

THE FLORIDA SENATE
2018 SUMMARY OF LEGISLATION PASSED
Committee on Transportation

CS/CS/HB 1361 — Clerks of Court

by Judiciary Committee; Civil Justice and Claims Subcommittee; and Rep. Clemons (CS/CS/SB 918 by Rules Committee; Judiciary Committee; and Senator Grimsley)

The bill modifies how the clerks of the circuit courts will dispose of surplus funds and how they will receive course completion information from driver improvement schools.

Remission of Unclaimed or Surplus Funds from Courts to the Department of Financial Services (DFS)

The bill repeals s. 43.19, F.S., which requires courts to retain unclaimed funds in their possession for 5 years and requires a court order for payment of an unclaimed fund. This will require courts to turn unclaimed funds over to the DFS 1 year after they become payable or distributable as provided in s. 717.113, F.S. A surplus of less than \$10 escheats to the clerk.

The bill provides any surplus fund remaining 1 year after the judicial sale of property are presumed unclaimed, and the clerk of court is required to report (in accordance with s. 717.117, F.S.) and remit (in accordance with s. 717.119, F.S.) the surplus funds to the DFS. However, the time for remitting funds is extended if the owner of the funds has not been determined by the court or if entitlement to the funds is being litigated.

Termination of the Surplus Trustee Program and Related Fees

The bill repeals statutory provisions regarding the use of surplus trustees to locate the owners of surplus funds from judicial sales. Such trustees receive 2 percent of the surplus funds upon appointment and an additional 10 percent of the funds if the trustee locates and disburses the funds to the owner. By terminating this program, no surplus trustee will be appointed and the full amount of unclaimed surplus funds will be transferred to the DFS, which is obligated under current law to attempt to locate the owners of the funds at no cost to the owners. Additionally, the bill repeals related clerk's fees for trustee appointment.

Submission of Claims by Subordinate Lienholders

The bill increases the time period in which subordinate lienholders may claim surplus funds resulting from the judicial sale of property, to any time prior to when the clerk reports the surplus as unclaimed to the DFS (at least one year after the sale) instead of within the 60-day period after the sale. The bill retains the provisions of existing law requiring a court to hold an evidentiary hearing to determine entitlement if the record owner claims the funds during the time period for subordinate lienholders to assert claims to the funds. If entitlement to the funds is being litigated, the clerk of court must retain the funds until conclusion of the litigation. Once a clerk remits the surplus funds to DFS, only the owner of record of the property sold at a judicial sale or the beneficiary of the deceased owner is entitled to the surplus.

The bill makes cross-reference changes to conform to the repeal of the surplus trustee program and the transfer of surplus funds to the DFS.

Transmission of Course Completion Information by Driver Improvement Schools

The bill requires driver improvement schools to transmit student course completion certificates through the Florida Courts E-Filing Portal, within three days after a person successfully completes the course. The certificate must be transmitted to the clerk of the circuit court for the county in which the citation was issued which resulted in the student's attendance at the driver improvement school. The requirement for the electronic submission of driver improvement school completion certificates is intended to eliminate the need for students to obtain and submit the certificate to a clerk's office.

If approved by the Governor, these provisions take effect July 1, 2019.

Vote: Senate 36-0; House 114-0