

By the Committee on Community Affairs; and 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 a tax certificateholder to  
4       pay specified costs required to bring the property on  
5       which taxes are delinquent to sale; requiring the tax  
6       collector to cancel a tax deed application if certain  
7       costs are not paid within a specified period for  
8       certain purposes; revising procedures for applying  
9       for, recording, and releasing tax deed applications;  
10      revising provisions to require property information  
11      reports for certain purposes; prohibiting a tax  
12      collector from accepting or paying for a property  
13      information report under certain circumstances;  
14      amending s. 197.522, F.S.; authorizing a clerk to rely  
15      on addresses provided by the tax collector for  
16      specified purposes; amending s. 197.582, F.S.;  
17      revising procedures for the disbursement of surplus  
18      funds by clerks; providing forms for use in noticing  
19      and claiming surplus funds; specifying methods for  
20      delivering claims to the clerk's office; providing  
21      deadlines for filing claims; providing procedures to  
22      be used by clerks in determining disbursement of  
23      surplus funds; authorizing a tax deed recipient to pay  
24      specified liens; specifying procedures to be used by  
25      the tax clerk if surplus funds are not claimed;  
26      providing applicability; providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Subsections (1), (2), (5), and (6) of section  
31 197.502, Florida Statutes, are amended to read:

32 197.502 Application for obtaining tax deed by holder of tax  
33 sale certificate; fees.—

34 (1) The holder of a tax certificate at any time after 2  
35 years have elapsed since April 1 of the year of issuance of the  
36 tax certificate and before the cancellation of the certificate,  
37 may file the certificate and an application for a tax deed with  
38 the tax collector of the county where the property described in  
39 the certificate is located. The tax collector may charge a tax  
40 deed application fee of \$75 and for reimbursement of the costs  
41 for providing online tax deed application services. If the tax  
42 collector charges a combined fee in excess of \$75, applicants  
43 may use ~~shall have the option of using~~ the online electronic tax  
44 deed application process or may file applications without using  
45 such service.

46 (2) A certificateholder, other than the county, who applies  
47 ~~makes application~~ for a tax deed shall pay the tax collector at  
48 the time of application all amounts required for redemption or  
49 purchase of all other outstanding tax certificates, plus  
50 interest, any omitted taxes, plus interest, any delinquent  
51 taxes, plus interest, and current taxes, if due, covering the  
52 property. In addition, the certificateholder shall pay the costs  
53 required to bring the property to sale as provided in ss.  
54 197.532 and 197.542, including property information searches and  
55 mailing costs, as well as the costs of resale, if applicable. If  
56 the certificateholder fails to pay the costs to bring the  
57 property to sale within 30 days after notice from the clerk, the  
58 tax collector must cancel the tax deed application. All taxes

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59 and costs associated with a canceled tax deed application shall  
60 earn interest at the bid rate of the certificate on which the  
61 tax deed application was based.~~and Failure to pay the such~~  
62 costs of resale, if applicable, within 30 days after notice from  
63 the clerk shall result in the clerk's entering the land on a  
64 list entitled "lands available for taxes."

65 (5) (a) For purposes of determining who must be noticed and  
66 provided the information required in subsection (4), the tax  
67 collector must ~~may~~ contract with a title company or an abstract  
68 company to provide a property information report as defined in  
69 s. 627.7843(1) ~~the minimum information required in subsection~~  
70 ~~(4), consistent with rules adopted by the department.~~ If  
71 additional information is required, the tax collector must make  
72 a written request to the title or abstract company stating the  
73 additional requirements. The tax collector may select any title  
74 or abstract company, regardless of its location, as long as the  
75 fee is reasonable, the required ~~minimum~~ information is  
76 submitted, and the title or abstract company is authorized to do  
77 business in this state. The tax collector may advertise and  
78 accept bids for the title or abstract company if he or she  
79 considers it appropriate to do so.

80 1. The property information report must include the  
81 letterhead of the person, firm, or company that makes the  
82 search, and the signature of the individual who makes the search  
83 or of an officer of the firm. The tax collector is not liable  
84 for payment to the firm unless these requirements are met. The  
85 report may be submitted to the tax collector in an electronic  
86 format.

87 2. The tax collector may not accept or pay for a property

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88 information report ~~any title search or abstract~~ if financial  
89 responsibility is not assumed for the search. However,  
90 reasonable restrictions as to the liability or responsibility of  
91 the title or abstract company are acceptable. Notwithstanding s.  
92 627.7843(3), the tax collector may contract for higher maximum  
93 liability limits.

94 3. In order to establish uniform prices for property  
95 information reports within the county, the tax collector must  
96 ensure that the contract for property information reports  
97 includes ~~include~~ all requests for property information reports  
98 ~~title searches or abstracts~~ for a given period of time.

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

103 (c) Upon receiving the tax deed application from the tax  
104 collector, the clerk shall record a notice of tax deed  
105 application in the official records, which constitutes notice of  
106 the pendency of a tax deed application with respect to the  
107 property and which remains effective for 1 year from the date of  
108 recording. A person acquiring an interest in the property after  
109 the tax deed application notice has been recorded is deemed to  
110 be on notice of the pending tax deed sale and no additional  
111 notice is required. The sale of the property automatically  
112 releases any recorded notice of tax deed application for that  
113 property. If the property is redeemed, the clerk must record a  
114 release of the notice of tax deed application upon payment of  
115 the fees as authorized in s. 28.24(8) and (12). The contents of  
116 the notice must be the same as the contents of the notice of

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117 publication required by s. 197.512. The cost of recording must  
118 be collected at the time of application under subsection (1) and  
119 added to the opening bid.

120 (d) The clerk must ~~shall~~ ~~advertise and administer~~ the sale  
121 as set forth in s. 197.512, administer the sale as set forth in  
122 s. 197.542, and receive such fees for the issuance of the deed  
123 and sale of the property as provided in s. 28.24.

124 (e) A notice of the application of the tax deed in  
125 accordance with ss. 197.512 and 197.522 which is sent to the  
126 addresses shown on the statement described in subsection (4) is  
127 conclusively deemed sufficient to provide adequate notice of the  
128 tax deed application and the sale at public auction.

129 (6) The opening bid:

130 (a) On county-held certificates on nonhomestead property  
131 shall be the sum of the value of all outstanding certificates  
132 against the property, plus omitted years' taxes, delinquent  
133 taxes, current taxes, if due, interest, and all costs and fees  
134 paid by the county.

135 (b) On an individual certificate must include, in addition  
136 to the amount of money paid to the tax collector by the  
137 certificateholder at the time of application, the amount  
138 required to redeem the applicant's tax certificate and all other  
139 costs, ~~and~~ fees paid by the applicant, and any additional fees  
140 or costs incurred by the clerk, plus all tax certificates that  
141 were sold subsequent to the filing of the tax deed application,  
142 current taxes, if due, and omitted taxes, if any.

143 (c) On property assessed on the latest tax roll as  
144 homestead property shall include, in addition to the amount of  
145 money required for an opening bid on nonhomestead property, an

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146 amount equal to one-half of the latest assessed value of the  
147 homestead.

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

151 197.522 Notice to owner when application for tax deed is  
152 made.—

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

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

163 197.582 Disbursement of proceeds of sale.—

164 (2)(a) If the property is purchased for an amount in excess  
165 of the statutory bid of the certificateholder, the surplus  
166 ~~excess~~ must be paid over and disbursed by the clerk as set forth  
167 in subsections (3), (5), and (6). If the opening bid included  
168 the homestead assessment pursuant to s. 197.502(6)(c)÷ If the  
169 ~~property purchased is homestead property and the statutory bid~~  
170 ~~includes an amount equal to at least one-half of the assessed~~  
171 ~~value of the homestead,~~ that amount must be treated as surplus  
172 ~~excess~~ and distributed in the same manner. The clerk shall  
173 distribute the surplus ~~excess~~ to the governmental units for the  
174 payment of any lien of record held by a governmental unit

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175 against the property, including any tax certificates not  
 176 incorporated in the tax deed application and omitted taxes, if  
 177 any. ~~If the excess is not sufficient to pay all of such liens in~~  
 178 ~~full, the excess shall be paid to each governmental unit pro~~  
 179 ~~rata. If, after all liens of governmental units are paid in~~  
 180 ~~full,~~ there remains a balance of undistributed funds, the  
 181 balance must ~~shall~~ be retained by the clerk for the benefit of  
 182 persons described in s. 197.522(1)(a), except those persons  
 183 described in s. 197.502(4)(h), as their interests may appear.  
 184 The clerk shall mail notices to such persons notifying them of  
 185 the funds held for their benefit at the addresses provided in s.  
 186 197.502(4). Such notice constitutes compliance with the  
 187 requirements of s. 717.117(4). Any service charges, ~~at the rate~~  
 188 ~~prescribed in s. 28.24(10),~~ and costs of mailing notices shall  
 189 be paid out of the excess balance held by the clerk. Notice must  
 190 be provided in substantially the following form:

191  
 192 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

193 CLERK OF COURT

194 .... COUNTY, FLORIDA

195  
 196 Tax Deed #:....

197 Certificate #:....

198 Property Description:....

199 Pursuant to chapter 197, Florida Statutes, the above  
 200 property was sold at public sale on ...(date of sale)..., and a  
 201 surplus of \$...(amount)... (subject to change) will be held by  
 202 this office for 120 days beginning on the date of this notice to  
 203 benefit the persons having an interest in this property as

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204 described in section 197.502(4), Florida Statutes, as their  
205 interests may appear (except for those persons described in  
206 section 197.502(4)(h), Florida Statutes).

207 To the extent possible, these funds will be used to satisfy  
208 in full each claimant with a senior mortgage or lien in the  
209 property before distribution of any funds to any junior mortgage  
210 or lien claimant or to the former property owner. To be  
211 considered for funds when they are distributed, you must file a  
212 notarized statement of claim with this office within 120 days of  
213 this notice. If you are a lienholder, your claim must include  
214 the particulars of your lien and the amounts currently due. Any  
215 lienholder claim that is not filed within the 120-day deadline  
216 is barred.

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

220 Dated:....

221 Clerk of Court

222  
223 (b) The mailed notice must include a form for making a  
224 claim under subsection (3). Service charges at the rate set  
225 forth in s. 28.24(10) and the costs of mailing must be paid out  
226 of the surplus funds held by the clerk. If the clerk or  
227 comptroller certifies that the surplus funds are not sufficient  
228 to cover the service charges and mailing costs, the clerk shall  
229 receive the total amount of surplus funds as a service charge.  
230 ~~Excess proceeds shall be held and disbursed in the same manner~~  
231 ~~as unclaimed redemption moneys in s. 197.473.~~ For purposes of  
232 identifying unclaimed property pursuant to s. 717.113, excess

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233 proceeds shall be presumed payable or distributable on the date  
 234 the notice is sent. ~~If excess proceeds are not sufficient to~~  
 235 ~~cover the service charges and mailing costs, the clerk shall~~  
 236 ~~receive the total amount of excess proceeds as a service charge.~~

237 (3) A person receiving the notice under subsection (2) has  
 238 120 days from the date of the notice to file a written claim  
 239 with the clerk for the surplus proceeds. A claim in  
 240 substantially the following form is deemed sufficient:

241  
 242 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

243 Complete and return to:....

244 By mail:....

245 By e-mail:....

246 Note: The Clerk of the Court must pay all valid liens  
 247 before distributing surplus funds to a titleholder.

248 Claimant's name:....

249 Contact name, if applicable:....

250 Address:....

251 Telephone Number:.... E-mail Address:....

252 Tax No.:....

253 Date of sale (if known):....

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

256 .... I claim surplus proceeds resulting from the above tax deed  
 257 sale.

258 I am a (check one) ....Lienholder; ....Titleholder.

259 (1) LIENHOLDER INFORMATION (Complete if claim is based on a  
 260 lien against the sold property).

261 (a) Type of Lien: ....Mortgage; ....Court Judgment;

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262 ....Other

263 Describe in detail:....

264 If your lien is recorded in the county's official records,

265 list the following, if known:

266 Recording date:....; Instrument #:....; Book #:....; Page

267 #:....

268 (b) Original amount of lien: \$....

269 (c) Amounts due: \$....

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

271 2. Interest due: \$....

272 3. Fees and costs due, including late fees: \$.... (describe

273 costs in detail, include additional sheet if needed);

274 4. Attorney fees: \$....(provide amount claimed): \$....

275 (2) TITLEHOLDER INFORMATION (Complete if claim is based on

276 title formerly held on sold property.)

277 (a) Nature of title (check one): ....Deed; ....Court

278 Judgment; ....Other (describe in detail):....

279 (b) If your former title is recorded in the county's

280 official records, list the following, if known: Recording

281 date:....; Instrument#:....; Book #:....; Page #:....

282 (c) Amount of surplus tax deed sale proceeds claimed: \$....

283 (d) Does the titleholder claim the subject property was

284 homestead property? ....Yes ....No.

285 (3) I hereby swear or affirm that all of the above

286 information is true and correct.

287 Date:....

288 Signature:....

289 STATE OF FLORIDA

290 .... COUNTY.

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291 Sworn to or affirmed and signed before me on ...(date)...  
292 by ...(name of affiant)...

293 NOTARY PUBLIC or DEPUTY CLERK

294 ...(Print, Type, or Stamp Commissioned Name of Notary)...

295 .... Personally known, or

296 .... Produced identification;

297 Identification Produced:....

298

299 (4) A claim may be:

300 (a) Mailed using the United States Postal Service. The  
301 filing date is the postmark on the mailed claim;

302 (b) Delivered using either a commercial delivery service or  
303 in person. The filing date is the day of delivery; or

304 (c) Sent by fax or e-mail, as authorized by the clerk. The  
305 filing date is the date the clerk receives the fax or e-mail.

306 (5) Except for claims by a property owner, claims that are  
307 not filed on or before close of business on the 120th day after  
308 the date of the mailed notice as required by s. 197.582(2) are  
309 barred. A person, other than the property owner, who fails to  
310 file a proper and timely claim is barred from receiving any  
311 disbursement of the surplus funds. The failure of any person  
312 described in s. 197.502(4), other than the property owner, to  
313 file a claim for surplus funds within the 120 days constitutes a  
314 waiver of interest in the surplus funds and all claims thereto  
315 are forever barred.

316 (6) Within 90 days after the claim period expires, the  
317 clerk may either file an interpleader action in circuit court to  
318 determine the proper disbursement or pay the surplus funds  
319 according to the clerk's determination of the priority of claims

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320 using the information provided by the claimants under subsection  
321 (3). The clerk may move the court to award reasonable fees and  
322 costs from the interpleaded funds. An action to require payment  
323 of surplus funds is not ripe until the claim and review periods  
324 expire. The failure of a person described in s. 197.502(4),  
325 other than the property owner, to file a claim for surplus funds  
326 within the 120 days constitutes a waiver of all interest in the  
327 surplus funds and all claims for them are forever barred.

328 (7) A holder of a recorded governmental lien, other than a  
329 federal government lien or ad valorem tax lien, must file a  
330 request for disbursement of surplus funds within 120 days after  
331 the mailing of the notice of surplus funds. The clerk or  
332 comptroller must disburse payments to each governmental unit to  
333 pay any lien of record held by a governmental unit against the  
334 property, including any tax certificate not incorporated in the  
335 tax deed application and any omitted taxes, before disbursing  
336 the surplus funds to nongovernmental claimants.

337 (8) The tax deed recipient may directly pay off all liens  
338 to governmental units that could otherwise have been requested  
339 from surplus funds, and, upon filing a timely claim under  
340 subsection (3) with proof of payment, the tax deed recipient may  
341 receive the same amount of funds from the surplus funds for all  
342 amounts paid to each governmental unit in the same priority as  
343 the original lienholder.

344 (9) If the clerk does not receive claims for surplus funds  
345 within the 120-day claim period, as required in subsection (5),  
346 there is a conclusive presumption that the legal titleholder of  
347 record described in s. 197.502(4) (a) is entitled to the surplus  
348 funds. The clerk must process the surplus funds in the manner

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349 provided in chapter 717, regardless of whether the legal  
350 titleholder is a resident of the state or not.

351 ~~(3) If unresolved claims against the property exist on the~~  
352 ~~date the property is purchased, the clerk shall ensure that the~~  
353 ~~excess funds are paid according to the priorities of the claims.~~  
354 ~~If a lien appears to be entitled to priority and the lienholder~~  
355 ~~has not made a claim against the excess funds, payment may not~~  
356 ~~be made on any lien that is junior in priority. If potentially~~  
357 ~~conflicting claims to the funds exist, the clerk may initiate an~~  
358 ~~interpleader action against the lienholders involved, and the~~  
359 ~~court shall determine the proper distribution of the~~  
360 ~~interpleaded funds. The clerk may move the court for an award of~~  
361 ~~reasonable fees and costs from the interpleaded funds.~~

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

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