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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2018	.	
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	.	
	.	

The Committee on Community Affairs (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1), (2), (5), and (6) of section
197.502, Florida Statutes, are amended to read:

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

(1) The holder of a tax certificate at any time after 2
years have elapsed since April 1 of the year of issuance of the



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11 tax certificate and before the cancellation of the certificate,
12 may file the certificate and an application for a tax deed with
13 the tax collector of the county where the property described in
14 the certificate is located. The tax collector may charge a tax
15 deed application fee of \$75 and for reimbursement of the costs
16 for providing online tax deed application services. If the tax
17 collector charges a combined fee in excess of \$75, applicants
18 may use ~~shall have the option of using~~ the online electronic tax
19 deed application process or may file applications without using
20 such service.

21 (2) A certificateholder, other than the county, who applies
22 ~~makes application~~ for a tax deed shall pay the tax collector at
23 the time of application all amounts required for redemption or
24 purchase of all other outstanding tax certificates, plus
25 interest, any omitted taxes, plus interest, any delinquent
26 taxes, plus interest, and current taxes, if due, covering the
27 property. In addition, the certificateholder shall pay the costs
28 required to bring the property to sale as provided in ss.
29 197.532 and 197.542, including property information searches and
30 mailing costs, as well as the costs of resale, if applicable. If
31 the certificateholder fails to pay the costs to bring the
32 property to sale within 30 days after notice from the clerk, the
33 tax collector must cancel the tax deed application. All taxes
34 and costs associated with a canceled tax deed application shall
35 earn interest at the bid rate of the certificate on which the
36 tax deed application was based. ~~and~~ Failure to pay the such
37 costs of resale, if applicable, within 30 days after notice from
38 the clerk shall result in the clerk's entering the land on a
39 list entitled "lands available for taxes."



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40 (5) (a) For purposes of determining who must be noticed and
41 provided the information required in subsection (4), the tax
42 collector must ~~may~~ contract with a title company or an abstract
43 company to provide a property information report as defined in
44 s. 627.7843(1) ~~the minimum information required in subsection~~
45 ~~(4), consistent with rules adopted by the department.~~ If
46 additional information is required, the tax collector must make
47 a written request to the title or abstract company stating the
48 additional requirements. The tax collector may select any title
49 or abstract company, regardless of its location, as long as the
50 fee is reasonable, the required ~~minimum~~ information is
51 submitted, and the title or abstract company is authorized to do
52 business in this state. The tax collector may advertise and
53 accept bids for the title or abstract company if he or she
54 considers it appropriate to do so.

55 1. The property information report must include the
56 letterhead of the person, firm, or company that makes the
57 search, and the signature of the individual who makes the search
58 or of an officer of the firm. The tax collector is not liable
59 for payment to the firm unless these requirements are met. The
60 report may be submitted to the tax collector in an electronic
61 format.

62 2. The tax collector may not accept or pay for a property
63 information report ~~any title search or abstract~~ if financial
64 responsibility is not assumed for the search. However,
65 reasonable restrictions as to the liability or responsibility of
66 the title or abstract company are acceptable. Notwithstanding s.
67 627.7843(3), the tax collector may contract for higher maximum
68 liability limits.



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69 3. In order to establish uniform prices for property
70 information reports within the county, the tax collector must
71 ensure that the contract for property information reports
72 includes ~~include~~ all requests for property information reports
73 ~~title searches or abstracts~~ for a given period of time.

74 (b) Any fee paid for initial property information reports
75 and any updates ~~for a title search or abstract~~ must be collected
76 at the time of application under subsection (1), and the amount
77 of the fee must be added to the opening bid.

78 (c) Upon receiving the tax deed application from the tax
79 collector, the clerk shall record a notice of tax deed
80 application in the official records, which constitutes notice of
81 the pendency of a tax deed application with respect to the
82 property and which remains effective for 1 year from the date of
83 recording. A person acquiring an interest in the property after
84 the tax deed application notice has been recorded is deemed to
85 be on notice of the pending tax deed sale and no additional
86 notice is required. The sale of the property automatically
87 releases any recorded notice of tax deed application for that
88 property. If the property is redeemed, the clerk must record a
89 release of the notice of tax deed application upon payment of
90 the fees as authorized in s. 28.24(8) and (12). The contents of
91 the notice must be the same as the contents of the notice of
92 publication required by s. 197.512. The cost of recording must
93 be collected at the time of application under subsection (1) and
94 added to the opening bid.

95 (d) The clerk must ~~shall~~ advertise and ~~administer~~
96 as set forth in s. 197.512, administer the sale as set forth in
97 s. 197.542, and receive such fees for the issuance of the deed



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98 and sale of the property as provided in s. 28.24.

99 (e) A notice of the application of the tax deed in
100 accordance with ss. 197.512 and 197.522 which is sent to the
101 addresses shown on the statement described in subsection (4) is
102 conclusively deemed sufficient to provide adequate notice of the
103 tax deed application and the sale at public auction.

104 (6) The opening bid:

105 (a) On county-held certificates on nonhomestead property
106 shall be the sum of the value of all outstanding certificates
107 against the property, plus omitted years' taxes, delinquent
108 taxes, current taxes, if due, interest, and all costs and fees
109 paid by the county.

110 (b) On an individual certificate must include, in addition
111 to the amount of money paid to the tax collector by the
112 certificateholder at the time of application, the amount
113 required to redeem the applicant's tax certificate and all other
114 costs, ~~and~~ fees paid by the applicant, and any additional fees
115 or costs incurred by the clerk, plus all tax certificates that
116 were sold subsequent to the filing of the tax deed application,
117 current taxes, if due, and omitted taxes, if any.

118 (c) On property assessed on the latest tax roll as
119 homestead property shall include, in addition to the amount of
120 money required for an opening bid on nonhomestead property, an
121 amount equal to one-half of the latest assessed value of the
122 homestead.

123 Section 2. Present subsection (3) of section 197.522,
124 Florida Statutes, is redesignated as subsection (4), and a new
125 subsection (3) is added to that section, to read:

126 197.522 Notice to owner when application for tax deed is



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127 made.-

128 (3) When sending or serving a notice under this section,
129 the clerk of the circuit court may rely on the addresses
130 provided by the tax collector based on the certified tax roll
131 and property information reports. The clerk of the circuit court
132 has no duty to seek further information as to the validity of
133 such addresses because property owners are presumed to know that
134 taxes are due and payable annually under s. 197.122.

135 Section 3. Subsections (2) and (3) of section 197.582,
136 Florida Statutes, are amended, and subsections (4) through (9)
137 are added to that section, to read:

138 197.582 Disbursement of proceeds of sale.-

139 (2) (a) If the property is purchased for an amount in excess
140 of the statutory bid of the certificateholder, the surplus
141 ~~excess~~ must be paid over and disbursed by the clerk as set forth
142 in subsections (3), (5), and (6). If the opening bid included
143 the homestead assessment pursuant to s. 197.502(6)(c). ~~If the~~
144 ~~property purchased is homestead property and the statutory bid~~
145 ~~includes an amount equal to at least one-half of the assessed~~
146 ~~value of the homestead,~~ that amount must be treated as surplus
147 ~~excess~~ and distributed in the same manner. The clerk shall
148 distribute the surplus ~~excess~~ to the governmental units for the
149 payment of any lien of record held by a governmental unit
150 against the property, including any tax certificates not
151 incorporated in the tax deed application and omitted taxes, if
152 any. ~~If the excess is not sufficient to pay all of such liens in~~
153 ~~full, the excess shall be paid to each governmental unit pro~~
154 ~~rata. If, after all liens of governmental units are paid in~~
155 ~~full,~~ there remains a balance of undistributed funds, the



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156 balance must ~~shall~~ be retained by the clerk for the benefit of
157 persons described in s. 197.522(1)(a), except those persons
158 described in s. 197.502(4)(h), as their interests may appear.
159 The clerk shall mail notices to such persons notifying them of
160 the funds held for their benefit at the addresses provided in s.
161 197.502(4). Such notice constitutes compliance with the
162 requirements of s. 717.117(4). Any service charges, ~~at the rate~~
163 ~~prescribed in s. 28.24(10),~~ and costs of mailing notices shall
164 be paid out of the excess balance held by the clerk. Notice must
165 be provided in substantially the following form:

166
167 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

168 CLERK OF COURT

169 COUNTY, FLORIDA

170
171 Tax Deed #:....

172 Certificate #:....

173 Property Description:....

174 Pursuant to chapter 197, Florida Statutes, the above
175 property was sold at public sale on ...(date of sale)..., and a
176 surplus of \$...(amount)... (subject to change) will be held by
177 this office for 120 days beginning on the date of this notice to
178 benefit the persons having an interest in this property as
179 described in section 197.502(4), Florida Statutes, as their
180 interests may appear (except for those persons described in
181 section 197.502(4)(h), Florida Statutes).

182 To the extent possible, these funds will be used to satisfy
183 in full each claimant with a senior mortgage or lien in the
184 property before distribution of any funds to any junior mortgage



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185 or lien claimant or to the former property owner. To be
186 considered for funds when they are distributed, you must file a
187 notarized statement of claim with this office within 120 days of
188 this notice. If you are a lienholder, your claim must include
189 the particulars of your lien and the amounts currently due. Any
190 lienholder claim that is not filed within the 120-day deadline
191 is barred.

192 A copy of this notice must be attached to your statement of
193 claim. After the office examines the filed claim statements, it
194 will notify you if you are entitled to any payment.

195 Dated:....

196 Clerk of Court

197
198 (b) The mailed notice must include a form for making a
199 claim under subsection (3). Service charges at the rate set
200 forth in s. 28.24(10) and the costs of mailing must be paid out
201 of the surplus funds held by the clerk. If the clerk or
202 comptroller certifies that the surplus funds are not sufficient
203 to cover the service charges and mailing costs, the clerk shall
204 receive the total amount of surplus funds as a service charge.
205 ~~Excess proceeds shall be held and disbursed in the same manner~~
206 ~~as unclaimed redemption moneys in s. 197.473.~~ For purposes of
207 identifying unclaimed property pursuant to s. 717.113, excess
208 proceeds shall be presumed payable or distributable on the date
209 the notice is sent. ~~If excess proceeds are not sufficient to~~
210 ~~cover the service charges and mailing costs, the clerk shall~~
211 ~~receive the total amount of excess proceeds as a service charge.~~

212 (3) A person receiving the notice under subsection (2) has
213 120 days from the date of the notice to file a written claim



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214 with the clerk for the surplus proceeds. A claim in
215 substantially the following form is deemed sufficient:
216
217 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE
218 Complete and return to:....
219 By mail:....
220 By e-mail:....
221 Note: The Clerk of the Court must pay all valid liens
222 before distributing surplus funds to a titleholder.
223 Claimant's name:....
224 Contact name, if applicable:....
225 Address:....
226 Telephone Number:.... E-mail Address:....
227 Tax No.:....
228 Date of sale (if known):....
229 I am not making a claim and waive any claim I might have to
230 the surplus funds on this tax deed sale.
231 I claim surplus proceeds resulting from the above tax deed
232 sale.
233 I am a (check one)Lienholder;Titleholder.
234 (1) LIENHOLDER INFORMATION (Complete if claim is based on a
235 lien against the sold property).
236 (a) Type of Lien:Mortgage;Court Judgment;
237Other
238 Describe in detail:....
239 If your lien is recorded in the county's official records,
240 list the following, if known:
241 Recording date:....; Instrument #:....; Book #:....; Page
242 #:....



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243 (b) Original amount of lien: \$....
244 (c) Amounts due: \$....
245 1. Principal remaining due: \$....
246 2. Interest due: \$....
247 3. Fees and costs due, including late fees: \$.... (describe
248 costs in detail, include additional sheet if needed);
249 4. Attorney fees: \$....(provide amount claimed): \$....
250 (2) TITLEHOLDER INFORMATION (Complete if claim is based on
251 title formerly held on sold property.)
252 (a) Nature of title (check one):Deed;Court
253 Judgment;Other (describe in detail):....
254 (b) If your former title is recorded in the county's
255 official records, list the following, if known: Recording
256 date:....; Instrument#:....; Book #:....; Page #:....
257 (c) Amount of surplus tax deed sale proceeds claimed: \$....
258 (d) Does the titleholder claim the subject property was
259 homestead property?YesNo.
260 (3) I hereby swear or affirm that all of the above
261 information is true and correct.
262 Date:....
263 Signature:....
264 STATE OF FLORIDA
265 COUNTY.
266 Sworn to or affirmed and signed before me on ...(date)...
267 by ...(name of affiant)...
268 NOTARY PUBLIC or DEPUTY CLERK
269 ...(Print, Type, or Stamp Commissioned Name of Notary)...
270 Personally known, or
271 Produced identification;



272 Identification Produced:....
273
274 (4) A claim may be:
275 (a) Mailed using the United States Postal Service. The
276 filing date is the postmark on the mailed claim;
277 (b) Delivered using either a commercial delivery service or
278 in person. The filing date is the day of delivery; or
279 (c) Sent by fax or e-mail, as authorized by the clerk. The
280 filing date is the date the clerk receives the fax or e-mail.
281 (5) Except for claims by a property owner, claims that are
282 not filed on or before close of business on the 120th day after
283 the date of the mailed notice as required by s. 197.582(2) are
284 barred. A person, other than the property owner, who fails to
285 file a proper and timely claim is barred from receiving any
286 disbursement of the surplus funds. The failure of any person
287 described in s. 197.502(4), other than the property owner, to
288 file a claim for surplus funds within the 120 days constitutes a
289 waiver of interest in the surplus funds and all claims thereto
290 are forever barred.
291 (6) Within 90 days after the claim period expires, the
292 clerk may either file an interpleader action in circuit court to
293 determine the proper disbursement or pay the surplus funds
294 according to the clerk's determination of the priority of claims
295 using the information provided by the claimants under subsection
296 (3). The clerk may move the court to award reasonable fees and
297 costs from the interpleaded funds. An action to require payment
298 of surplus funds is not ripe until the claim and review periods
299 expire. The failure of a person described in s. 197.502(4),
300 other than the property owner, to file a claim for surplus funds



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301 within the 120 days constitutes a waiver of all interest in the
302 surplus funds and all claims for them are forever barred.

303 (7) A holder of a recorded governmental lien, other than a
304 federal government lien or ad valorem tax lien, must file a
305 request for disbursement of surplus funds within 120 days after
306 the mailing of the notice of surplus funds. The clerk or
307 comptroller must disburse payments to each governmental unit to
308 pay any lien of record held by a governmental unit against the
309 property, including any tax certificate not incorporated in the
310 tax deed application and any omitted taxes, before disbursing
311 the surplus funds to nongovernmental claimants.

312 (8) The tax deed recipient may directly pay off all liens
313 to governmental units that could otherwise have been requested
314 from surplus funds, and, upon filing a timely claim under
315 subsection (3) with proof of payment, the tax deed recipient may
316 receive the same amount of funds from the surplus funds for all
317 amounts paid to each governmental unit in the same priority as
318 the original lienholder.

319 (9) If the clerk does not receive claims for surplus funds
320 within the 120-day claim period, as required in subsection (5),
321 there is a conclusive presumption that the legal titleholder of
322 record described in s. 197.502(4)(a) is entitled to the surplus
323 funds. The clerk must process the surplus funds in the manner
324 provided in chapter 717, regardless of whether the legal
325 titleholder is a resident of the state or not.

326 ~~(3) If unresolved claims against the property exist on the~~
327 ~~date the property is purchased, the clerk shall ensure that the~~
328 ~~excess funds are paid according to the priorities of the claims.~~
329 ~~If a lien appears to be entitled to priority and the lienholder~~



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330 ~~has not made a claim against the excess funds, payment may not~~
331 ~~be made on any lien that is junior in priority. If potentially~~
332 ~~conflicting claims to the funds exist, the clerk may initiate an~~
333 ~~interpleader action against the lienholders involved, and the~~
334 ~~court shall determine the proper distribution of the~~
335 ~~interpleaded funds. The clerk may move the court for an award of~~
336 ~~reasonable fees and costs from the interpleaded funds.~~

337 Section 4. This act applies to tax deed applications filed
338 on or after October 1, 2018, with the tax collector pursuant to
339 s. 197.502, Florida Statutes.

340 Section 5. This act shall take effect July 1, 2018.

341
342 ===== T I T L E A M E N D M E N T =====

343 And the title is amended as follows:

344 Delete everything before the enacting clause
345 and insert:

346 A bill to be entitled
347 An act relating to tax deed sales; amending s.
348 197.502, F.S.; requiring a tax certificateholder to
349 pay specified costs required to bring the property on
350 which taxes are delinquent to sale; requiring the tax
351 collector to cancel a tax deed application if certain
352 costs are not paid within a specified period for
353 certain purposes; revising procedures for applying
354 for, recording, and releasing tax deed applications;
355 revising provisions to require property information
356 reports for certain purposes; prohibiting a tax
357 collector from accepting or paying for a property
358 information report under certain circumstances;



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359 amending s. 197.522, F.S.; authorizing a clerk to rely
360 on addresses provided by the tax collector for
361 specified purposes; amending s. 197.582, F.S.;
362 revising procedures for the disbursement of surplus
363 funds by clerks; providing forms for use in noticing
364 and claiming surplus funds; specifying methods for
365 delivering claims to the clerk's office; providing
366 deadlines for filing claims; providing procedures to
367 be used by clerks in determining disbursement of
368 surplus funds; authorizing a tax deed recipient to pay
369 specified liens; specifying procedures to be used by
370 the tax clerk if surplus funds are not claimed;
371 providing applicability; providing an effective date.