holder, by virtue of filing an application for a tax deed, places the opening bid at the auction. The opening bid is the amount required to redeem the tax certificate, in addition to the amounts paid by the holder to the clerk in charges for costs of sale, redemption of other tax certificates on the same property, and all other costs to the applicant for tax deed, plus interest at the rate of 1.5 percent per month from the month after the date of application for the deed through the month of sale and costs incurred for the service of notice.¹⁴

Any party is able to place a bid at the public auction. If there are no higher bids, the property shall be sold to the certificate holder, who shall pay to the clerk any amounts included in the minimum bid, the documentary stamp tax, and recording fees due.¹⁵

After payment to the Clerk of Court, a tax deed shall be issued and recorded by the Clerk.¹⁶ Anyone that is granted a tax deed is entitled to the immediate possession of the lands described in the deed.¹⁷

County-held certificate for which there are no bidders

On county-held certificates in which the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on a list entitled “lands available for taxes.”¹⁸ Property that is placed on the list of lands available for sale, and is not sold 3 years after the public auction, escheats to the county in which the property is located, free and clear of all liens.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 197.502, F.S., to allow tax collectors to charge for the cost of providing electronic tax deed application services, if applicable.

Section 2 provides that this CS shall take effect upon becoming a law.

¹² Section 197.502, F.S.

¹³ Section 197.542(1), F.S.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Section 197.562, F.S.

¹⁸ Section 197.502(7), F.S.

¹⁹ Section 197.502(8), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Tax certificate holders that are applying for a tax deed with the county tax collector may be required to pay reimbursement charges for fees paid by the tax collector to vendors providing electronic tax deed application services.

Tax certificate holders that are applying for a tax deed with a county tax collector that offers electronic tax deed applications may be required to use such electronic tax deed application services.

C. Government Sector Impact:

County tax collectors that offer electronic tax deed application services will be able to charge applicants to recover reimbursement for fees paid to vendors providing electronic tax deed application services, and can require tax deed applicants to utilize the electronic tax deed application services that they provide.

The Department of Revenue (DOR) indicated that the original bill does not have a significant fiscal impact on their operations. The passage of this CS may require the DOR to amend Administrative Rule 12D-13.060.²⁰

VI. Technical Deficiencies:

None.

²⁰ Department of Revenue, *Senate Bill 734 Bill Analysis* (Nov. 18, 2011). On file with the Senate Committee on Commerce and Tourism.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 12, 2012
The CS makes technical changes to the language of the bill.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
