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576-03654-14

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to clerks of court; amending s. 40.32, F.S.; authorizing jurors and witnesses to be paid by check; amending s. 77.27, F.S.; conforming a provision to changes made by the act; amending s. 77.28, F.S.; requiring a party applying for garnishment to pay a deposit to the garnishee, rather than in the registry of the court; deleting a provision that requires the clerk to collect a specified fee; amending s. 197.432, F.S.; providing requirements for the sale of tax certificates; amending s. 197.472, F.S.; revising requirements for the redemption of tax certificates; amending s. 197.502, F.S.; requiring the certificateholder to pay costs of resale within 30 days under certain circumstances; providing circumstances under which land shall be placed on a specified list; deleting a provision relating to a notification procedure; amending s. 197.542, F.S.; requiring the certificateholder to pay a specified amount of the assessed value of the homestead under certain circumstances; providing circumstances under which land shall be placed on a specified list; amending s. 197.582, F.S.; clarifying notice requirements; providing for excess proceeds relating to unclaimed property; requiring the clerk to ensure that excess funds are paid according to specified priorities; providing for interpleader actions and the



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28           award of reasonable fees and costs; providing an  
29           effective date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

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

35           40.32 Clerks to disburse money; payments to jurors and  
36 witnesses.—

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

41           (a) ~~If Whenever~~ the clerk of the court pays a juror or  
42 witness by cash, the juror or witness shall sign the payroll in  
43 the presence of the clerk, a deputy clerk, or some other person  
44 designated by the clerk.

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

49           Section 2. Section 77.27, Florida Statutes, is amended to  
50 read:

51           77.27 No appeal until fees are paid.—If the writ is  
52 dismissed or plaintiff fails to sustain his or her claim, an ~~no~~  
53 appeal from the judgment is not ~~shall be~~ permitted until the  
54 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~  
55 court.

56           Section 3. Section 77.28, Florida Statutes, is amended to



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57 read:

58 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,  
59 expenses; deposit required. ~~Upon~~ Before issuance of any writ of  
60 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~  
61 ~~the registry of the court which shall be paid~~ to the garnishee  
62 on the garnishee's demand at any time after the service of the  
63 writ for the payment or part payment of his or her attorney  
64 ~~attorney's~~ fee which the garnishee expends or agrees to expend  
65 in obtaining representation in response to the writ. ~~At the time~~  
66 ~~of deposit, the clerk shall collect the statutory fee provided~~  
67 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~  
68 ~~registry of the court.~~ On rendering final judgment, the court  
69 shall determine the garnishee's costs and expenses, including a  
70 reasonable attorney ~~attorney's~~ fee, and in the event of a  
71 judgment in favor of the plaintiff, the amount is ~~shall be~~  
72 subject to offset by the garnishee against the defendant whose  
73 property or debt owing is being garnished. In addition, the  
74 court shall tax the garnishee's costs and expenses as costs. The  
75 plaintiff may recover in this manner the sum advanced by him or  
76 ~~her~~ ~~plaintiff and paid into registry of court,~~ and, if the  
77 amount allowed by the court is greater than the amount paid ~~of~~  
78 ~~the deposit,~~ together with any offset, judgment for the  
79 garnishee shall be entered against the party against whom the  
80 costs are taxed for the deficiency.

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

83 197.432 Sale of tax certificates for unpaid taxes.—

84 (4) A tax certificate representing less than \$250 in  
85 delinquent taxes on property that has been granted a homestead



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86 exemption for the year in which the delinquent taxes were  
87 assessed may not be sold at public auction or by electronic sale  
88 as provided in subsection (1) but must be issued by the tax  
89 collector to the county at the maximum rate of interest allowed.  
90 Section ~~The provisions of s.~~ 197.4725 or s. 197.502(3) may not  
91 be invoked if the homestead exemption is granted to the person  
92 who received the homestead exemption for the year in which the  
93 tax certificate was issued unless any. ~~However, if all~~ such tax  
94 certificates and accrued interest represent an amount of \$250 or  
95 more, ~~s. 197.502(3) shall be used to determine whether the~~  
96 ~~county must apply for a tax deed.~~

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

99 197.472 Redemption of tax certificates.—

100 (1) A ~~Any~~ person may redeem a tax certificate at any time  
101 after the certificate is issued and before a tax deed is issued  
102 unless full payment for a tax deed is made to the clerk of the  
103 court, including documentary stamps and recording fees ~~or the~~  
104 ~~property is placed on the list of lands available for sale.~~ The  
105 person redeeming a tax certificate shall pay the tax collector  
106 the face amount plus all interest, costs, and charges.

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

109 197.502 Application for obtaining tax deed by holder of tax  
110 sale certificate; fees.—

111 (2) A certificateholder, other than the county, who makes  
112 application for a tax deed shall pay the tax collector at the  
113 time of application all amounts required for redemption or  
114 purchase of all other outstanding tax certificates, plus



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115 interest, any omitted taxes, plus interest, any delinquent  
116 taxes, plus interest, and current taxes, if due, covering the  
117 property. In addition, the certificateholder shall pay the costs  
118 of resale, if applicable, and failure to pay such costs within  
119 30 days after notice from the clerk shall result in the clerk's  
120 entering the land on a list entitled "lands available for  
121 taxes."

122 (7) On county-held or individually held certificates for  
123 which there are no bidders at the public sale and for which the  
124 certificateholder fails to timely pay costs of resale or fails  
125 to pay the amounts due for issuance of a tax deed within 30 days  
126 after the sale, the clerk shall enter the land on a list  
127 entitled "lands available for taxes" and shall immediately  
128 notify the county commission ~~and all other persons holding~~  
129 ~~certificates against the property~~ that the property is  
130 available. During the first 90 days after the property is placed  
131 on the list, the county may purchase the land for the opening  
132 bid or may waive its rights to purchase the property.

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



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144 s. 197.542.

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

147 197.542 Sale at public auction.—

148 (1) Real property advertised for sale to the highest bidder  
149 as a result of an application filed under s. 197.502 shall be  
150 sold at public auction by the clerk of the circuit court, or his  
151 or her deputy, of the county where the property is located on  
152 the date, at the time, and at the location as set forth in the  
153 published notice, which must be during the regular hours the  
154 clerk's office is open. The amount required to redeem the tax  
155 certificate, plus the amounts paid by the holder to the clerk in  
156 charges for costs of sale, redemption of other tax certificates  
157 on the same property, and all other costs to the applicant for  
158 tax deed, plus interest at the rate of 1.5 percent per month for  
159 the period running from the month after the date of application  
160 for the deed through the month of sale and costs incurred for  
161 the service of notice provided for in s. 197.522(2), shall be  
162 the bid of the certificateholder for the property. If tax  
163 certificates exist or if delinquent taxes accrued subsequent to  
164 the filing of the tax deed application, the amount required to  
165 redeem such tax certificates or pay such delinquent taxes must  
166 be included in the minimum bid. However, if the land to be sold  
167 is assessed on the latest tax roll as homestead property, the  
168 bid of the certificateholder must be increased to include an  
169 amount equal to one-half of the assessed value of the homestead  
170 property as required by s. 197.502. If there are no higher bids,  
171 the property shall be struck off and sold to the  
172 certificateholder, who shall pay to the clerk any amounts



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173 included in the minimum bid not already paid, including, but not  
174 limited to, the documentary stamp tax, the ~~and~~ recording fees,  
175 and, if the property is homestead property, the moneys to cover  
176 the one-half value of the homestead within 30 days after the  
177 sale due. Upon payment, a tax deed shall be issued and recorded  
178 by the clerk. If the certificateholder fails to make full  
179 payment when due, the clerk shall enter the land on a list  
180 entitled "lands available for taxes."

181 (3) If the sale is canceled for any reason, or the buyer  
182 fails to make full payment within the time required, the clerk  
183 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days  
184 after the buyer's nonpayment or, if canceled, within 30 days  
185 after the clerk receives the costs of resale. The sale shall be  
186 held within 30 days after readvertising after the date the sale  
187 was canceled. Only one advertisement is necessary. The amount of  
188 the opening bid shall be increased by the cost of advertising,  
189 additional clerk's fees as provided for in s. 28.24(21), and  
190 interest as provided for in subsection (1). If, at the  
191 subsequent sale, there are no bidders at the tax deed sale and  
192 the certificateholder fails to pay the moneys due within 30 days  
193 after the sale, the clerk may not readvertise the sale and shall  
194 place the property on a list entitled "lands available for  
195 taxes." This process must be repeated until the property is sold  
196 and the clerk receives full payment or the clerk does not  
197 receive any bids other than the bid of the certificateholder.  
198 The clerk must receive full payment before the issuance of the  
199 tax deed.

200 Section 8. Subsection (2) of section 197.582, Florida  
201 Statutes, is amended, and subsection (3) is added to that



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202 section, to read:

203 197.582 Disbursement of proceeds of sale.—

204 (2) If the property is purchased for an amount in excess of  
205 the statutory bid of the certificateholder, the excess must be  
206 paid over and disbursed by the clerk. If the property purchased  
207 is homestead property and the statutory bid includes an amount  
208 equal to at least one-half of the assessed value of the  
209 homestead, that amount must be treated as excess and distributed  
210 in the same manner. The clerk shall distribute the excess to the  
211 governmental units for the payment of any lien of record held by  
212 a governmental unit against the property, including any tax  
213 certificates not incorporated in the tax deed application and  
214 omitted taxes, if any. If the excess is not sufficient to pay  
215 all of such liens in full, the excess shall be paid to each  
216 governmental unit pro rata. If, after all liens of governmental  
217 units are paid in full, there remains a balance of undistributed  
218 funds, the balance shall be retained by the clerk for the  
219 benefit of persons described in s. 197.522(1)(a), except those  
220 persons described in s. 197.502(4)(h), as their interests may  
221 appear. The clerk shall mail notices to such persons notifying  
222 them of the funds held for their benefit. Such notice  
223 constitutes compliance with the requirements of s. 717.117(4).  
224 Any service charges, at the rate prescribed in s. 28.24(10), and  
225 costs of mailing notices shall be paid out of the excess balance  
226 held by the clerk. Excess proceeds shall be held and disbursed  
227 in the same manner as unclaimed redemption moneys in s. 197.473.  
228 For purposes of identifying unclaimed property pursuant to s.  
229 717.113, excess proceeds shall be presumed payable or  
230 distributable on the date the notice is sent. If excess proceeds





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231 are not sufficient to cover the service charges and mailing  
232 costs, the clerk shall receive the total amount of excess  
233 proceeds as a service charge.

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

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