

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 837 Tax Collectors  
**SPONSOR(S):** Local & Federal Affairs Committee and Mayfield  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1026

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Finance & Tax Subcommittee	15 Y, 0 N	Aldridge	Langston
2) Local & Federal Affairs Committee	14 Y, 0 N, As CS	Nelson	Rojas

**SUMMARY ANALYSIS**

Florida law authorizes tax collectors to issue tax certificates against parcels of real property for delinquent taxes. When a tax certificate is not redeemed by a property owner, the certificate holder may apply for a tax deed on the property.

CS/HB 837 allows tax collectors to recover the costs for providing online tax deed application services. Under this bill, if the tax collector charges a combined fee in excess of \$75 for tax deed applications and the online service, applicants for tax deeds have the option to not use the electronic service.

The bill is effective July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

Chapter 197, F.S., governs tax collections, sales and liens.

#### Tax Certificates

A tax certificate is a legal document, representing unpaid delinquent real property taxes, non-ad valorem assessments, including special assessments, interest, and related costs and charges, issued in accordance with ch.197, F.S., against a specific parcel of property.<sup>1</sup>

Property taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector and tax notices are mailed to taxpayers notifying them of the amount of taxes due and any available discounts.<sup>2</sup> Taxes are considered delinquent if not paid by April 1 following the year in which assessed.<sup>3</sup> By April 30, the tax collector mails an additional tax notice to each taxpayer whose payment has not been received, notifying the taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.<sup>4</sup>

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes to the person who will pay the taxes, interest, cost and charges, and demand the lowest rate of interest under the maximum rate of interest. Tax certificates that are not sold are issued to the county at the maximum interest rate (18 percent).<sup>5</sup> The sale of the tax certificate acts as a first lien on the property that is superior to all other liens, but does not convey any property rights to the investor.<sup>6</sup>

A property owner may redeem a tax certificate any time before a tax deed is issued or the property is placed on the "list of lands available for sale." The person redeeming or purchasing the tax certificate is required to pay the investor or county "all taxes, interest, costs, charges, and [any] omitted taxes" and a \$6.25 fee to the tax collector.<sup>7</sup>

#### Tax Deeds

If the property owner does not redeem the tax certificate, a tax certificate holder may apply for a tax deed on the property on or after the second year following the sale of the certificate and before the expiration of seven years from issuance, by filing the certificate with the county tax collector and paying all amounts required for redemption or purchase of all other outstanding tax certificates, any omitted taxes or delinquent taxes, and any current taxes due, plus interest. The tax collector is authorized to collect a fee of \$75 at the time of application for the tax deed.<sup>8</sup> The property is then placed on the list of lands available for sale and sold to the highest bidder at a public auction held by the clerk of the circuit court.<sup>9</sup> If property is not sold within three years after the public auction, the land escheats to the county in which the property is located free and clear of all liens.<sup>10</sup> Tax certificates that are not redeemed or for which a tax deed has not been applied for after a period of seven years become null and void.<sup>11</sup>

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<sup>1</sup> Section 197.102(1) (f), F.S.

<sup>2</sup> Section 197.322, F.S.

<sup>3</sup> Section 197.333, F.S.

<sup>4</sup> Section 197.343(1), F.S.

<sup>5</sup> Sections 197.402, 197.432 and 197.172, F.S.

<sup>6</sup> Sections 197.122 and 197.432, F.S.

<sup>7</sup> Sections 197.472 and 197.4725, F.S.

<sup>8</sup> Section 197.502, F.S.

<sup>9</sup> Section 197.542(1), F.S.

<sup>10</sup> Section 197.502(8), F.S.

<sup>11</sup> Section 197.482, F.S.

## Electronic Tax Certificate and Tax Deed Sales, and Tax Deed Applications

Tax collectors are authorized pursuant to s. 197.432, F.S., to conduct the sale of tax certificates by electronic means. A tax collector who chooses to conduct electronic tax certificate sales may receive electronic deposits and payments related to the sales. Currently, there are four vendors serving 55 counties that conduct online tax certificate sales. The cost ranges from \$10 to \$15 per parcel, depending on the vendor, and is paid by the investor when the tax certificate is purchased.<sup>12</sup>

Additionally, s.197.542 (4)(a), F.S., provides that circuit court clerks may conduct electronic tax deed sales, and add the cost of this process to the sale. The cost is paid by the certificate holder when filing a tax deed application. The clerk is required to provide access to the electronic sale by computer terminals open to the public at a designated location.

Currently, there is no statutory provision regarding electronic tax deed applications. There are two vendors that offer electronic tax deed applications in Florida, and 28 tax collectors who use this service.<sup>13</sup> The tax collectors who use the online tax deed application program do not have authority to charge an additional fee for this service.

Where an online tax deed application service is not offered, tax certificate holders must call or physically travel to the tax collector's office to ascertain whether the certificates they hold are eligible for a tax deed application.

### **Effect of Proposed Changes**

CS/HB 837 amends s. 197.502, F.S., to provide authorization for tax collectors to receive reimbursement for electronic tax deed application services. It is anticipated that vendors will charge approximately \$20-\$49 per tax deed application.<sup>14</sup> When a tax certificate holder applies for a tax deed electronically, the fee will be added to the application and paid for by the applicant.

Under this bill, if the tax collector charges a combined fee in excess of \$75 for tax deed applications and the online service, applicants for tax deeds have the option to not use the electronic service.

### **B. SECTION DIRECTORY:**

Section 1: Amends s. 197.502, F.S., relating to tax deeds.

Section 2: Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

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<sup>12</sup> April 2, 2013, e-mail from W. Dale Summerford, Gadsden County Tax Collector.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

Tax collectors would be authorized to charge for reimbursement of costs associated with providing an electronic tax deed application service.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals applying for tax deeds electronically may be charged for the costs of providing this service.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 4, 2013, the Local & Federal Affairs Committee adopted an amendment, which provides that if the tax collector charges a combined fee in excess of \$75 for tax deed applications and the online service, applicants for tax deeds have the option to not use the electronic service.

This analysis is drafted to reflect the Committee Substitute.