

By the Committee on Judiciary; and Senator Ring

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1                   A bill to be entitled  
2           An act relating to clerks of court; amending s. 40.32,  
3           F.S.; authorizing jurors and witnesses to be paid by  
4           check; amending s. 77.27, F.S.; conforming a provision  
5           to changes made by the act; amending s. 77.28, F.S.;  
6           requiring a party applying for garnishment to pay a  
7           deposit to the garnishee, rather than in the registry  
8           of the court; deleting a provision that requires the  
9           clerk to collect a specified fee; amending s. 197.432,  
10          F.S.; providing requirements for the sale of tax  
11          certificates; amending s. 197.472, F.S.; revising  
12          requirements for the redemption of tax certificates;  
13          amending s. 197.502, F.S.; requiring the  
14          certificateholder to pay costs of resale within 15  
15          days under certain circumstances; providing  
16          circumstances under which land shall be placed on a  
17          specified list; prohibiting a county from applying for  
18          a tax deed under certain circumstances; deleting a  
19          provision relating to a notification procedure;  
20          amending s. 197.542, F.S.; requiring the  
21          certificateholder to pay a specified amount of the  
22          assessed value of the homestead under certain  
23          circumstances; providing circumstances under which  
24          land shall be placed on a specified list; amending s.  
25          197.582, F.S.; clarifying notice requirements;  
26          providing for excess proceeds relating to unclaimed  
27          property; requiring the clerk to ensure that excess  
28          funds are paid according to specified priorities;  
29          providing for interpleader actions and the award of

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30 reasonable fees and costs; providing an effective  
31 date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Subsection (3) of section 40.32, Florida  
36 Statutes, is amended to read:

37 40.32 Clerks to disburse money; payments to jurors and  
38 witnesses.—

39 (3) Jurors and witnesses shall be paid by the clerk of the  
40 court ~~either~~ in cash, by check, or by warrant within 20 days  
41 after completion of jury service or ~~of~~ completion of service as  
42 a witness.

43 (a) If ~~Whenever~~ the clerk of the court pays a juror or  
44 witness by cash, the juror or witness shall sign the payroll in  
45 the presence of the clerk, a deputy clerk, or some other person  
46 designated by the clerk.

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

51 Section 2. Section 77.27, Florida Statutes, is amended to  
52 read:

53 77.27 No appeal until fees are paid.—If the writ is  
54 dismissed or plaintiff fails to sustain his or her claim, an ~~no~~  
55 appeal from the judgment is not ~~shall be~~ permitted until the  
56 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid into  
57 ~~court~~.

58 Section 3. Section 77.28, Florida Statutes, is amended to

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59 read:

60 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,  
61 expenses; deposit required.—Before issuance of any writ of  
62 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~  
63 ~~the registry of the court which shall be paid~~ to the garnishee  
64 on the garnishee's demand at any time after the service of the  
65 writ for the payment or part payment of his or her attorney  
66 ~~attorney's~~ fee which the garnishee expends or agrees to expend  
67 in obtaining representation in response to the writ. ~~At the time~~  
68 ~~of deposit, the clerk shall collect the statutory fee provided~~  
69 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~  
70 ~~registry of the court.~~ On rendering final judgment, the court  
71 shall determine the garnishee's costs and expenses, including a  
72 reasonable attorney ~~attorney's~~ fee, and in the event of a  
73 judgment in favor of the plaintiff, the amount is ~~shall be~~  
74 subject to offset by the garnishee against the defendant whose  
75 property or debt owing is being garnished. In addition, the  
76 court shall tax the garnishee's costs and expenses as costs. The  
77 plaintiff may recover in this manner the sum advanced by him or  
78 her ~~plaintiff and paid into registry of court,~~ and, if the  
79 amount allowed by the court is greater than the amount paid ~~of~~  
80 ~~the deposit,~~ together with any offset, judgment for the  
81 garnishee shall be entered against the party against whom the  
82 costs are taxed for the deficiency.

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

85 197.432 Sale of tax certificates for unpaid taxes.—

86 (4) A tax certificate representing less than \$250 in  
87 delinquent taxes on property that has been granted a homestead

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88 exemption for the year in which the delinquent taxes were  
89 assessed may not be sold at public auction or by electronic sale  
90 as provided in subsection (1) but must be issued by the tax  
91 collector to the county at the maximum rate of interest allowed.  
92 ~~The provisions of s. 197.4725 or s. 197.502(3) may not be~~  
93 ~~invoked if the homestead exemption is granted to the person who~~  
94 ~~received the homestead exemption for the year in which the tax~~  
95 ~~certificate was issued. However, if all of the outstanding such~~  
96 ~~tax certificates and accrued interest and the current tax~~  
97 ~~certificate represent an amount of \$250 or more, the current tax~~  
98 ~~certificate must be offered for sale pursuant to subsection (1).~~  
99 A county that acquires a tax certificate pursuant to this  
100 subsection may not sell the tax certificate pursuant to s.  
101 197.4725 s. 197.502(3) shall be used to determine whether the  
102 county must apply for a tax deed.

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

105 197.472 Redemption of tax certificates.—

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

113 Section 6. Subsections (2), (3), and (7) of section  
114 197.502, Florida Statutes, are amended to read:

115 197.502 Application for obtaining tax deed by holder of tax  
116 sale certificate; fees.—

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117 (2) A certificateholder, other than the county, who makes  
118 application for a tax deed shall pay the tax collector at the  
119 time of application all amounts required for redemption or  
120 purchase of all other outstanding tax certificates, plus  
121 interest, any omitted taxes, plus interest, any delinquent  
122 taxes, plus interest, and current taxes, if due, covering the  
123 property. In addition, the certificateholder shall pay the costs  
124 of resale, if applicable, and failure to pay such costs within  
125 15 days after notice from the clerk shall result in the clerk's  
126 entering the land on a list entitled "lands available for  
127 taxes."

128 (3) The county in which the property described in the  
129 certificate is located shall apply for a tax deed on all county-  
130 held certificates on property valued at \$5,000 or more on the  
131 property appraiser's most recent assessment roll, except  
132 deferred payment tax certificates, and may apply for tax deeds  
133 on certificates on property valued at less than \$5,000 on the  
134 property appraiser's most recent assessment roll. The  
135 application shall be made 2 years after April 1 of the year of  
136 issuance of the certificates or as soon thereafter as is  
137 reasonable. Upon application, the county shall deposit with the  
138 tax collector all applicable costs and fees as provided in  
139 subsection (1), but may not deposit any money to cover the  
140 redemption of other outstanding certificates covering the  
141 property. However, a county may not apply for a tax deed on a  
142 certificate held by the county if, in the year for which the  
143 most recent tax certificate was issued to the county, the value  
144 of that tax certificate and the outstanding tax certificates and  
145 accrued interest represented an amount of less than \$250 and the

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146 homestead exemption was granted to a person who received the  
147 exemption for that year.

148 (7) On county-held or individually held certificates for  
149 which there are no bidders at the public sale and for which the  
150 certificateholder fails to timely pay costs of resale or fails  
151 to pay the amounts due for issuance of a tax deed within 15 days  
152 after the sale, the clerk shall enter the land on a list  
153 entitled "lands available for taxes" and shall immediately  
154 notify the county commission ~~and all other persons holding~~  
155 ~~certificates against the property~~ that the property is  
156 available. During the first 90 days after the property is placed  
157 on the list, the county may purchase the land for the opening  
158 bid or may waive its rights to purchase the property.  
159 Thereafter, any person, the county, or any other governmental  
160 unit may purchase the property from the clerk, without further  
161 notice or advertising, for the opening bid, except that if the  
162 county or other governmental unit is the purchaser for its own  
163 use, the board of county commissioners may cancel omitted years'  
164 taxes, as provided under s. 197.447. ~~If the county does not~~  
165 ~~elect to purchase the property, the county must notify each~~  
166 ~~legal titleholder of property contiguous to the property~~  
167 ~~available for taxes, as provided in paragraph (4)(h), before~~  
168 ~~expiration of the 90-day period.~~ Interest on the opening bid  
169 continues to accrue through the month of sale as prescribed by  
170 s. 197.542.

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

173 197.542 Sale at public auction.—

174 (1) Real property advertised for sale to the highest bidder

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175 as a result of an application filed under s. 197.502 shall be  
176 sold at public auction by the clerk of the circuit court, or his  
177 or her deputy, of the county where the property is located on  
178 the date, at the time, and at the location as set forth in the  
179 published notice, which must be during the regular hours the  
180 clerk's office is open. The amount required to redeem the tax  
181 certificate, plus the amounts paid by the holder to the clerk in  
182 charges for costs of sale, redemption of other tax certificates  
183 on the same property, and all other costs to the applicant for  
184 tax deed, plus interest at the rate of 1.5 percent per month for  
185 the period running from the month after the date of application  
186 for the deed through the month of sale and costs incurred for  
187 the service of notice provided for in s. 197.522(2), shall be  
188 the bid of the certificateholder for the property. If tax  
189 certificates exist or if delinquent taxes accrued subsequent to  
190 the filing of the tax deed application, the amount required to  
191 redeem such tax certificates or pay such delinquent taxes must  
192 be included in the minimum bid. However, if the land to be sold  
193 is assessed on the latest tax roll as homestead property, the  
194 bid of the certificateholder must be increased to include an  
195 amount equal to one-half of the assessed value of the homestead  
196 property as required by s. 197.502. If there are no higher bids,  
197 the property shall be struck off and sold to the  
198 certificateholder, who shall pay to the clerk any amounts  
199 included in the minimum bid, the documentary stamp tax, the and  
200 recording fees, and, if the property is homestead property, the  
201 moneys to cover the one-half value of the homestead within 15  
202 days after the sale ~~due~~. Upon payment, a tax deed shall be  
203 issued and recorded by the clerk. If the certificateholder fails

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204 to make full payment when due, the clerk shall enter the land on  
205 a list entitled "lands available for taxes."

206 (3) If the sale is canceled for any reason~~7~~ or the buyer  
207 fails to make full payment within the time required, the clerk  
208 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days  
209 after the buyer's nonpayment or, if canceled, within 30 days  
210 after the clerk receives the costs of resale. The sale shall be  
211 held within 30 days after readvertising ~~after the date the sale~~  
212 ~~was canceled~~. Only one advertisement is necessary. The amount of  
213 the opening bid shall be increased by the cost of advertising,  
214 additional clerk's fees as provided for in s. 28.24(21), and  
215 interest as provided for in subsection (1). If, at the  
216 subsequent sale, there are no bidders at the tax deed sale and  
217 the certificateholder fails to pay the moneys due within 15 days  
218 after the sale, the clerk may not readvertise the sale and shall  
219 place the property on a list entitled "lands available for  
220 taxes." ~~This process must be repeated until the property is sold~~  
221 ~~and the clerk receives full payment or the clerk does not~~  
222 ~~receive any bids other than the bid of the certificateholder.~~  
223 The clerk must receive full payment before the issuance of the  
224 tax deed.

225 Section 8. Subsection (2) of section 197.582, Florida  
226 Statutes, is amended, and subsection (3) is added to that  
227 section, to read:

228 197.582 Disbursement of proceeds of sale.—

229 (2) If the property is purchased for an amount in excess of  
230 the statutory bid of the certificateholder, the excess must be  
231 paid over and disbursed by the clerk. If the property purchased  
232 is homestead property and the statutory bid includes an amount

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233 equal to at least one-half of the assessed value of the  
234 homestead, that amount must be treated as excess and distributed  
235 in the same manner. The clerk shall distribute the excess to the  
236 governmental units for the payment of any lien of record held by  
237 a governmental unit against the property, including any tax  
238 certificates not incorporated in the tax deed application and  
239 omitted taxes, if any. If the excess is not sufficient to pay  
240 all of such liens in full, the excess shall be paid to each  
241 governmental unit pro rata. If, after all liens of governmental  
242 units are paid in full, there remains a balance of undistributed  
243 funds, the balance shall be retained by the clerk for the  
244 benefit of persons described in s. 197.522(1)(a), except those  
245 persons described in s. 197.502(4)(h), as their interests may  
246 appear. The clerk shall mail notices to such persons notifying  
247 them of the funds held for their benefit. Such notice  
248 constitutes compliance with the requirements of s. 717.117(4).  
249 Any service charges, at the rate prescribed in s. 28.24(10), and  
250 costs of mailing notices shall be paid out of the excess balance  
251 held by the clerk. Excess proceeds shall be held and disbursed  
252 in the same manner as unclaimed redemption moneys in s. 197.473.  
253 For purposes of identifying unclaimed property pursuant to s.  
254 717.113, excess proceeds shall be presumed payable or  
255 distributable on the date the notice is sent. If excess proceeds  
256 are not sufficient to cover the service charges and mailing  
257 costs, the clerk shall receive the total amount of excess  
258 proceeds as a service charge.

259 (3) If unresolved claims against the property exist on the  
260 date the property is purchased, the clerk shall ensure that the  
261 excess funds are paid according to the priorities of the claims.

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262 If a lien appears to be entitled to priority and the lienholder  
263 has not made a claim against the excess funds, payment may not  
264 be made on any lien that is junior in priority. If potentially  
265 conflicting claims to the funds exist, the clerk may initiate an  
266 interpleader action against the lienholders involved, and the  
267 court shall determine the proper distribution of the  
268 interpleaded funds. The clerk may move the court for an award of  
269 reasonable fees and costs from the interpleaded funds.

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