

By the Committee on Community Affairs; and Senator Rouson

578-03173-18

20181504c1

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:
29

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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:

192 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

193 CLERK OF COURT

194 COUNTY, FLORIDA

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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;

578-03173-18

20181504c1

262Other

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?YesNo.

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.

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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

578-03173-18

20181504c1

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.