



895102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
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	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 40.32, Florida
Statutes, is amended to read:

40.32 Clerks to disburse money; payments to jurors and
witnesses.—

(3) Jurors and witnesses shall be paid by the clerk of the
court ~~either~~ in cash, by check, or by warrant within 20 days



895102

11 after completion of jury service or ~~of~~ completion of service as
12 a witness.

13 (a) ~~If Whenever~~ the clerk of the court pays a juror or
14 witness by cash, the juror or witness shall sign the payroll in
15 the presence of the clerk, a deputy clerk, or some other person
16 designated by the clerk.

17 (b) ~~If Whenever~~ the clerk pays a juror or witness by
18 warrant, he or she shall endorse on the payroll opposite the
19 juror's or witness's name the words "Paid by warrant," giving
20 the number and date of the warrant.

21 Section 2. Section 77.27, Florida Statutes, is amended to
22 read:

23 77.27 No appeal until fees are paid.—If the writ is
24 dismissed or plaintiff fails to sustain his or her claim, ~~an~~ ~~no~~
25 appeal from the judgment is not ~~shall be~~ permitted until the
26 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~
27 ~~court~~.

28 Section 3. Section 77.28, Florida Statutes, is amended to
29 read:

30 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,
31 expenses; deposit required.—Before issuance of any writ of
32 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~
33 ~~the registry of the court which shall be paid~~ to the garnishee
34 on the garnishee's demand at any time after the service of the
35 writ for the payment or part payment of his or her attorney
36 ~~attorney's~~ fee which the garnishee expends or agrees to expend
37 in obtaining representation in response to the writ. ~~At the time~~
38 ~~of deposit, the clerk shall collect the statutory fee provided~~
39 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~



895102

40 ~~registry of the court.~~ On rendering final judgment, the court
41 shall determine the garnishee's costs and expenses, including a
42 reasonable attorney ~~attorney's~~ fee, and in the event of a
43 judgment in favor of the plaintiff, the amount is ~~shall be~~
44 subject to offset by the garnishee against the defendant whose
45 property or debt owing is being garnished. In addition, the
46 court shall tax the garnishee's costs and expenses as costs. The
47 plaintiff may recover in this manner the sum advanced by him or
48 her ~~plaintiff and paid into registry of court,~~ and, if the
49 amount allowed by the court is greater than the amount paid ~~of~~
50 ~~the deposit,~~ together with any offset, judgment for the
51 garnishee shall be entered against the party against whom the
52 costs are taxed for the deficiency.

53 Section 4. Subsection (4) of section 197.432, Florida
54 Statutes, is amended to read:

55 197.432 Sale of tax certificates for unpaid taxes.—

56 (4) A tax certificate representing less than \$250 in
57 delinquent taxes on property that has been granted a homestead
58 exemption for the year in which the delinquent taxes were
59 assessed may not be sold at public auction or by electronic sale
60 as provided in subsection (1) but must be issued by the tax
61 collector to the county at the maximum rate of interest allowed.
62 Section ~~The provisions of s.~~ 197.4725 or s. 197.502(3) may not
63 be invoked if the homestead exemption is granted to the person
64 who received the homestead exemption for the year in which the
65 tax certificate was issued unless any. ~~However, if all~~ such tax
66 certificates and accrued interest represent an amount of \$250 or
67 more, ~~s. 197.502(3) shall be used to determine whether the~~
68 ~~county must apply for a tax deed.~~



895102

69 Section 5. Subsection (1) of section 197.472, Florida
70 Statutes, is amended to read:

71 197.472 Redemption of tax certificates.—

72 (1) A Any person may redeem a tax certificate at any time
73 after the certificate is issued and before a tax deed is issued
74 unless full payment for a tax deed is made to the clerk of the
75 court, including documentary stamps and recording fees ~~or the~~
76 ~~property is placed on the list of lands available for sale.~~ The
77 person redeeming a tax certificate shall pay the tax collector
78 the face amount plus all interest, costs, and charges.

79 Section 6. Subsections (2) and (7) of section 197.502,
80 Florida Statutes, are amended to read:

81 197.502 Application for obtaining tax deed by holder of tax
82 sale certificate; fees.—

83 (2) A certificateholder, other than the county, who makes
84 application for a tax deed shall pay the tax collector at the
85 time of application all amounts required for redemption or
86 purchase of all other outstanding tax certificates, plus
87 interest, any omitted taxes, plus interest, any delinquent
88 taxes, plus interest, and current taxes, if due, covering the
89 property. In addition, the certificateholder shall pay the costs
90 of resale, if applicable, and failure to pay such costs within
91 30 days after notice from the clerk shall result in the clerk's
92 entering the land on a list entitled "lands available for
93 taxes."

94 (7) On county-held or individually held certificates for
95 which there are no bidders at the public sale and for which the
96 certificateholder fails to timely pay costs of resale or fails
97 to pay the amounts due for issuance of a tax deed within 30 days



895102

98 after the sale, the clerk shall enter the land on a list
99 entitled "lands available for taxes" and shall immediately
100 notify the county commission and ~~all other persons holding~~
101 ~~certificates against the property~~ that the property is
102 available. During the first 90 days after the property is placed
103 on the list, the county may purchase the land for the opening
104 bid or may waive its rights to purchase the property.
105 Thereafter, any person, the county, or any other governmental
106 unit may purchase the property from the clerk, without further
107 notice or advertising, for the opening bid, except that if the
108 county or other governmental unit is the purchaser for its own
109 use, the board of county commissioners may cancel omitted years'
110 taxes, as provided under s. 197.447. ~~If the county does not~~
111 ~~elect to purchase the property, the county must notify each~~
112 ~~legal titleholder of property contiguous to the property~~
113 ~~available for taxes, as provided in paragraph (4) (h), before~~
114 ~~expiration of the 90-day period.~~ Interest on the opening bid
115 continues to accrue through the month of sale as prescribed by
116 s. 197.542.

117 Section 7. Subsections (1) and (3) of section 197.542,
118 Florida Statutes, are amended to read:

119 197.542 Sale at public auction.—

120 (1) Real property advertised for sale to the highest bidder
121 as a result of an application filed under s. 197.502 shall be
122 sold at public auction by the clerk of the circuit court, or his
123 or her deputy, of the county where the property is located on
124 the date, at the time, and at the location as set forth in the
125 published notice, which must be during the regular hours the
126 clerk's office is open. The amount required to redeem the tax



895102

127 certificate, plus the amounts paid by the holder to the clerk in
128 charges for costs of sale, redemption of other tax certificates
129 on the same property, and all other costs to the applicant for
130 tax deed, plus interest at the rate of 1.5 percent per month for
131 the period running from the month after the date of application
132 for the deed through the month of sale and costs incurred for
133 the service of notice provided for in s. 197.522(2), shall be
134 the bid of the certificateholder for the property. If tax
135 certificates exist or if delinquent taxes accrued subsequent to
136 the filing of the tax deed application, the amount required to
137 redeem such tax certificates or pay such delinquent taxes must
138 be included in the minimum bid. However, if the land to be sold
139 is assessed on the latest tax roll as homestead property, the
140 bid of the certificateholder must be increased to include an
141 amount equal to one-half of the assessed value of the homestead
142 property as required by s. 197.502. If there are no higher bids,
143 the property shall be struck off and sold to the
144 certificateholder, who shall pay to the clerk any amounts
145 included in the minimum bid not already paid, including, but not
146 limited to, the documentary stamp tax, the ~~and~~ recording fees,
147 and, if the property is homestead property, the moneys to cover
148 the one-half value of the homestead within 30 days after the
149 sale due. Upon payment, a tax deed shall be issued and recorded
150 by the clerk. If the certificateholder fails to make full
151 payment when due, the clerk shall enter the land on a list
152 entitled "lands available for taxes."

153 (3) If the sale is canceled for any reason, or the buyer
154 fails to make full payment within the time required, the clerk
155 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days



895102

156 after the buyer's nonpayment or, if canceled, within 30 days
157 after the clerk receives the costs of resale. The sale shall be
158 held within 30 days after readvertising ~~after the date the sale~~
159 ~~was canceled.~~ Only one advertisement is necessary. The amount of
160 the opening bid shall be increased by the cost of advertising,
161 additional clerk's fees as provided for in s. 28.24(21), and
162 interest as provided for in subsection (1). If, at the
163 subsequent sale, there are no bidders at the tax deed sale and
164 the certificateholder fails to pay the moneys due within 30 days
165 after the sale, the clerk may not readvertise the sale and shall
166 place the property on a list entitled "lands available for
167 taxes." ~~This process must be repeated until the property is sold~~
168 ~~and the clerk receives full payment or the clerk does not~~
169 ~~receive any bids other than the bid of the certificateholder.~~
170 The clerk must receive full payment before the issuance of the
171 tax deed.

172 Section 8. Subsection (2) of section 197.582, Florida
173 Statutes, is amended, and subsection (3) is added to that
174 section, to read:

175 197.582 Disbursement of proceeds of sale.—

176 (2) If the property is purchased for an amount in excess of
177 the statutory bid of the certificateholder, the excess must be
178 paid over and disbursed by the clerk. If the property purchased
179 is homestead property and the statutory bid includes an amount
180 equal to at least one-half of the assessed value of the
181 homestead, that amount must be treated as excess and distributed
182 in the same manner. The clerk shall distribute the excess to the
183 governmental units for the payment of any lien of record held by
184 a governmental unit against the property, including any tax



895102

185 certificates not incorporated in the tax deed application and
186 omitted taxes, if any. If the excess is not sufficient to pay
187 all of such liens in full, the excess shall be paid to each
188 governmental unit pro rata. If, after all liens of governmental
189 units are paid in full, there remains a balance of undistributed
190 funds, the balance shall be retained by the clerk for the
191 benefit of persons described in s. 197.522(1)(a), except those
192 persons described in s. 197.502(4)(h), as their interests may
193 appear. The clerk shall mail notices to such persons notifying
194 them of the funds held for their benefit. Such notice
195 constitutes compliance with the requirements of s. 717.117(4).

196 Any service charges, at the rate prescribed in s. 28.24(10), and
197 costs of mailing notices shall be paid out of the excess balance
198 held by the clerk. Excess proceeds shall be held and disbursed
199 in the same manner as unclaimed redemption moneys in s. 197.473.
200 For purposes of identifying unclaimed property pursuant to s.
201 717.113, excess proceeds shall be presumed payable or
202 distributable on the date the notice is sent. If excess proceeds
203 are not sufficient to cover the service charges and mailing
204 costs, the clerk shall receive the total amount of excess
205 proceeds as a service charge.

206 (3) If unresolved claims against the property exist on the
207 date the property is purchased, the clerk shall ensure that the
208 excess funds are paid according to the priorities of the claims.
209 If a lien appears to be entitled to priority and the lienholder
210 has not made a claim against the excess funds, payment may not
211 be made on any lien that is junior in priority. If potentially
212 conflicting claims to the funds exist, the clerk may initiate an
213 interpleader action against the lienholders involved, and the



895102

214 court shall determine the proper distribution of the
215 interpleaded funds. The clerk may move the court for an award of
216 reasonable fees and costs from the interpleaded funds.

217 Section 9. This act shall take effect July 1, 2014.
218

219 ===== T I T L E A M E N D M E N T =====

220 And the title is amended as follows:

221 Delete everything before the enacting clause
222 and insert:

223 A bill to be entitled
224 An act relating to clerks of court; amending s. 40.32,
225 F.S.; authorizing jurors and witnesses to be paid by
226 check; amending s. 77.27, F.S.; conforming a provision
227 to changes made by the act; amending s. 77.28, F.S.;
228 requiring a party applying for garnishment to pay a
229 deposit to the garnishee, rather than in the registry
230 of the court; deleting a provision that requires the
231 clerk to collect a specified fee; amending s. 197.432,
232 F.S.; providing requirements for the sale of tax
233 certificates; amending s. 197.472, F.S.; revising
234 requirements for the redemption of tax certificates;
235 amending s. 197.502, F.S.; requiring the
236 certificateholder to pay costs of resale within 30
237 days under certain circumstances; providing
238 circumstances under which land shall be placed on a
239 specified list; deleting a provision relating to a
240 notification procedure; amending s. 197.542, F.S.;
241 requiring the certificateholder to pay a specified
242 amount of the assessed value of the homestead under



895102

243 certain circumstances; providing circumstances under
244 which land shall be placed on a specified list;
245 amending s. 197.582, F.S; clarifying notice
246 requirements; providing for excess proceeds relating
247 to unclaimed property; requiring the clerk to ensure
248 that excess funds are paid according to specified
249 priorities; providing for interpleader actions and the
250 award of reasonable fees and costs; providing an
251 effective date.