

LEGISLATIVE ACTION

Senate	•	House
Comm: RCS		
04/06/2009	•	
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The Committee on Community Affairs (Altman) recommended the following:

Senate Amendment to Amendment (106868) (with title amendment)

Delete lines 1822 - 2144

and insert:

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Section 48. Section 197.502, Florida Statutes, is amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.-

(1) The holder of  $\underline{a}$  any tax certificate, other than the county, at any time after 2 years have elapsed since April 1 of

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12 the year of issuance of the tax certificate and before the expiration of 7 years after from the date of issuance, may file 13 14 the certificate and an application for a tax deed with the tax collector of the county where the property lands described in 15 the certificate is are located. The application may be made on 16 the entire parcel of property or any part thereof which is 17 18 capable of being readily separated from the whole. The tax collector may charge shall be allowed a tax deed application fee 19 20 of \$75, plus reimbursement for any fee charged to the tax 21 collector by a vendor for providing an electronic tax deed 22 application program or service. 23 (2) A certificateholder, other than the county, may notify the tax collector at any time of the certificateholder's intent 24 25 to make application for tax deed. However, if the tax deed 26 application will be filed within the month of the earliest date 27 allowed pursuant to s. 197.502(1), the certificateholder must 28 provide the tax collector with a notice of intent to make 29 application no later than 30 days before the date of 30 application. The tax collector shall notify the 31 certificateholder of the total amount due or the estimated 32 amount due, which must include the amount due for redemption or 33 purchase of all other outstanding tax certificates, plus 34 interest; any omitted taxes, plus interest; any delinquent 35 taxes, plus interest; and current taxes, if due, which cover the 36 land. The tax collector shall provide this notice at the 37 earliest possible date but no later than 30 days from the tax 38 collector's receipt of the certficateholder's notice of intent 39 to make application. The certificateholder is required to pay 40 the total amount due or the estimated amount due at the time of

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41 application. Any certificateholder, other than the county, who 42 makes application for a tax deed shall pay the tax collector at the time of application all amounts required for redemption or 43 purchase of all other outstanding tax certificates, plus 44 45 interest, any omitted taxes, plus interest, any delinquent 46 taxes, plus interest, and current taxes, if due, covering the 47 land. (3) The county in which where the property lands described 48 49 in the certificate is are located shall apply make application 50 for a tax deed on all county-held certificates on property valued at \$5,000 or more on the property appraiser's most recent 51 52 assessment roll, except deferred payment tax certificates, and may apply for tax deeds make application on those certificates 53 54 on property valued at less than \$5,000 on the property appraiser's most recent assessment roll. The Such application 55 56 shall be made 2 years after April 1 of the year of issuance of 57 the certificates or as soon thereafter as is reasonable. Upon application for a tax deed, the county shall deposit with the 58 59 tax collector all applicable costs and fees, but may shall not deposit any money to cover the redemption of other outstanding 60 61 certificates covering the property land. The tax collector may 62 charge a tax deed application fee of \$75, plus reimbursement for any fee charged to the tax collector by a vendor for providing 63 64 an electronic tax deed application program or service.

(4) The tax collector shall deliver to the clerk of the circuit court a statement that payment has been made for all outstanding certificates or, if the certificate is held by the county, that all appropriate fees have been deposited, and stating that the following persons are to be notified prior to



70 the sale of the property:

(a) Any legal titleholder of record if the address of the owner appears on the record of conveyance of the property lands to the owner. However, if the legal titleholder of record is the same as the person to whom the property was assessed on the tax roll for the year in which the property was last assessed, then the notice may only be mailed to the address of the legal titleholder as it appears on the latest assessment roll.

(b) Any lienholder of record who has recorded a lien
against the property described in the tax certificate if an
address appears on the recorded lien.

81 (c) Any mortgagee of record if an address appears on the 82 recorded mortgage.

(d) Any vendee of a recorded contract for deed if an address appears on the recorded contract or, if the contract is not recorded, any vendee who has applied to receive notice pursuant to s. 197.344(1)(c).

87 (e) Any other lienholder who has applied to the tax
88 collector to receive notice if an address is supplied to the
89 collector by such lienholder.

90 (f) Any person to whom the property was assessed on the tax91 roll for the year in which the property was last assessed.

92 (g) Any lienholder of record who has recorded a lien 93 against a mobile home located on the property described in the 94 tax certificate if an address appears on the recorded lien and 95 if the lien is recorded with the clerk of the circuit court in 96 the county where the mobile home is located.

97 (h) Any legal titleholder of record of property that is
98 contiguous to the property described in the tax certificate, <u>if</u>



99 when the property described is either submerged land or common elements of a subdivision, if the address of the titleholder of 100 101 contiguous property appears on the record of conveyance of the 102 property land to the that legal titleholder. However, if the 103 legal titleholder of property contiguous to the property 104 described in the tax certificate is the same as the person to 105 whom the property described in the tax certificate was assessed 106 on the tax roll for the year in which the property was last 107 assessed, the notice may be mailed only to the address of the 108 legal titleholder as it appears on the latest assessment roll. 109 As used in this chapter, the term "contiguous" means touching, 110 meeting, or joining at the surface or border, other than at a 111 corner or a single point, and not separated by submerged lands. 112 Submerged lands lying below the ordinary high-water mark which 113 are sovereignty lands are not part of the upland contiguous 114 property for purposes of notification.

The statement must be signed by the tax collector or the tax 116 117 collector's designee, with the tax collector's seal affixed. The 118 tax collector may purchase a reasonable bond for errors and 119 omissions of his or her office in making such statement. The 120 search of the official records must be made by a direct and inverse search. "Direct" means the index in straight and 121 122 continuous alphabetic order by grantor, and "inverse" means the 123 index in straight and continuous alphabetic order by grantee.

(5) (a) The tax collector may contract with a title company or an abstract company at a reasonable fee to provide the minimum information required in subsection (4), consistent with rules adopted by the department. If additional information is

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128 required, the tax collector must make a written request to the 129 title or abstract company stating the additional requirements. 130 The tax collector may select any title or abstract company, 131 regardless of its location, as long as the fee is reasonable, the minimum information is submitted, and the title or abstract 132 133 company is authorized to do business in this state. The tax 134 collector may advertise and accept bids for the title or 135 abstract company if he or she considers it appropriate to do so.

136 1. The ownership and encumbrance report must include the be 137 printed or typed on stationery or other paper showing a 138 letterhead of the person, firm, or company that makes the 139 search, and the signature of the individual person who makes the search or of an officer of the firm must be attached. The tax 140 141 collector is not liable for payment to the firm unless these requirements are met. The report may be submitted to the tax 142 143 collector in an electronic format.

2. The tax collector may not accept or pay for any title search or abstract if <del>no</del> financial responsibility is <u>not</u> assumed for the search. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable. Notwithstanding s. 627.7843(3), the tax collector may contract for higher maximum liability limits.

150 3. In order to establish uniform prices for ownership and 151 encumbrance reports within the county, the tax collector <u>must</u> 152 shall ensure that the contract for ownership and encumbrance 153 reports include all requests for title searches or abstracts for 154 a given period of time.

(b) Any fee paid for <u>a</u> any title search or abstract must be collected at the time of application under subsection (1), and

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157 the amount of the fee must be added to the opening bid.

(c) The clerk shall advertise and administer the sale and receive such fees for the issuance of the deed and sale of the property as are provided in s. 28.24.

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(6) <del>(a)</del> The opening bid:

(a) On county-held certificates on nonhomestead property
shall be the sum of the value of all outstanding certificates
against the property land, plus omitted years' taxes, delinquent
taxes, interest, and all costs and fees paid by the county.

166 (b) The opening bid On an individual certificate on 167 nonhomestead property shall include, in addition to the amount 168 of money paid to the tax collector by the certificateholder at the time of application, must include the amount required to 169 170 redeem the applicant's tax certificate and all other costs and 171 fees paid by the applicant, plus all tax certificates that were 172 sold subsequent to the filing of the tax deed application and 173 omitted taxes, if any.

(c) The opening bid on property assessed on the latest tax 174 175 roll as homestead property shall include, in addition to the 176 amount of money required for an opening bid on nonhomestead 177 property, an amount equal to one-half of the latest assessed 178 value of the homestead. Payment of one-half of the assessed 179 value of the homestead property shall not be required if the tax 180 certificate to which the application relates was sold prior to 181 January 1, 1982.

(7) On county-held certificates for which there are no bidders at the public sale, the clerk shall enter the land on a list entitled "lands available for taxes" and shall immediately notify the county commission and all other persons holding



186 certificates against the property land that the property land is available. During the first 90 days after the property land is 187 188 placed on the list of lands available for taxes, the county may purchase the land for the opening bid or may waive its rights to 189 190 purchase the property. Thereafter, any person, the county, or 191 any other governmental unit may purchase the land from the clerk, without further notice or advertising, for the opening 192 193 bid, except that if when the county or other governmental unit 194 is the purchaser for its own use, the board of county 195 commissioners may cancel omitted years' taxes, as provided under 196 s. 197.447. If the county does not elect to purchase the 197 property land, the county must notify each legal titleholder of property contiguous to the property land available for taxes, as 198 199 provided in paragraph (4)(h), before expiration of the 90-day 200 period. Interest on the opening bid continues to accrue through 201 the month of sale as prescribed by s. 197.542.

202 (8) Taxes shall not be extended against parcels listed as lands available for taxes, but in each year the taxes that would 203 204 have been due shall be treated as omitted years and added to the 205 required minimum bid. Seven Three years after the day the land 206 was offered for public sale, the land shall escheat to the 207 county in which it is located, free and clear. All tax 208 certificates, accrued taxes, and liens of any nature against the 209 property shall be deemed canceled as a matter of law and of no 210 further legal force and effect, and the clerk shall execute an 211 escheatment tax deed vesting title in the board of county 212 commissioners of the county in which the land is located.

(a) When a property escheats to the county under thissubsection, the county is not subject to any liability imposed



by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. However, this subsection does not affect the rights or liabilities of any past or future owners of the escheated property and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source.

(b) The county and the Department of Environmental Protection may enter into a written agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for a property that escheats to the county.

(9) Consolidated applications on more than one tax
certificate are allowed, but a separate statement shall be
issued pursuant to subsection (4), and a separate tax deed shall
be issued pursuant to s. 197.552, for each parcel of property
shown on the tax certificate.

(10) Any fees collected pursuant to this section shall be refunded to the certificateholder in the event that the tax deed sale is canceled for any reason.

234 (11) For any property acquired under this section by the 235 county for the express purpose of providing infill housing, the 236 board of county commissioners may, in accordance with s. 237 197.447, cancel county-held tax certificates and omitted years' 238 taxes on such properties. Furthermore, the county may not 239 transfer a property acquired under this section specifically for 240 infill housing back to a taxpayer who failed to pay the 241 delinquent taxes or charges that led to the issuance of the tax certificate or lien. For purposes of this subsection only, the 242 243 term "taxpayer" includes the taxpayer's family or any entity in



244 which the taxpayer or taxpayer's family has any interest. 245 Section 49. Section 197.542, Florida Statutes, is amended 246 to read:

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197.542 Sale at public auction.-

248 (1) Real property The lands advertised for sale to the 249 highest bidder as a result of an application filed under s. 250 197.502 shall be sold at public auction by the clerk of the 251 circuit court, or his or her deputy, of the county where the 252 property is lands are located on the date, at the time, and at 253 the location as set forth in the published notice, which must 254 shall be during the regular hours the clerk's office is open. At 255 the time and place, the clerk shall read the notice of sale and 256 shall offer the lands described in the notice for sale to the 257 highest bidder for cash at public outcry. The amount required to 258 redeem the tax certificate, plus the amounts paid by the holder 259 to the clerk of the circuit court in charges for costs of sale, 260 redemption of other tax certificates on the same property lands, 261 and all other costs to the applicant for tax deed, plus interest 262 thereon at the rate of 1.5 percent per month for the period 263 running from the month after the date of application for the 264 deed through the month of sale and costs incurred for the 265 service of notice provided for in s. 197.522(2), shall be 266 considered the bid of the certificateholder for the property. If 2.67 tax certificates exist or if delinquent taxes accrued subsequent 268 to the filing of the tax deed application, the amount required 269 to redeem such tax certificates or pay such delinquent taxes 270 shall be included in the minimum bid. However, if the land to be sold is assessed on the latest tax roll as homestead property, 271 272 the bid of the certificateholder shall be increased to include



273 an amount equal to one-half of the assessed value of the 274 homestead property as required by s. 197.502. If there are no higher bids, the property land shall be struck off and sold to 275 276 the certificateholder, who shall forthwith pay to the clerk any 277 amounts included in the minimum bid, the documentary stamp tax 278 and recording fees due. Upon payment, and a tax deed shall 279 thereupon be issued and recorded by the clerk. The tax deed 280 applicant shall have the option of placing the property on the 2.81 list of lands available for taxes in lieu of paying any 282 additional sums due as a result of the increased minimum bid, 283 documentary stamps, or recording fees.

284 (2) If there are other bids, The certificateholder has 285 shall have the right to bid as others present may bid, and the 286 property shall be struck off and sold to the highest bidder. The 287 high bidder may be required to shall post with the clerk a 288 nonrefundable cash deposit of 5 percent of the bid  $\frac{200}{200}$  at the 289 time of the sale, to be applied to the sale price at the time of 290 full payment. Notice of the this deposit requirement must shall 291 be posted at the auction site, and the clerk may require that 292 bidders to show their willingness and ability to post the cost 293 deposit. If full payment of the final bid and of documentary 294 stamp tax and recording fees is not made within 24 hours, 295 excluding weekends and legal holidays, the clerk shall cancel 296 all bids, readvertise the sale as provided in this section, and 297 pay all costs of the sale from the deposit. Any remaining funds 298 must be applied toward the opening bid. The clerk may refuse to 299 recognize the bid of any person who has previously bid and refused, for any reason, to honor such bid. 300

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(3) If the sale is canceled for any reason, the clerk shall



302 immediately readvertise the sale to be held within no later than 303 30 days after the date the sale was canceled. Only one 304 advertisement is necessary. No further notice is required. The 305 amount of the opening statutory (opening) bid shall be increased 306 by the cost of advertising, additional clerk's fees as provided 307 for in s. 28.24(21), and interest as provided for in subsection 308 (1). The clerk must shall receive full payment prior to the 309 issuance of the tax deed.

310 (4) (a) A clerk may conduct electronic tax deed sales in 311 lieu of public outcry. The clerk must comply with the procedures 312 provided in this chapter, except that electronic proxy bidding 313 shall be allowed and the clerk may require bidders to advance sufficient funds to pay the deposit required by subsection (2). 314 315 The clerk shall provide access to the electronic sale by computer terminals open to the public at a designated location. 316 A clerk who conducts such electronic sales may receive 317 318 electronic deposits and payments related to the sale. The portion of an advance deposit from a winning bidder required by 319 320 subsection (2) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10). 321

322 (b) Nothing in this subsection shall be construed to 323 restrict or limit the authority of a charter county from 324 conducting electronic tax deed sales. In a charter county where the clerk of the circuit court does not conduct all electronic 325 326 sales, the charter county shall be permitted to receive 327 electronic deposits and payments related to sales it conducts, 328 as well as to subject the winning bidder to a fee, consistent 329 with the schedule in s. 28.24(10).

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Section 50. Section 197.522, Florida Statutes, is amended



331 to read:

332 197.522 Notice to owner when application for tax deed is 333 made.-

334 (1) (a) Except as provided herein, the clerk of the circuit 335 court shall notify, by certified mail with return receipt 336 requested or by registered mail if the notice is to be sent 337 outside the continental United States, the persons listed in the 338 tax collector's statement pursuant to s. 197.502(4) that an 339 application for a tax deed has been made. Such notice shall be 340 mailed at least 20 days prior to the date of sale. If no address 341 is listed in the tax collector's statement, then no notice shall 342 be required.

343 (b) The clerk shall enclose with every copy mailed a 344 statement as follows:

345 WARNING: There are unpaid taxes on property which you own 346 or in which you have a legal interest. Such property will be 347 sold at public auction notwithstanding its classification as homestead property, if applicable. The property will be sold at 348 349 public auction on ... (date) ... unless the back taxes are paid. 350 To make payment, or to receive further information, contact the 351 clerk of court immediately at ... (address) ..., ... (telephone 352 number)....

(c) The clerk shall complete and attach to the affidavit of the publisher a certificate containing the names and addresses of those persons notified and the date the notice was mailed. The certificate shall be signed by the clerk and the clerk's official seal affixed. The certificate shall be prima facie evidence of the fact that the notice was mailed. If no address is listed on the tax collector's certification, the clerk shall



360 execute a certificate to that effect.

(d) The failure of anyone to receive notice as provided herein shall not affect the validity of the tax deed issued pursuant to the notice.

(e) A printed copy of the notice as published in the
newspaper, accompanied by the warning statement described in
paragraph (b), shall be deemed sufficient notice.

367 (2) (a) In addition to the notice provided in subsection 368 (1), for property that was not classified as homestead property 369 on the most recent assessment roll prior to the tax deed 370 application, the sheriff of the county in which the legal 371 titleholder resides shall, at least 20 days prior to the date of 372 sale, notify the legal titleholder of record of the property on 373 which the tax certificate is outstanding. The original notice 374 and sufficient copies shall be prepared by the clerk and 375 provided to the sheriff. Such notice shall be served as 376 specified in chapter 48; if the sheriff is unable to make 377 service, he or she shall post a copy of the notice in a 378 conspicuous place at the legal titleholder's last known address. 379 The inability of the sheriff to serve notice on the legal 380 titleholder shall not affect the validity of the tax deed issued 381 pursuant to the notice. A legal titleholder of record who 382 resides outside the state may be notified by the clerk as 383 provided in subsection (1). The notice shall be in substantially 384 the following form:

385 386

## WARNING

387 There are unpaid taxes on the property which you own. <u>Such</u> 388 property will be sold at public auction notwithstanding its

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389 classification as homestead property, if applicable. The 390 property will be sold at public auction on ... (date) ... unless 391 the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court at 392 393 ... (address) ..., ... (telephone number) .... 394 395 In addition, if the legal titleholder does not reside in the 396 county in which the property to be sold is located, a copy of 397 such notice shall be posted in a conspicuous place on the 398 property by the sheriff of the county in which the property is 399 located. However, no posting of notice shall be required if the 400 property to be sold is classified for assessment purposes, 401 according to use classifications established by the department, 402 as nonagricultural acreage or vacant land. 403 (b) In addition to the notice provided in subsection (1), 404 for property classified as homestead property on the most recent 405 assessment roll prior to the tax deed application, the sheriff 406 of the county in which the legal titleholder resides shall, at 407 least 45 days prior to the date of sale, provide notice that a 408 tax certificate is outstanding on such homestead property to the 409 legal titleholder of record. The original notice and sufficient copies shall be prepared by the clerk of the circuit court and 410 411 provided to the sheriff. Such notice shall be served as provided 412 in chapter 48. If unable to make service, the sheriff shall post 413 a copy of the notice in a conspicuous place at the homestead 414 property address. The return of service shall indicate, in 415 addition to the details of service, whether the residence exists 416 and whether the residence appears to be occupied. The inability 417 of the sheriff to serve notice on the legal titleholder of

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418	homestead property subject to an outstanding tax certificate
419	does not affect the validity of a tax deed issued on such
420	property pursuant to the notice. The notice shall be in
421	substantially the following form:
422	WARNING
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424	There are unpaid taxes on the homestead property you
425	own. Such property will be sold at public auction on
426	(date), unless the back taxes are paid,
427	notwithstanding its classification as homestead
428	property. To make arrangements for payment or to
429	receive further information, contact the clerk of the
430	court immediately at (address), (telephone number).
431	
432	<u>(c)</u> In addition to the notice provided in subsection
433	(1), the clerk shall notify by certified mail with return
434	receipt requested, or by registered mail if the notice is to be
435	sent outside the continental United States, the persons listed
436	in the tax collector's statement pursuant to s. 197.502(4)(h)
437	and to the tax deed applicant that application for a tax deed
438	has been made. Such notice shall be mailed at least 20 days
439	prior to the date of sale. If no address is listed in the tax
440	collector's statement, then no notice shall be required.
441	Enclosed with the copy of the notice shall be a statement in
442	substantially the following form:
443	WARNING
444	
445	There are unpaid taxes on property contiguous to your
446	property. The property with the unpaid taxes will be
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i i	
447	sold at auction on(date) unless the back taxes
448	are paid. To make payment, or to receive further
449	information about the purchase of the property,
450	contact the clerk of court immediately at
451	(address),(telephone number)
452	
453	Neither the failure of the tax collector to include the list of
454	contiguous property owners pursuant to s. 197.502(4)(h) in his
455	or her statement to the clerk nor the failure of the clerk to
456	mail this notice to any or all of the persons listed in the tax
457	collector's statement pursuant to s. 197.502(4)(h) shall be a
458	basis to challenge the validity of the tax deed issued pursuant
459	to any notice under this section.
460	(3) Nothing in this chapter shall be construed to prevent
461	the tax collector, or any other public official, in his or her
462	discretion from giving additional notice in any form concerning
463	tax certificates and tax sales beyond the minimum requirements
464	of this chapter.
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466	======================================
467	And the title is amended as follows:
468	Delete lines 2514 - 2528
469	and insert:
470	197.482, 197.492, 197.552, and 197.582, F.S.; revising,
471	updating, and consolidating provisions of chapter 197, F.S.,
472	relating to definitions, tax collectors, lien of taxes, returns
473	and assessments, unpaid or omitted taxes, discounts, interest
474	rates, Department of Revenue responsibilities, tax bills,
475	judicial sales, prepayment of taxes, assessment rolls, duties of



476 tax collectors, tax notices, delinquent taxes, lienholders, 477 special assessments, non-ad valorem assessments, tax payments, 478 distribution of taxes, advertisements of property with 479 delinquent taxes, attachment, delinquent personal property 480 taxes, sales of property, tax certificates, tax deeds, and tax 481 sales; amending s. 197.502, F.S.; revising provisions relating 482 to applications for tax deeds; providing notice requirements; 483 providing payment requirements; authorizing the tax collector to 484 charge a fee to cover the costs to the tax collector for 485 electronic tax deed programs or services; authorizing the tax 486 collector to charge the county a fee for tax deed applications; 487 deleting opening bid requirements for the sale of tax deeds on 488 homestead property when the applicant is holder of a tax sale 489 certificate; amending s. 197.542, F.S., deleting bid 490 requirements relating to the purchase of homestead property at 491 public auction; amending s. 197.522, F.S., providing notice 492 requirements for the sale of homestead property due to 493 nonpayment of taxes; creating s. 197.146, F.S.; authorizing tax