

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 Community Affairs Committee

BILL: SB 734

INTRODUCER: Senator Bogdanoff

SUBJECT: Tax Deeds

DATE: January 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Pre-meeting
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill authorizes a tax collector to charge an additional processing fee for applications for a tax deed that are submitted through the Internet.

This bill substantially amends section 197.502, of the Florida Statutes.

II. Present Situation:

Tax Collections, Sales and Liens

Chapter 197, Florida Statutes, governs tax collections, sales, and liens. 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 amount due and advises the taxpayer of discounts provided for early payment.¹ This normally occurs around 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 in full.³

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 taxes which “shall be

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.

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.”⁴ A tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.⁵ Tax certificates that are not sold are issued to the county at the maximum interest rate (18%). 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.⁶

In 2003, s. 197.432, F.S., was amended to permit tax collectors to conduct tax certificate sales through electronic means.⁷ Since that time, many tax collectors have begun conducting tax certificate sales “online” 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.⁸

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. 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.⁹

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 cancellation of the certificate may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75.¹⁰

If 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.”¹¹ Property that is placed on the list of lands available for sale, and is not sold three years after the public auction, escheats to the county in which the property is located, free and clear of all liens.¹² A tax certificate that is not redeemed or for which a tax deed has not been applied for after a period of seven years is considered to be null and void.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 197.502, F.S., and provides that if an application for obtaining tax deed by holder of tax sale certificate is submitted through the Internet, the tax collector may charge an

⁴ Section 197.432 (6), F.S.

⁵ Section 197.432 (5), F.S.

⁶ Section 197.122, F.S., see also s. 197.432, F.S.

⁷ Chapter 2003-22, L.O.F.; HB 267 (2003)

⁸ Although a bidder can log on from any computer with Internet access, section 197.432(16), F.S., requires that the tax collector provide computer terminals for use by the public.

⁹ Section 197.472, F.S.

¹⁰ Section 197.502, F.S.

¹¹ Section 197.502 (7), F.S.

¹² Section 197.502(8), F.S.

¹³ Section 197.482, F.S.

additional processing fee equal to the tax collector's additional costs of providing tax deed application services online.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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 legislation may require the Department to amend Administrative Rule 12D-13.060.¹⁴

The DOR recommends for consistency that the word “internet” be changed to “electronic means,” and “online” be changed to “electronically.”

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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

¹⁴¹⁴ Department of Revenue, Senate Bill 734 Fiscal Analysis (Nov. 18, 2011) (on file with the Senate Committee on Community Affairs).