

By Senator Ring

29-01063-14

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1                                   A bill to be entitled  
2       An act relating to clerks of court; amending s.  
3       28.246, F.S.; providing for default payment plans if  
4       an individual fails to enroll in a payment plan;  
5       providing for length of payment plans; requiring an  
6       individual to file a financial affidavit with the  
7       clerk to establish a payment plan; requiring the  
8       Department of Highway Safety and Motor Vehicles to  
9       suspend an individual's driver license and place a  
10      registration stop on any vehicle owned by an  
11      individual for nonpayment; amending s. 40.32, F.S.;  
12      authorizing jurors and witnesses to be paid by check;  
13      amending s. 77.28, F.S.; requiring a party applying  
14      for garnishment to pay a deposit to the garnishee,  
15      rather than the registry of the court; amending s.  
16      197.432, F.S.; providing that tax certificates on  
17      homesteads may be purchased from the county; amending  
18      s. 197.472, F.S.; deleting a provision relating to the  
19      redemption of tax certificates to conform to changes  
20      made by the act; amending s. 197.502, F.S.; requiring  
21      the certificateholder to pay costs of resale within 15  
22      days if applicable; providing circumstances under  
23      which land shall be placed on a specified list;  
24      amending s. 197.542, F.S.; requiring the  
25      certificateholder to pay a specified amount of the  
26      assessed value of the homestead under certain  
27      circumstances; providing circumstances under which  
28      land shall be placed on a specified list; amending s.  
29      197.582, F.S.; clarifying notice requirements;

29-01063-14

2014788\_\_

30 providing for excess proceeds relating to unclaimed  
31 property; requiring the clerk to ensure that excess  
32 funds are paid according to specified priorities;  
33 amending s. 322.245, F.S.; authorizing the suspension  
34 of vehicle registration for nonpayment of financial  
35 obligations; providing an effective date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Subsection (4) of section 28.246, Florida  
40 Statutes, is amended to read:

41 28.246 Payment of court-related fines or other monetary  
42 penalties, fees, charges, and costs; partial payments;  
43 distribution of funds.—

44 (4) The clerk of the circuit court shall accept partial  
45 payments for court-related fees, service charges, costs, and  
46 fines in accordance with the terms of an established payment  
47 plan. If an individual fails to enroll in a payment plan, the  
48 individual is deemed to have entered into a default payment plan  
49 with full payment due no later than 90 days after the date on  
50 which the individual is ordered to pay any fees, service  
51 charges, costs, or fines or is sent notice of the amount due.

52 (a) Except as provided in paragraph (c), an individual  
53 seeking to defer payment of fees, service charges, costs, or  
54 fines imposed by operation of law or order of the court under  
55 any provision of general law shall apply to the clerk for  
56 enrollment in a payment plan within 30 days after the date on  
57 which the individual receives notice of the amount due. The  
58 individual shall include in the application a financial

29-01063-14

2014788\_\_

59 affidavit reflecting the individual's ability to pay and a  
60 proposed payment plan that is up to 24 months in length. The  
61 clerk shall agree to the proposed payment plan within 10 days  
62 after receiving the plan unless it fails to provide for full  
63 payment of all amounts due.

64 (b) If an individual fails to comply with the terms of a  
65 payment plan, the clerk shall notify the Department of Highway  
66 Safety and Motor Vehicles and the individual of such failure  
67 within 30 days after such failure. Upon receipt of such notice,  
68 the department shall immediately suspend the individual's driver  
69 license and place a registration stop on any vehicle owned by  
70 the individual pursuant to s. 322.245.

71 (c) The clerk shall enter into a payment plan with an  
72 individual who the court determines is indigent for costs. A  
73 monthly payment amount, calculated based upon all fees and all  
74 anticipated costs, is presumed to correspond to the person's  
75 ability to pay if the amount does not exceed 2 percent of the  
76 person's annual net income, as defined in s. 27.52(1), divided  
77 by 12.

78 (d) The court may review the reasonableness of any ~~the~~  
79 payment plan.

80 Section 2. Subsection (3) of section 40.32, Florida  
81 Statutes, is amended to read:

82 40.32 Clerks to disburse money; payments to jurors and  
83 witnesses.—

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

29-01063-14

2014788\_\_

88 (a) If ~~Whenever~~ the clerk of the court pays a juror or  
89 witness by cash, the juror or witness shall sign the payroll in  
90 the presence of the clerk, a deputy clerk, or some other person  
91 designated by the clerk.

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

96 Section 3. Section 77.28, Florida Statutes, is amended to  
97 read:

98 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,  
99 expenses; deposit required.—Before issuance of any writ of  
100 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~  
101 ~~the registry of the court which shall be paid~~ to the garnishee  
102 on the garnishee's demand at any time after the service of the  
103 writ for the payment or part payment of his or her attorney  
104 ~~attorney's~~ fee which the garnishee expends or agrees to expend  
105 in obtaining representation in response to the writ. ~~At the time~~  
106 ~~of deposit, the clerk shall collect the statutory fee provided~~  
107 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~  
108 ~~registry of the court.~~ On rendering final judgment, the court  
109 shall determine the garnishee's costs and expenses, including a  
110 reasonable attorney ~~attorney's~~ fee, and in the event of a  
111 judgment in favor of the plaintiff, the amount is ~~shall be~~  
112 subject to offset by the garnishee against the defendant whose  
113 property or debt owing is being garnished. In addition, the  
114 court shall tax the garnishee's costs and expenses as costs. The  
115 plaintiff may recover in this manner the sum advanced by him or  
116 her ~~plaintiff~~ and paid into registry of court, and if the amount

29-01063-14

2014788\_\_

117 allowed by the court is greater than the amount of the deposit,  
118 together with any offset, judgment for the garnishee shall be  
119 entered against the party against whom the costs are taxed for  
120 the deficiency.

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

123 197.432 Sale of tax certificates for unpaid taxes.—

124 (4) A tax certificate representing less than \$250 in  
125 delinquent taxes on property that has been granted a homestead  
126 exemption for the year in which the delinquent taxes were  
127 assessed may not be sold at public auction or by electronic sale  
128 as provided in subsection (1) but must be issued by the tax  
129 collector to the county at the maximum rate of interest allowed.  
130 Section ~~The provisions of s. 197.4725 or s. 197.502(3)~~ may not  
131 be invoked if the homestead exemption is granted to the person  
132 who received the homestead exemption for the year in which the  
133 tax certificate was issued. However, if all such tax  
134 certificates and accrued interest represent an amount of \$250 or  
135 more, ss. 197.4725 and 197.502(3) ~~s. 197.502(3)~~ shall be invoked  
136 ~~used to determine whether the county must apply for a tax deed.~~

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

139 197.472 Redemption of tax certificates.—

140 (1) A ~~Any~~ person may redeem a tax certificate at any time  
141 after the certificate is issued and before a tax deed is issued  
142 ~~or the property is placed on the list of lands available for~~  
143 ~~sale.~~ The person redeeming a tax certificate shall pay the tax  
144 collector the face amount plus all interest, costs, and charges.

145 Section 6. Subsections (2) and (7) of section 197.502,

29-01063-14

2014788\_\_

146 Florida Statutes, are amended to read:

147       197.502 Application for obtaining tax deed by holder of tax  
148 sale certificate; fees.—

149       (2) A certificateholder, other than the county, who makes  
150 application for a tax deed shall pay the tax collector at the  
151 time of application all amounts required for redemption or  
152 purchase of all other outstanding tax certificates, plus  
153 interest, any omitted taxes, plus interest, any delinquent  
154 taxes, plus interest, and current taxes, if due, covering the  
155 property. In addition, the certificateholder shall pay the costs  
156 of resale, if applicable, and failure to pay such costs within  
157 15 days after notice from the clerk shall result in the clerk's  
158 entering the land on a list entitled "lands available for  
159 taxes."

160       (7) On county-held or individually held certificates for  
161 which there are no bidders at the public sale and the  
162 certificateholder fails to timely pay costs of resale or fails  
163 to pay the amounts due for issuance of a tax deed within 15 days  
164 after the sale, the clerk shall enter the land on a list  
165 entitled "lands available for taxes" and shall immediately  
166 notify the county commission and all other persons holding  
167 certificates against the property that the property is  
168 available. During the first 90 days after the property is placed  
169 on the list, the county may purchase the land for the opening  
170 bid or may waive its rights to purchase the property.  
171 Thereafter, any person, the county, or any other governmental  
172 unit may purchase the property from the clerk, without further  
173 notice or advertising, for the opening bid, except that if the  
174 county or other governmental unit is the purchaser for its own

29-01063-14

2014788\_\_

175 use, the board of county commissioners may cancel omitted years'  
176 taxes, as provided under s. 197.447. If the county does not  
177 elect to purchase the property, the county must notify each  
178 legal titleholder of property contiguous to the property  
179 available for taxes, as provided in paragraph (4) (h), before  
180 expiration of the 90-day period. Interest on the opening bid  
181 continues to accrue through the month of sale as prescribed by  
182 s. 197.542.

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

185 197.542 Sale at public auction.—

186 (1) Real property advertised for sale to the highest bidder  
187 as a result of an application filed under s. 197.502 shall be  
188 sold at public auction by the clerk of the circuit court, or his  
189 or her deputy, of the county where the property is located on  
190 the date, at the time, and at the location as set forth in the  
191 published notice, which must be during the regular hours the  
192 clerk's office is open. The amount required to redeem the tax  
193 certificate, plus the amounts paid by the holder to the clerk in  
194 charges for costs of sale, redemption of other tax certificates  
195 on the same property, and all other costs to the applicant for  
196 tax deed, plus interest at the rate of 1.5 percent per month for  
197 the period running from the month after the date of application  
198 for the deed through the month of sale and costs incurred for  
199 the service of notice provided for in s. 197.522(2), shall be  
200 the bid of the certificateholder for the property. If tax  
201 certificates exist or if delinquent taxes accrued subsequent to  
202 the filing of the tax deed application, the amount required to  
203 redeem such tax certificates or pay such delinquent taxes must

29-01063-14

2014788\_\_

204 be included in the minimum bid. However, if the land to be sold  
205 is assessed on the latest tax roll as homestead property, the  
206 bid of the certificateholder must be increased to include an  
207 amount equal to one-half of the assessed value of the homestead  
208 property as required by s. 197.502. If there are no higher bids,  
209 the property shall be struck off and sold to the  
210 certificateholder, who shall pay to the clerk any amounts  
211 included in the minimum bid, the documentary stamp tax, ~~and~~  
212 recording fees, and, if the property is homestead property, the  
213 moneys to cover the one-half value of the homestead within 15  
214 days after the sale due. Upon payment, a tax deed shall be  
215 issued and recorded by the clerk. If the certificateholder fails  
216 to make full payment when due, the sale is considered canceled,  
217 and the clerk shall enter the land on a list entitled "lands  
218 available for taxes."

219 (3) If the sale is canceled for any reason, ~~or the buyer~~  
220 ~~fails to make full payment within the time required, the clerk~~  
221 ~~shall immediately readvertise the sale to be held within 30 days~~  
222 after the buyer's nonpayment or, if canceled, within 30 days  
223 after the clerk receives the costs of resale. The sale shall be  
224 held within 30 days after readvertising after the date the sale  
225 ~~was canceled.~~ Only one advertisement is necessary. The amount of  
226 the opening bid shall be increased by the cost of advertising,  
227 additional clerk's fees as provided for in s. 28.24(21), and  
228 interest as provided for in subsection (1). If at the subsequent  
229 sale there are no bidders at the tax deed sale and the  
230 certificateholder fails to pay the moneys due within 15 days  
231 after the sale, the clerk may not readvertise the sale and shall  
232 place the property on a list entitled "lands available for



29-01063-14

2014788\_\_

233 ~~taxes." This process must be repeated until the property is sold~~  
234 ~~and the clerk receives full payment or the clerk does not~~  
235 ~~receive any bids other than the bid of the certificateholder.~~  
236 The clerk must receive full payment before the issuance of the  
237 tax deed.

238 Section 8. Subsection (2) of section 197.582, Florida  
239 Statutes, is amended, and subsection (3) is added to that  
240 section, to read:

241 197.582 Disbursement of proceeds of sale.—

242 (2) If the property is purchased for an amount in excess of  
243 the statutory bid of the certificateholder, the excess must be  
244 paid over and disbursed by the clerk. If the property purchased  
245 is homestead property and the statutory bid includes an amount  
246 equal to at least one-half of the assessed value of the  
247 homestead, that amount must be treated as excess and distributed  
248 in the same manner. The clerk shall distribute the excess to the  
249 governmental units for the payment of any lien of record held by  
250 a governmental unit against the property, including any tax  
251 certificates not incorporated in the tax deed application and  
252 omitted taxes, if any. If the excess is not sufficient to pay  
253 all of such liens in full, the excess shall be paid to each  
254 governmental unit pro rata. If, after all liens of governmental  
255 units are paid in full, there remains a balance of undistributed  
256 funds, the balance shall be retained by the clerk for the  
257 benefit of persons described in s. 197.522(1)(a), except those  
258 persons described in s. 197.502(4)(h), as their interests may  
259 appear. The clerk shall mail notices to such persons notifying  
260 them of the funds held for their benefit. Such notice  
261 constitutes compliance with the requirements of s. 717.117(4).

29-01063-14

2014788\_\_

262 Any service charges, at the rate prescribed in s. 28.24(10), and  
263 costs of mailing notices shall be paid out of the excess balance  
264 held by the clerk. Excess proceeds shall be held and disbursed  
265 in the same manner as unclaimed redemption moneys in s. 197.473.  
266 For purposes of identifying unclaimed property pursuant to s.  
267 717.113, excess proceeds shall be presumed payable or  
268 distributable on the date the notice is sent. If excess proceeds  
269 are not sufficient to cover the service charges and mailing  
270 costs, the clerk shall receive the total amount of excess  
271 proceeds as a service charge.

272 (3) If unresolved claims against the property exist on the  
273 date the property is purchased, the clerk shall ensure that the  
274 excess funds are paid according to the priorities of the claims.  
275 If a lien appears to be entitled to priority and the lienholder  
276 has not made a claim against the excess funds, payment may not  
277 be made on any lien that is junior in priority. If potentially  
278 conflicting claims to the funds exist, the clerk shall initiate  
279 an interpleader action against the lienholders involved, and the  
280 court shall determine the proper distribution of the excess  
281 funds. The clerk may move the court for an award of reasonable  
282 fees and costs from the remaining proceeds.

283 Section 9. Subsection (5) of section 322.245, Florida  
284 Statutes, is amended to read:

285 322.245 Suspension of license upon failure of person  
286 charged with specified offense under chapter 316, chapter 320,  
287 or this chapter to comply with directives ordered by traffic  
288 court or upon failure to pay child support in non-IV-D cases as  
289 provided in chapter 61 or failure to pay any financial  
290 obligation in any other criminal case.-

29-01063-14

2014788\_\_

291 (5) (a) If ~~When~~ the department receives notice from a clerk  
292 of the court that a person licensed to operate a motor vehicle  
293 in this state under ~~the provisions of~~ this chapter has failed to  
294 pay financial obligations for any criminal offense other than  
295 those specified in subsection (1), in full or in part under a  
296 payment plan pursuant to s. 28.246(4), the department shall  
297 suspend the license and place a registration stop on any vehicle  
298 owned by ~~of~~ the person named in the notice.

299 (b) The department must reinstate the driving privilege and  
300 remove the registration stop of any vehicle owned by the person  
301 if ~~when~~ the clerk of the court provides an affidavit to the  
302 department stating that:

303 1. The person has satisfied the financial obligation in  
304 full or made all payments currently due under a payment plan;

305 2. The person has entered into a written agreement for  
306 payment of the financial obligation if not presently enrolled in  
307 a payment plan; or

308 3. A court has entered an order granting relief to the  
309 person ordering the reinstatement of the license and removing  
310 the registration stop of any vehicle owned by the person.

311 (c) The department may ~~shall~~ not be held liable for any  
312 license suspension and registration stop placed on any vehicle  
313 owned by the person resulting from the discharge of its duties  
314 under this section.

315 Section 10. This act shall take effect July 1, 2014.