

By Senator Rouson

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1 A bill to be entitled  
2 An act relating to tax deed sales; amending s.  
3 197.502, F.S.; requiring certain tax  
4 certificateholders applying for a tax deed to pay  
5 certain costs required to bring the property to sale;  
6 deleting abstract companies as entities tax collectors  
7 may contract with for a certain purpose; requiring,  
8 rather than authorizing, tax collectors to contract  
9 with title companies for a certain purpose; revising  
10 the information to be provided by such title companies  
11 to tax collectors; defining the term "title company";  
12 revising a requirement for fees collected at the time  
13 of application and added to the opening bid; requiring  
14 a clerk of the court, upon receiving the tax deed  
15 application file from the tax collector, to record a  
16 specified notice in the official records; providing  
17 construction, procedures, and requirements relating to  
18 such notice and the release of such notice; revising  
19 requirements for the advertisement and administration  
20 of tax deed sales by the clerk; providing construction  
21 relating to a certain notice of a tax deed  
22 application; revising requirements for opening bids;  
23 conforming provisions to changes made by the act;  
24 making technical changes; amending s. 197.522, F.S.;  
25 providing construction relating to the clerk of the  
26 circuit court's reliance on addresses provided by the  
27 tax collector when sending or serving certain notices;  
28 amending s. 197.582, F.S.; revising requirements and  
29 procedures for the holding, payment, disbursement, and

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30 distribution by the clerk of certain excess proceeds  
31 from a tax deed sale; revising requirements and  
32 construction relating to the clerk's mailing of a  
33 certain notice; requiring such notice to be in  
34 substantially a specified form; revising requirements  
35 for service charges and mailing costs by the clerk;  
36 specifying a timeframe under which a person must file  
37 a written claim with the clerk for the excess  
38 proceeds; providing a form to claim surplus proceeds  
39 of a tax deed sale; providing procedures for the  
40 filing of such claims; providing that certain claims  
41 are barred if not filed within a specified timeframe;  
42 revising procedures and requirements relating to the  
43 clerk's determination of the priority of claims,  
44 payment of such claims, and the filing of a certain  
45 interpleader action; deleting a provision authorizing  
46 the clerk to move for an award of reasonable fees and  
47 costs from interpleaded funds; providing construction  
48 relating to the ripeness of actions to require payment  
49 of surplus funds; providing that a failure by certain  
50 persons to file a claim for excess funds within a  
51 specified timeframe constitutes a waiver to such funds  
52 and permanently bars such claims; specifying a  
53 timeframe under which holders of certain governmental  
54 liens must file requests for surplus funds  
55 disbursement; requiring the clerk or comptroller to  
56 disburse payments to governmental units for payment of  
57 liens before any other disbursements; authorizing the  
58 tax deed recipient to directly pay certain liens to

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59 governmental units; providing that such recipient,  
60 under certain circumstances, is entitled to receive  
61 all amounts paid to governmental units in the same  
62 priority as the original lienholder; providing  
63 construction and procedures if the clerk receives no  
64 claims for the excess funds within a specified  
65 timeframe; providing applicability; providing an  
66 effective date.

67

68 Be It Enacted by the Legislature of the State of Florida:

69

70 Section 1. Subsections (1), (2), (5), and (6) of section  
71 197.502, Florida Statutes, are amended to read:

72 197.502 Application for obtaining tax deed by holder of tax  
73 sale certificate; fees.—

74 (1) The holder of a tax certificate, at any time after 2  
75 years have elapsed since April 1 of the year of issuance of the  
76 tax certificate and before the cancellation of the certificate,  
77 may file the certificate and an application for a tax deed with  
78 the tax collector of the county where the property described in  
79 the certificate is located. The tax collector may charge a tax  
80 deed application fee of \$75 and for reimbursement of the costs  
81 for providing online tax deed application services. If the tax  
82 collector charges a combined fee in excess of \$75, applicants  
83 ~~shall~~ have the option of using the online ~~electronic~~ tax deed  
84 application process or may file applications without using such  
85 service.

86 (2) A certificateholder, other than the county, who applies  
87 ~~makes application~~ for a tax deed shall pay the tax collector at

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88 the time of application all amounts required for redemption or  
 89 purchase of all other outstanding tax certificates, plus  
 90 interest, any omitted taxes, plus interest, any delinquent  
 91 taxes, plus interest, and current taxes, if due, covering the  
 92 property. In addition, the certificateholder shall pay costs  
 93 required to bring the property to sale as provided in ss.  
 94 197.532 and 197.542, including property information searches and  
 95 mailing costs, as well as the costs of resale, if applicable.  
 96 The, and failure to pay such costs within 30 days after notice  
 97 from the clerk shall result in the clerk's entering the land on  
 98 a list entitled "lands available for taxes."

99 (5) (a) For purposes of determining who must be given notice  
 100 and provided the information required in subsection (4), the tax  
 101 collector shall may contract with a title company ~~or an abstract~~  
 102 ~~company~~ to provide a property information report as defined in  
 103 s. 627.7843(1) the minimum information required in subsection  
 104 ~~(4), consistent with rules adopted by the department.~~ If  
 105 additional information is required, the tax collector must make  
 106 a written request to the title ~~or abstract~~ company, stating the  
 107 additional requirements. The tax collector may select any title  
 108 ~~or abstract~~ company, regardless of its location, as long as the  
 109 fee is reasonable, the required minimum information is  
 110 submitted, and the title ~~or abstract~~ company is authorized to do  
 111 business in this state. The tax collector may advertise and  
 112 accept bids for the title ~~or abstract~~ company if he or she  
 113 considers it appropriate to do so. As used in this section, the  
 114 term "title company" includes a title insurer, as defined in s.  
 115 627.7711, and licensed title insurance agencies and attorneys  
 116 authorized as agents for a title insurer licensed in this state.

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117 1. The property information report must include the  
118 letterhead of the person, firm, or company that makes the  
119 search, and the signature of the individual who makes the search  
120 or of an officer of the firm. The tax collector is not liable  
121 for payment to the firm unless these requirements are met. The  
122 report may be submitted to the tax collector in an electronic  
123 format.

124 2. The tax collector may not accept or pay for any property  
125 information report ~~title search or abstract~~ if financial  
126 responsibility is not assumed for the search. However,  
127 reasonable restrictions as to the liability or responsibility of  
128 the ~~title or abstract~~ company are acceptable. Notwithstanding s.  
129 627.7843(3), the tax collector may contract for higher maximum  
130 liability limits.

131 3. In order to establish uniform prices for property  
132 information reports within the county, the tax collector must  
133 ensure that the contract for property information reports  
134 include all requests for property information reports ~~title~~  
135 ~~searches or abstracts~~ for a given period of time.

136 (b) Any fee paid for initial property information reports  
137 and any update within 60 days ~~a title search or abstract~~ must be  
138 collected at the time of application under subsection (1), and  
139 the amount of the fee must be added to the opening bid.

140 (c) Upon receipt of the tax deed application file from the  
141 tax collector, the clerk shall record a notice of tax deed  
142 application in the official records, which is notice of the  
143 pendency of a tax deed application with respect to the property  
144 and is effective for 1 year from the date of recording. Any  
145 person acquiring an interest in the subject property after the

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146 recording of the notice of tax deed application is deemed to be  
147 on notice of the pending tax deed sale, and no additional notice  
148 is required. The sale of the property automatically releases any  
149 recorded notice of tax deed application. If the property is  
150 redeemed, the clerk must record a release of the notice of tax  
151 deed application upon payment of fees authorized in s. 28.24(8)  
152 and (12). The contents of the notice must be the same as the  
153 contents of the notice of publication required by s. 197.512.  
154 The cost of recording must be collected at the time of  
155 application under subsection (1) and be added to the opening  
156 bid.

157 (d)-(e) The clerk shall advertise the sale in accordance  
158 with s. 197.512, and administer the sale in accordance with s.  
159 197.542, and receive such fees for the issuance of the deed and  
160 sale of the property as provided in s. 28.24.

161 (e) Notice of the application of the tax deed in accordance  
162 with ss. 197.512 and 197.522 which is sent to the addresses  
163 shown on the statement described in subsection (4) is  
164 conclusively deemed sufficient to provide adequate notice of the  
165 tax deed application and the sale at public auction.

166 (6) The opening bid:

167 (a) On county-held certificates on nonhomestead property  
168 must ~~shall~~ be the sum of the value of all outstanding  
169 certificates against the property, plus omitted years' taxes,  
170 delinquent taxes, current taxes if due, interest, and all costs  
171 and fees paid by the county.

172 (b) On an individual certificate must include, in addition  
173 to the amount of money paid to the tax collector by the  
174 certificateholder at the time of application, the amount

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175 required to redeem the applicant's tax certificate and all other  
176 costs, ~~and~~ fees paid by the applicant, and any additional fees  
177 or costs incurred by the clerk, plus all tax certificates that  
178 were sold subsequent to the filing of the tax deed application,  
179 current taxes, if due, and omitted taxes, if any.

180 (c) On property assessed on the latest tax roll as  
181 homestead property must ~~shall~~ include, in addition to the amount  
182 of money required for an opening bid on nonhomestead property,  
183 an amount equal to one-half of the latest assessed value of the  
184 homestead.

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

188 197.522 Notice to owner when application for tax deed is  
189 made.—

190 (3) When sending or serving notices under this section, the  
191 clerk of the circuit court is entitled to rely on the addresses  
192 provided by the tax collector and has no duty to seek further  
193 information as to the validity of such addresses, nor incurs any  
194 liability if an address provided is incorrect.

195 Section 3. Section 197.582, Florida Statutes, is amended to  
196 read:

197 197.582 Disbursement of proceeds of sale.—

198 (1) If the property is purchased by any person other than  
199 the certificateholder, the clerk shall forthwith pay to the  
200 certificateholder all of the sums he or she has paid, including  
201 the amount required for the redemption of the certificate or  
202 certificates together with any and all subsequent unpaid taxes  
203 plus the costs and expenses of the application for deed, with

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204 interest on the total of such sums for the period running from  
205 the month after the date of application for the deed through the  
206 month of sale at the rate of 1.5 percent per month. The clerk  
207 shall distribute the amount required to redeem the certificate  
208 or certificates and the amount required for the redemption of  
209 other tax certificates on the same land with omitted taxes and  
210 with all costs, plus interest thereon at the rate of 1.5 percent  
211 per month for the period running from the month after the date  
212 of application for the deed through the month of sale, in the  
213 same manner as he or she distributes money received for the  
214 redemption of tax certificates owned by the county.

215 (2) If the property is purchased for an amount in excess of  
216 the statutory bid of the certificateholder, the excess must be  
217 paid over and disbursed by the clerk according to subsections  
218 (3), (5), and (6). If the opening bid included the homestead  
219 assessment under s. 197.502(6)(c) ~~property purchased is~~  
220 ~~homestead property and the statutory bid includes an amount~~  
221 ~~equal to at least one-half of the assessed value of the~~  
222 ~~homestead~~, that amount must be treated as excess and distributed  
223 in the same manner. The clerk shall distribute the excess ~~to the~~  
224 ~~governmental units~~ for the payment of ~~any lien of record held by~~  
225 ~~a governmental unit against the property~~, including any tax  
226 certificates not incorporated in the tax deed application and  
227 omitted taxes, if any. ~~If the excess is not sufficient to pay~~  
228 ~~all of such liens in full, the excess shall be paid to each~~  
229 ~~governmental unit pro rata~~. If, ~~after all liens of governmental~~  
230 ~~units are paid in full~~, there remains a balance of undistributed  
231 funds, the balance must ~~shall~~ be retained by the clerk for the  
232 benefit of persons described in s. 197.522(1)(a), except those



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233 persons described in s. 197.502(4) (h), as their interests may  
 234 appear. The clerk shall mail notices to such persons at the  
 235 addresses provided in s. 197.502(4), notifying them of the funds  
 236 held for their benefit. ~~Such notice constitutes compliance with~~  
 237 ~~the requirements of s. 717.117(4).~~ Any service charges, ~~at the~~  
 238 ~~rate prescribed in s. 28.24(10),~~ and costs of mailing notices  
 239 must shall be paid out of the excess balance held by the clerk.  
 240 Notice must be in substantially the following form:

241  
 242 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

243  
 244 CLERK OF COURT

245 .... COUNTY, FLORIDA

246 Tax Deed #:....

247 Certificate #:....

248 Property Description:....

249  
 250 Pursuant to chapter 197, Florida Statutes, the above  
 251 property was sold at public sale on ...(date of sale)..., and a  
 252 surplus of \$...(amount)..., subject to change, will be held by  
 253 this office for a period of 120 days after the date of this  
 254 notice for the benefit of persons having an interest in this  
 255 property as described in s. 197.502(4), Florida Statutes, as  
 256 their interests may appear, except for those persons described  
 257 in s. 197.502(4) (h), Florida Statutes.

258  
 259 These funds will be used to satisfy in full, to the extent  
 260 possible, each claimant with a senior mortgage or lien in the  
 261 property before distribution of any funds to any junior mortgage

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262 or lien claimant or to the former property owners. To be  
263 considered for distribution of any funds, you must file a  
264 notarized statement of claim with this office within 120 days  
265 after the date of this notice. If you are a lienholder, your  
266 claim must include the particulars of your lien and the amounts  
267 currently due. Lienholder claims that are not filed within the  
268 120-day deadline are barred.

269  
270 A copy of this notice must be attached to your statement of  
271 claim. After examination of the statements of claim filed, this  
272 office will notify you if you are entitled to any payment.

273  
274 Dated: .....  
275 Clerk of Court

276  
277 The mailed notice must include a form for making a claim under  
278 subsection (3). Any service charges, at the rate prescribed in  
279 s. 28.24(10), and costs of mailing must be paid out of the  
280 excess balance held by the clerk. If the clerk or comptroller  
281 certifies that excess proceeds are not sufficient to cover the  
282 service charges, and mailing costs, if any, the clerk must  
283 receive the total amount of excess proceeds as a service charge  
284 ~~Excess proceeds shall be held and disbursed in the same manner~~  
285 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~  
286 ~~identifying unclaimed property pursuant to s. 717.113, excess~~  
287 ~~proceeds shall be presumed payable or distributable on the date~~  
288 ~~the notice is sent. If excess proceeds are not sufficient to~~  
289 ~~cover the service charges and mailing costs, the clerk shall~~  
290 ~~receive the total amount of excess proceeds as a service charge.~~

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291           (3) A person receiving the notice under subsection (2) has  
 292 120 days after the date of the notice to file a written claim  
 293 with the clerk for the excess proceeds. A claim in substantially  
 294 the following form is deemed sufficient:

296                   CLAIM TO SURPLUS PROCEEDS OF A TAX DEED SALE

298 Complete and return to ... (clerk of the court)...

299 By mail: ....

300 By e-mail: ....

301 Note: The Clerk of the Court must pay all valid liens before  
 302 distributing to a titleholder.

304 Claimant's name: ....

305 Contact name, if applicable: ....

306 Address: ....

307 Telephone no.: .... E-mail address: ....

308 Tax deed no.: .... Date of sale (if known): ....

310 (check one)

311 .... I am not making a claim and waive any claim I might  
 312 have to the surplus funds on this tax deed sale.

313 .... I claim surplus proceeds resulting from the above tax  
 314 deed sale. I am a (check one) .... Lienholder .... Titleholder.

316 (1) LIENHOLDER INFORMATION (Complete if claim is based on a  
 317 lien against the sold property)

318 (a) Type of lien (check one): .... Mortgage; .... Court  
 319 Judgment; .... Other; describe in detail: ....

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320 If your lien is recorded in the county's official records,  
321 list the following, if known: Recording date: ....; Instrument  
322 #: ....; Book #: ....; Page #: ....

323 (b) Original amount of lien \$....

324 (c) Amounts due:

325 1. Principal remaining due: \$....

326 2. Interest due: \$....

327 3. Fees and costs due, including late fees: \$.... (describe  
328 costs in detail, include additional sheet if needed)

329 4. Attorney fees: \$.... (provide agreement to show  
330 entitlement to attorney fees)

331 (d) Total amount claimed: \$....

332 (2) TITLEHOLDER INFORMATION (Complete if claim is based on  
333 title formerly held on sold property)

334 (a) Nature of title (check one): .... Deed; .... Court  
335 Judgment; .... Other; describe in detail: ....

336 If your former title is recorded in the county's official  
337 records, list the following, if known: Recording date: ....;  
338 Instrument #: ....; Book #: ....; Page #: ....

339 (b) Amount of surplus tax deed sale proceeds claimed: \$....

340 (c) Does titleholder claim the subject property was  
341 homestead? .... Yes .... No

342 (3) I hereby swear or affirm that all of the above  
343 information is true and correct.

344  
345 Date: ....

346 Signature: ....

347  
348 STATE OF FLORIDA

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349       .... COUNTY

350       Sworn to or affirmed and signed before me on ...(date)...

351 by ...(name of affiant)...

352

353       NOTARY PUBLIC or DEPUTY CLERK

354       ...(Print, type, or stamp commissioned name of notary)...

355       .... Personally known, or

356       .... Produced identification; type of identification

357 produced: .... ~~If unresolved claims against the property exist~~

358 ~~on the date the property is purchased, the clerk shall ensure~~

359 ~~that the excess funds are paid according to the priorities of~~

360 ~~the claims. If a lien appears to be entitled to priority and the~~

361 ~~lienholder has not made a claim against the excess funds,~~

362 ~~payment may not be made on any lien that is junior in priority.~~

363 ~~If potentially conflicting claims to the funds exist, the clerk~~

364 ~~may initiate an interpleader action against the lienholders~~

365 ~~involved, and the court shall determine the proper distribution~~

366 ~~of the interpleaded funds. The clerk may move the court for an~~

367 ~~award of reasonable fees and costs from the interpleaded funds.~~

368       (4) A claim may be mailed using the United States Postal

369 Service, delivered by a commercial delivery service or in

370 person, faxed, or e-mailed as authorized by the clerk or

371 comptroller. The postmark on a mailed claim is the filing date

372 of the claim. For a claim submitted using a commercial delivery

373 service or delivered in person, the date of delivery is the

374 filing date. The filing date for a faxed or e-mailed claim is

375 the date of receipt by the clerk or comptroller.

376       (5) Except for a claim by a property owner, a claim is

377 barred if it is not filed with the clerk or comptroller on or

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378 before close of business on the 120th day after the date of the  
379 mailed notice as required by subsection (2). Any person, other  
380 than the property owner, who fails to file a proper and timely  
381 claim is barred from receiving any disbursement of the excess  
382 funds.

383 (6) Within 90 days after the claim period expires, the  
384 clerk or comptroller may either file an interpleader action in  
385 circuit court to determine proper disbursement or pay the excess  
386 funds according to the clerk's determination of the priority of  
387 proper claims as provided in subsection (3). The filing of an  
388 action to require payment of surplus funds is not ripe until the  
389 claim and review periods expire. The failure of any person  
390 described in s. 197.502(4), other than the property owner, to  
391 file a claim for excess funds within the 120 days constitutes a  
392 waiver of all interest in the excess funds, and all claims  
393 thereto are forever barred.

394 (7) A holder of a governmental lien of record, other than a  
395 federal government lien or ad valorem taxes, must file a request  
396 for disbursement of surplus funds within 120 days after the  
397 mailing of the notice of surplus funds. The clerk or comptroller  
398 must disburse payments to governmental units for the payment of  
399 any lien of record held by a governmental unit against the  
400 property, including any tax certificates not incorporated in the  
401 tax deed application, and omitted taxes, if any, before any  
402 other disbursements from the surplus funds.

403 (8) The tax deed recipient may directly pay any and all  
404 liens to governmental units which could have been requested from  
405 surplus funds, and, upon filing a timely claim under subsection  
406 (3) with proof of payment, the tax deed recipient is entitled to

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407 receive from the surplus funds payment for any and all amounts  
408 paid to governmental units in the same priority as the original  
409 lienholder.

410 (9) If the clerk receives no claims for the excess funds  
411 within the 120-day claim period as required under subsection  
412 (5), there is a conclusive presumption that the legal  
413 titleholder of record described in s. 197.502(4)(a) is entitled  
414 to the excess funds, which become unclaimed moneys under s.  
415 116.21. The clerk shall process the unclaimed moneys in the  
416 manner provided for in s. 116.21.

417 Section 4. This act applies to tax deed applications filed  
418 with the tax collector for sales pursuant to s. 197.542, Florida  
419 Statutes, which occur on or after October 1, 2018.

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