

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 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
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
33 tax 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
47 applies ~~makes application~~ for a tax deed shall pay the tax
48 collector at the time of application all amounts required for
49 redemption or purchase of all other outstanding tax
50 certificates, plus interest, any omitted taxes, plus interest,

51 any delinquent taxes, plus interest, and current taxes, if due,
52 covering the property. In addition, the certificateholder shall
53 pay the costs required to bring the property to sale as provided
54 in ss. 197.532 and 197.542, including property information
55 searches, and mailing costs, as well as the costs of resale, if
56 applicable. If the certificateholder fails to pay the costs to
57 bring the property to sale within 30 days after notice from the
58 clerk, the tax collector shall cancel the tax deed application.
59 All taxes and costs associated with a cancelled tax deed
60 application shall earn interest at the bid rate of the
61 certificate on which the tax deed application was based.,—and
62 Failure to pay the such costs of resale, if applicable, within
63 30 days after notice from the clerk shall result in the clerk's
64 entering the land on a list entitled "lands available for
65 taxes."

66 (5) (a) For purposes of determining who must be noticed and
67 provided the information required in subsection (4), the tax
68 collector must ~~may~~ contract with a title company or an abstract
69 company to provide a property information report as defined in
70 s. 627.7843(1) ~~the minimum information required in subsection~~
71 ~~(4), consistent with rules adopted by the department.~~ If
72 additional information is required, the tax collector must make
73 a written request to the title or abstract company stating the
74 additional requirements. The tax collector may select any title
75 or abstract company, regardless of its location, as long as the

76 fee is reasonable, the required ~~minimum~~ information is
77 submitted, and the title or abstract company is authorized to do
78 business in this state. The tax collector may advertise and
79 accept bids for the title or abstract company if he or she
80 considers it appropriate to do so.

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

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

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

100 (b) Any fee paid for initial property information reports

101 and any updates for a title search or abstract must be collected
102 at the time of application under subsection (1), and the amount
103 of the fee must be added to the opening bid.

104 (c) Upon receiving the tax deed application from the tax
105 collector, the clerk shall record a notice of tax deed
106 application in the official records, which constitutes notice of
107 the pendency of a tax deed application with respect to the
108 property and remains effective for 1 year from the date of
109 recording. A person acquiring an interest in the property after
110 the tax deed application notice has been recorded is deemed to
111 be on notice of the pending tax deed sale and no additional
112 notice is required. The sale of the property automatically
113 releases any recorded notice of tax deed application for that
114 property. If the property is redeemed, the clerk must record a
115 release of the notice of tax deed application upon payment of
116 the fees as authorized in s. 28.24(8) and (12). The contents of
117 the notice shall be the same as the contents of the notice of
118 publication required by s. 197.512. The cost of recording must
119 be collected at the time of application under subsection (1),
120 and added to the opening bid.

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

125 (e) A notice of the application of the tax deed in

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

130 (6) The opening bid:

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

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

144 (c) On property assessed on the latest tax roll as
145 homestead property shall include, in addition to the amount of
146 money required for an opening bid on nonhomestead property, an
147 amount equal to one-half of the latest assessed value of the
148 homestead.

149 Section 2. Subsection (3) of section 197.522, Florida
150 Statutes, is renumbered as subsection (4), and a new subsection

151 (3) is added to that section to read:

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

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

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

164 197.582 Disbursement of proceeds of sale.—

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

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

193 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

194 CLERK OF COURT

195 . . . COUNTY, FLORIDA

196
 197 Tax Deed #.....

198 Certificate #.....

199 Property Description:

200 Pursuant to chapter 197, Florida Statutes, the above

201 property was sold at public sale on ...(date of sale)....., and
202 a surplus of \$(amount).... (subject to change) will be held
203 by this office for 120 days beginning on the date of this notice
204 to benefit the persons having an interest in this property as
205 described in section 197.502(4), Florida Statutes, as their
206 interests may appear (except for those persons described in
207 section 197.502(4) (h), Florida Statutes).

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

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

221 Dated:

222 Clerk of Court

223
224 (b) The mailed notice must include a form for making a
225 claim under subsection (3). Service charges at the rate set

226 forth in s. 28.24(10) and the costs of mailing must be paid out
 227 of the surplus funds held by the clerk. If the clerk or
 228 comptroller certifies that the surplus funds are not sufficient
 229 to cover the service charges and mailing costs, the clerk shall
 230 receive the total amount of surplus funds as a service charge.
 231 ~~Excess proceeds shall be held and disbursed in the same manner~~
 232 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~
 233 ~~identifying unclaimed property pursuant to s. 717.113, excess~~
 234 ~~proceeds shall be presumed payable or distributable on the date~~
 235 ~~the notice is sent. If excess proceeds are not sufficient to~~
 236 ~~cover the service charges and mailing costs, the clerk shall~~
 237 ~~receive the total amount of excess proceeds as a service charge.~~

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

243 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

244 Complete and return to:

245 By mail:

246 By e-mail:

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

249 Claimant's name:

250 Contact name, if applicable:

251 Address:

252 Telephone Number: Email Address:

253 Tax No.

254 Date of sale (if known):

255 I am not making a claim and waive any claim I might have to

256 the surplus funds on this tax deed sale.

257 I claim surplus proceeds resulting from the above tax deed

258 sale.

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

260 (1) LIENHOLDER INFORMATION (Complete if claim is based on

261 a lien against the sold property).

262 (a) Type of Lien:Mortgage;Court Judgment;

263 Other

264 Describe in detail:

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

266 list the following, if known:

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

268 #.....

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

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

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

272 2. Interest due: \$.....

273 3. Fees and costs due, including late fees: \$.....

274 (describe costs in detail, include additional sheet if needed);

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

276 \$.....

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

278 title formerly held on sold property.)

279 (a) Nature of title (check one):Deed;

280Court Judgment;Other (describe in detail)

281

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

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

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

285 #:.....

286 (c) Amount of surplus tax deed sale proceeds claimed:

287 \$.....

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

289 homestead property?YesNo.

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

291 information is true and correct.

292 Date:

293 Signature:

294 STATE OF FLORIDA

295COUNTY.

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

297by ...(name of affiant).....

298 NOTARY PUBLIC or DEPUTY CLERK

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

300 Personally known, or

301 Produced identification;
 302 Identification Produced:
 303 (4) A claim may be:
 304 (a) Mailed using the United States Postal Service. The
 305 filing date is the postmark on the mailed claim;
 306 (b) Delivered using either a commercial delivery service
 307 or in person. The filing date is the day of delivery; or
 308 (c) Sent by fax or e-mail, as authorized by the clerk. The
 309 filing date is the date the clerk receives the fax or e-mail.
 310 (5) Except for claims by a property owner, claims that are
 311 not filed on or before close of business on the 120th day after
 312 the date of the mailed notice as required by s. 197.582(2), are
 313 barred. A person, other than the property owner, who fails to
 314 file a proper and timely claim is barred from receiving any
 315 disbursement of the surplus funds. The failure of any person
 316 described in s. 197.502(4), other than the property owner, to
 317 file a claim for surplus funds within the 120 days constitutes a
 318 waiver of interest in the surplus funds and all claims thereto
 319 are forever barred.
 320 (6) Within 90 days after the claim period expires, the
 321 clerk may either file an interpleader action in circuit court to
 322 determine the proper disbursement or pay the surplus funds
 323 according to the clerk's determination of the priority of claims
 324 using the information provided by the claimants under subsection
 325 (3). The clerk may move the court to award reasonable fees and

326 costs from the interpleaded funds. An action to require payment
327 of surplus funds is not ripe until the claim and review periods
328 expire. The failure of a person described in s. 197.502(4),
329 other than the property owner, to file a claim for surplus funds
330 within the 120 days constitutes a waiver of all interest in the
331 surplus funds and all claims for them are forever barred.

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

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

348 (9) If the clerk does not receive claims for surplus funds
349 within the 120 day claim period, as required in subsection (5),
350 there is a conclusive presumption that the legal titleholder of

351 record described in s. 197.502(4) (a) is entitled to the surplus
352 funds. The clerk must process the surplus funds in the manner
353 provided in chapter 717, regardless of whether the legal
354 titleholder is a resident of the state or not.

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

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

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