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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2014	.	
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	.	
	.	

The Committee on Judiciary (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 40.32, Florida
Statutes, is amended to read:

40.32 Clerks to disburse money; payments to jurors and
witnesses.—

(3) Jurors and witnesses shall be paid by the clerk of the
court ~~either~~ in cash, by check, or by warrant within 20 days
after completion of jury service or ~~of~~ completion of service as



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12 a witness.

13 (a) ~~If Whenever~~ the clerk of the court pays a juror or
14 witness by cash, the juror or witness shall sign the payroll in
15 the presence of the clerk, a deputy clerk, or some other person
16 designated by the clerk.

17 (b) ~~If Whenever~~ the clerk pays a juror or witness by
18 warrant, he or she shall endorse on the payroll opposite the
19 juror's or witness's name the words "Paid by warrant," giving
20 the number and date of the warrant.

21 Section 2. Section 77.27, Florida Statutes, is amended to
22 read:

23 77.27 No appeal until fees are paid.—If the writ is
24 dismissed or plaintiff fails to sustain his or her claim, an ~~no~~
25 appeal from the judgment is not ~~shall be~~ permitted until the
26 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~
27 court.

28 Section 3. Section 77.28, Florida Statutes, is amended to
29 read:

30 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,
31 expenses; deposit required.—Before issuance of any writ of
32 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~
33 ~~the registry of the court which shall be paid~~ to the garnishee
34 on the garnishee's demand at any time after the service of the
35 writ for the payment or part payment of his or her attorney
36 ~~attorney's~~ fee which the garnishee expends or agrees to expend
37 in obtaining representation in response to the writ. ~~At the time~~
38 ~~of deposit, the clerk shall collect the statutory fee provided~~
39 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~
40 ~~registry of the court.~~ On rendering final judgment, the court



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41 shall determine the garnishee's costs and expenses, including a
42 reasonable attorney ~~attorney's~~ fee, and in the event of a
43 judgment in favor of the plaintiff, the amount is ~~shall be~~
44 subject to offset by the garnishee against the defendant whose
45 property or debt owing is being garnished. In addition, the
46 court shall tax the garnishee's costs and expenses as costs. The
47 plaintiff may recover in this manner the sum advanced by him or
48 her ~~plaintiff and paid into registry of court~~, and, if the
49 amount allowed by the court is greater than the amount paid ~~of~~
50 ~~the deposit~~, together with any offset, judgment for the
51 garnishee shall be entered against the party against whom the
52 costs are taxed for the deficiency.

53 Section 4. Subsection (4) of section 197.432, Florida
54 Statutes, is amended to read:

55 197.432 Sale of tax certificates for unpaid taxes.—

56 (4) A tax certificate representing less than \$250 in
57 delinquent taxes on property that has been granted a homestead
58 exemption for the year in which the delinquent taxes were
59 assessed may not be sold at public auction or by electronic sale
60 as provided in subsection (1) but must be issued by the tax
61 collector to the county at the maximum rate of interest allowed.
62 ~~The provisions of s. 197.4725 or s. 197.502(3) may not be~~
63 ~~invoked if the homestead exemption is granted to the person who~~
64 ~~received the homestead exemption for the year in which the tax~~
65 ~~certificate was issued.~~ However, if all of the outstanding such
66 tax certificates and accrued interest and the current tax
67 certificate represent an amount of \$250 or more, the current tax
68 certificate must be offered for sale pursuant to subsection (1).
69 A county that acquires a tax certificate pursuant to this



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70 subsection may not sell the tax certificate pursuant to s.
71 197.4725 s. 197.502(3) shall be used to determine whether the
72 county must apply for a tax deed.

73 Section 5. Subsection (1) of section 197.472, Florida
74 Statutes, is amended to read:

75 197.472 Redemption of tax certificates.—

76 (1) A Any person may redeem a tax certificate at any time
77 after the certificate is issued and before a tax deed is issued
78 unless full payment for a tax deed is made to the clerk of the
79 court, including documentary stamps and recording fees or the
80 property is placed on the list of lands available for sale. The
81 person redeeming a tax certificate shall pay the tax collector
82 the face amount plus all interest, costs, and charges.

83 Section 6. Subsections (2), (3), and (7) of section
84 197.502, Florida Statutes, are amended to read:

85 197.502 Application for obtaining tax deed by holder of tax
86 sale certificate; fees.—

87 (2) A certificateholder, other than the county, who makes
88 application for a tax deed shall pay the tax collector at the
89 time of application all amounts required for redemption or
90 purchase of all other outstanding tax certificates, plus
91 interest, any omitted taxes, plus interest, any delinquent
92 taxes, plus interest, and current taxes, if due, covering the
93 property. In addition, the certificateholder shall pay the costs
94 of resale, if applicable, and failure to pay such costs within
95 15 days after notice from the clerk shall result in the clerk's
96 entering the land on a list entitled "lands available for
97 taxes."

98 (3) The county in which the property described in the



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99 certificate is located shall apply for a tax deed on all county-
100 held certificates on property valued at \$5,000 or more on the
101 property appraiser's most recent assessment roll, except
102 deferred payment tax certificates, and may apply for tax deeds
103 on certificates on property valued at less than \$5,000 on the
104 property appraiser's most recent assessment roll. The
105 application shall be made 2 years after April 1 of the year of
106 issuance of the certificates or as soon thereafter as is
107 reasonable. Upon application, the county shall deposit with the
108 tax collector all applicable costs and fees as provided in
109 subsection (1), but may not deposit any money to cover the
110 redemption of other outstanding certificates covering the
111 property. However, a county may not apply for a tax deed on a
112 certificate held by the county if, in the year for which the
113 most recent tax certificate was issued to the county, the value
114 of that tax certificate and the outstanding tax certificates and
115 accrued interest represented an amount of less than \$250 and the
116 homestead exemption was granted to a person who received the
117 exemption for that year.

118 (7) On county-held or individually held certificates for
119 which there are no bidders at the public sale and for which the
120 certificateholder fails to timely pay costs of resale or fails
121 to pay the amounts due for issuance of a tax deed within 15 days
122 after the sale, the clerk shall enter the land on a list
123 entitled "lands available for taxes" and shall immediately
124 notify the county commission ~~and all other persons holding~~
125 ~~certificates against the property~~ that the property is
126 available. During the first 90 days after the property is placed
127 on the list, the county may purchase the land for the opening



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128 bid or may waive its rights to purchase the property.
129 Thereafter, any person, the county, or any other governmental
130 unit may purchase the property from the clerk, without further
131 notice or advertising, for the opening bid, except that if the
132 county or other governmental unit is the purchaser for its own
133 use, the board of county commissioners may cancel omitted years'
134 taxes, as provided under s. 197.447. ~~If the county does not~~
135 ~~elect to purchase the property, the county must notify each~~
136 ~~legal titleholder of property contiguous to the property~~
137 ~~available for taxes, as provided in paragraph (4)(h), before~~
138 ~~expiration of the 90-day period.~~ Interest on the opening bid
139 continues to accrue through the month of sale as prescribed by
140 s. 197.542.

141 Section 7. Subsections (1) and (3) of section 197.542,
142 Florida Statutes, are amended to read:

143 197.542 Sale at public auction.—

144 (1) Real property advertised for sale to the highest bidder
145 as a result of an application filed under s. 197.502 shall be
146 sold at public auction by the clerk of the circuit court, or his
147 or her deputy, of the county where the property is located on
148 the date, at the time, and at the location as set forth in the
149 published notice, which must be during the regular hours the
150 clerk's office is open. The amount required to redeem the tax
151 certificate, plus the amounts paid by the holder to the clerk in
152 charges for costs of sale, redemption of other tax certificates
153 on the same property, and all other costs to the applicant for
154 tax deed, plus interest at the rate of 1.5 percent per month for
155 the period running from the month after the date of application
156 for the deed through the month of sale and costs incurred for



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157 the service of notice provided for in s. 197.522(2), shall be
158 the bid of the certificateholder for the property. If tax
159 certificates exist or if delinquent taxes accrued subsequent to
160 the filing of the tax deed application, the amount required to
161 redeem such tax certificates or pay such delinquent taxes must
162 be included in the minimum bid. However, if the land to be sold
163 is assessed on the latest tax roll as homestead property, the
164 bid of the certificateholder must be increased to include an
165 amount equal to one-half of the assessed value of the homestead
166 property as required by s. 197.502. If there are no higher bids,
167 the property shall be struck off and sold to the
168 certificateholder, who shall pay to the clerk any amounts
169 included in the minimum bid, the documentary stamp tax, the and
170 recording fees, and, if the property is homestead property, the
171 moneys to cover the one-half value of the homestead within 15
172 days after the sale due. Upon payment, a tax deed shall be
173 issued and recorded by the clerk. If the certificateholder fails
174 to make full payment when due, the clerk shall enter the land on
175 a list entitled "lands available for taxes."

176 (3) If the sale is canceled for any reason, or the buyer
177 fails to make full payment within the time required, the clerk
178 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days
179 after the buyer's nonpayment or, if canceled, within 30 days
180 after the clerk receives the costs of resale. The sale shall be
181 held within 30 days after readvertising ~~after the date the sale~~
182 ~~was canceled.~~ Only one advertisement is necessary. The amount of
183 the opening bid shall be increased by the cost of advertising,
184 additional clerk's fees as provided for in s. 28.24(21), and
185 interest as provided for in subsection (1). If, at the



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186 subsequent sale, there are no bidders at the tax deed sale and
187 the certificateholder fails to pay the moneys due within 15 days
188 after the sale, the clerk may not readvertise the sale and shall
189 place the property on a list entitled "lands available for
190 taxes." ~~This process must be repeated until the property is sold~~
191 ~~and the clerk receives full payment or the clerk does not~~
192 ~~receive any bids other than the bid of the certificateholder.~~
193 The clerk must receive full payment before the issuance of the
194 tax deed.

195 Section 8. Subsection (2) of section 197.582, Florida
196 Statutes, is amended, and subsection (3) is added to that
197 section, to read:

198 197.582 Disbursement of proceeds of sale.-

199 (2) If the property is purchased for an amount in excess of
200 the statutory bid of the certificateholder, the excess must be
201 paid over and disbursed by the clerk. If the property purchased
202 is homestead property and the statutory bid includes an amount
203 equal to at least one-half of the assessed value of the
204 homestead, that amount must be treated as excess and distributed
205 in the same manner. The clerk shall distribute the excess to the
206 governmental units for the payment of any lien of record held by
207 a governmental unit against the property, including any tax
208 certificates not incorporated in the tax deed application and
209 omitted taxes, if any. If the excess is not sufficient to pay
210 all of such liens in full, the excess shall be paid to each
211 governmental unit pro rata. If, after all liens of governmental
212 units are paid in full, there remains a balance of undistributed
213 funds, the balance shall be retained by the clerk for the
214 benefit of persons described in s. 197.522(1)(a), except those



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215 persons described in s. 197.502(4)(h), as their interests may
216 appear. The clerk shall mail notices to such persons notifying
217 them of the funds held for their benefit. Such notice
218 constitutes compliance with the requirements of s. 717.117(4).
219 Any service charges, at the rate prescribed in s. 28.24(10), and
220 costs of mailing notices shall be paid out of the excess balance
221 held by the clerk. Excess proceeds shall be held and disbursed
222 in the same manner as unclaimed redemption moneys in s. 197.473.
223 For purposes of identifying unclaimed property pursuant to s.
224 717.113, excess proceeds shall be presumed payable or
225 distributable on the date the notice is sent. If excess proceeds
226 are not sufficient to cover the service charges and mailing
227 costs, the clerk shall receive the total amount of excess
228 proceeds as a service charge.

229 (3) If unresolved claims against the property exist on the
230 date the property is purchased, the clerk shall ensure that the
231 excess funds are paid according to the priorities of the claims.
232 If a lien appears to be entitled to priority and the lienholder
233 has not made a claim against the excess funds, payment may not
234 be made on any lien that is junior in priority. If potentially
235 conflicting claims to the funds exist, the clerk may initiate an
236 interpleader action against the lienholders involved, and the
237 court shall determine the proper distribution of the
238 interpleaded funds. The clerk may move the court for an award of
239 reasonable fees and costs from the interpleaded funds.

240 Section 9. This act shall take effect July 1, 2014.

241
242 ===== T I T L E A M E N D M E N T =====

243 And the title is amended as follows:



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244 Delete everything before the enacting clause
245 and insert:

246 A bill to be entitled
247 An act relating to clerks of court; amending s. 40.32,
248 F.S.; authorizing jurors and witnesses to be paid by
249 check; amending s. 77.27, F.S.; conforming a provision
250 to changes made by the act; amending s. 77.28, F.S.;
251 requiring a party applying for garnishment to pay a
252 deposit to the garnishee, rather than in the registry
253 of the court; deleting a provision that requires the
254 clerk to collect a specified fee; amending s. 197.432,
255 F.S.; providing requirements for the sale of tax
256 certificates; amending s. 197.472, F.S.; revising
257 requirements for the redemption of tax certificates;
258 amending s. 197.502, F.S.; requiring the
259 certificateholder to pay costs of resale within 15
260 days under certain circumstances; providing
261 circumstances under which land shall be placed on a
262 specified list; prohibiting a county from applying for
263 a tax deed under certain circumstances; deleting a
264 provision relating to a notification procedure;
265 amending s. 197.542, F.S.; requiring the
266 certificateholder to pay a specified amount of the
267 assessed value of the homestead under certain
268 circumstances; providing circumstances under which
269 land shall be placed on a specified list; amending s.
270 197.582, F.S.; clarifying notice requirements;
271 providing for excess proceeds relating to unclaimed
272 property; requiring the clerk to ensure that excess



273 funds are paid according to specified priorities;
274 providing for interpleader actions and the award of
275 reasonable fees and costs; providing an effective
276 date.