

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

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BILL: CS/SB 1504

INTRODUCER: Community Affairs Committee and Senator Rouson

SUBJECT: Tax Deed Sales

DATE: February 19, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1504 clarifies the responsibilities of the tax certificateholder when applying for a tax deed, including the specific costs to pay. The bill requires tax collectors to contract with title companies or abstract companies to provide a property information report. Costs for property information reports will be added to the costs of sale.

Additionally, the bill revises certain provisions regarding notice and distribution of surplus funds, and makes certain technical changes.

The bill does not affect state or local government revenues.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property.<sup>1</sup>

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<sup>1</sup> FLA. CONST. art. VII, s. 1(a).

The ad valorem tax is based on the taxable value of property as of January 1 of each year.<sup>2</sup> The property appraiser annually determines the “just value”<sup>3</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>4</sup>

### **Tax Collection and Tax Certificate Sales**

After receiving the tax roll, the tax collector publishes a notice in the local newspaper stating the tax roll is open for collection, and within 20 working days of receipt of the tax roll, sends each taxpayer, whose address is known, a tax notice with the current taxes due and any delinquent taxes due.<sup>5</sup> All taxes are due on November 1 of each year,<sup>6</sup> and taxes become delinquent on April 1.<sup>7</sup>

If ad valorem taxes are not paid by June 1, the tax collector advertises and sells tax certificates to pay the delinquency.<sup>8</sup> The tax certificate is awarded to the investor who will accept the lowest rate of interest for paying the taxes, interest, costs and charges due on the property.<sup>9</sup> Unsold tax certificates and tax certificates valued at less than \$250 on homestead property are issued to the county.<sup>10</sup> A tax certificate is a legal document that represents unpaid delinquent ad valorem taxes, non-ad valorem assessments, interest, and related costs and charges issued against a specific parcel of real property.<sup>11</sup> Once sold, the tax certificate becomes a first lien on the property, superior to all other liens, except as provided by law,<sup>12</sup> but can be enforced only through the remedies provided under ch. 197, F.S.<sup>13</sup>

The tax certificateholder may not take any action against the property for approximately two years, after which the certificateholder may apply for a tax deed.<sup>14</sup> The tax certificate expires 7 years from the date the sale was advertised.<sup>15</sup> If a tax deed has not been applied for, and no other

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<sup>2</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>4</sup> *See* s. 192.001(2) and (16), F.S.

<sup>5</sup> Section 197.322(2), F.S. If payment has not been received, the tax collector must send out an additional notice by April 30. Section 197.343(1), F.S.

<sup>6</sup> For simplicity, the dates used herein assume that the tax roll is completed and certified on time. Relevant statutes provide for shifting of these timeframes if the process is delayed. For example, *see* s. 197.333, F.S., providing that in the event the tax roll is delayed, taxes are due when the certified tax roll is received by the tax collector.

<sup>7</sup> Section 197.333, F.S.

<sup>8</sup> Sections 197.402(3) and 197.432(1), F.S.

<sup>9</sup> Section 197.432(6), F.S.

<sup>10</sup> Section 197.432, F.S.

<sup>11</sup> Section 197.102(1)(f), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 197.432(2), F.S.

<sup>14</sup> Section 197.502(1), F.S.

<sup>15</sup> Section 197.482, F.S.

administrative or legal proceeding, including a bankruptcy, has been initiated, the tax certificate is null and void and must be canceled.<sup>16</sup>

The property owner may redeem a tax certificate by paying the face value amount of the tax certificate plus all interest, costs, and charges to the tax collector any time before a tax deed is issued, unless full payment for a tax deed is made to the clerk of the court.<sup>17</sup> If the property owner redeems a tax certificate, the tax collector pays the tax certificateholder the amount received less a redemption fee.<sup>18</sup> If the certificateholder cannot be found for payment, the money is remitted to the state as unclaimed property.<sup>19</sup>

### **Tax Deed Applications**

At least two years after April 1 of the year in which the tax certificate was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector.<sup>20</sup> The tax collector may charge a \$75 application fee and reimbursement of costs for use of an online application process, if offered. If the total fee is more than \$75, the applicant must have the option to apply online.<sup>21</sup>

A certificateholder that applies for a tax deed must buy or redeem all other outstanding tax certificates plus interest, any omitted taxes<sup>22</sup> plus interest, any delinquent taxes plus interest, and any current taxes due on the property, and, if applicable, pay the costs of resale.<sup>23</sup> Failure to pay the costs of resale within 30 days after notice from the clerk of court results in the property being placed on the list of lands available for sale.<sup>24</sup>

If the certificateholder is the county, the application fee and reimbursement costs charged by the tax collector must be deposited with the tax collector, but the county may not deposit any money for redemption or purchase of other tax certificates covering the property.<sup>25</sup> Certificateholders with more than one tax certificate may consolidate them into one application, but the tax collector is required to issue separate statements to the clerk of the circuit court to identify appropriate parties for notice requirements and the clerk must issue a separate tax deed for each listed parcel of real property.<sup>26</sup>

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<sup>16</sup> *Id.* A deferred payment tax certificate is not subject to this provision.

<sup>17</sup> Section 197.472(1), F.S. A portion of a certificate may be redeemed only if such portion can be ascertained by legal description and the portion to be redeemed is evidenced by a contract for sale or recorded deed. Section 197.472(4), F.S.

<sup>18</sup> Section 197.472(5), F.S.

<sup>19</sup> Section 197.473, F.S.

<sup>20</sup> Section 197.502(1), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> "Omitted taxes" means those taxes which have not been extended on the tax roll against a parcel of property after the property has been placed upon the list of lands available for taxes pursuant to s. 197.502, F.S. Section 197.102(1)(c), F.S.

<sup>23</sup> Section 197.502(2), F.S. The requirement to purchase all other outstanding tax certificates is not imposed on counties that hold certificates and apply for a tax deed.

<sup>24</sup> *Id.*

<sup>25</sup> Section 197.502(3), F.S. The county must apply for a tax deed if the property has been most recently assessed at a value over \$5,000 by the property appraiser and may apply for a tax deed on property most recent assessment below \$5,000. The county must apply on or reasonably soon after 2 years after the April 1 of the year the tax certificate was issued.

<sup>26</sup> Section 197.502(9), F.S.

After the certificateholder provides the required funds, the tax collector must send a signed statement to the clerk of the circuit court confirming receipt and directing the clerk to notify the following persons prior to the sale of the property, if their addresses are documented:

- Any legal titleholder of record;
- Any lienholder of record who has recorded a lien against the property described in the tax certificate;
- Any mortgagee of record;
- Any vendee of a recorded contract for deed or any vendee who has applied to receive notice pursuant to s. 197.344(1)(c), F.S.;
- Any other lienholder who has applied to the tax collector to receive notice;
- Any person to whom the property was assessed on the tax roll for the year in which the property was last assessed;
- Any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate if the lien is recorded with the clerk of the circuit court in the county where the mobile home is located; and
- Any legal titleholder of record of property that is contiguous<sup>27</sup> to the property described in the tax certificate, if the property described is submerged land or common elements of a subdivision and if the address of the titleholder of contiguous property appears on the record of conveyance of the property to the legal titleholder.<sup>28</sup>

The tax collector may purchase a reasonable bond for errors and omissions made in preparing this statement,<sup>29</sup> and may contract with a title or abstract company to provide the minimum information to identify the persons requiring notice from the clerk.<sup>30</sup> If additional information is required, the tax collector must make a written request to the title or abstract company stating the additional requirements.<sup>31</sup> The law does not specify what report the tax collector must obtain but does reference the requirements for a property information report and title search or abstract.<sup>32</sup>

A property information report is any report that discloses documents or information about a parcel of real property appearing in:

- The Official Records in the possession of the clerk of the circuit court as county recorder;<sup>33</sup>
- The records of a county tax collector pertaining to ad valorem real property taxes and special assessments imposed by a governmental authority; or
- The Secretary of State filing office or another governmental filing office pertaining to real or personal property.<sup>34</sup>

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<sup>27</sup> “Contiguous” means touching, meeting, or joining at the surface or border, other than at a corner or a single point, and not separated by submerged lands. Submerged lands lying below the ordinary high-water mark which are sovereignty lands are not part of the upland contiguous property for purposes of notification. Section 197.502(4)(h), F.S.

<sup>28</sup> Sections 197.502(4)(a)-(h), F.S.

<sup>29</sup> Section 197.502(4), F.S. A search of the official records must be made by a direct and inverse search. “Direct” means the index in straight and continuous alphabetic order by grantor, and “inverse” means the index in straight and continuous alphabetic order by grantee.

<sup>30</sup> Section 197.502(5)(a), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 197.502(5)(a)-(b), F.S. The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search, but may set reasonable restrictions as to the liability or responsibility of the title or abstract company.

<sup>33</sup> Pursuant to s. 28.222, F.S.

<sup>34</sup> Section 627.7843(1), F.S.

A property information report may not include or imply, either directly or indirectly, any opinion, warranty, guarantee, insurance, or other similar assurance,<sup>35</sup> and liability for any errors or omissions in the report is limited to the contractual remedies available only to the party expressly identified as the recipient of the report not exceeding the amount paid for the report.<sup>36</sup> The report must contain the liability disclaimer worded in the statute.<sup>37</sup> Before a tax collector becomes liable for payment of a property information report, the report, whether in paper or electronic format, must include the letterhead of the person, firm, or company making the search and signature of the individual making the search or an officer of the firm.<sup>38</sup>

A title search is the compiling of title information from official or public records.<sup>39</sup> An abstract is a summary of the record evidence of title.<sup>40</sup> An abstract must include:

- A description of the property,
- The names of the grantors and grantees, mortgagors and mortgagees,
- The nature of the instrument, consideration, date, release of dower, number of witnesses, number of book and page of record, and
- Such other information arranged in such order as the board of county commissioners may deem advisable.<sup>41</sup>

If a title search or abstract of title is produced, the fee paid for the title search or abstract must be collected from the certificateholder at the time the application is made, and the amount of the fee must be added to the opening bid of the tax deed sale.<sup>42</sup> The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search.<sup>43</sup>

In order to establish uniform prices for property information reports within the county, the tax collector must ensure that the contract for such reports include all requests for title searches or abstracts for a given period of time.<sup>44</sup>

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<sup>35</sup> Section 627.7843(2), F.S. A property information report is not title insurance. *Id.*

<sup>36</sup> Section 627.7843(3), F.S.

<sup>37</sup> *Id.* Under the tax deed application scheme, tax collectors may contract for higher maximum liability limits despite the statutory limitation on liability. Section 197.502(5)(a)2., F.S.

<sup>38</sup> Section 197.502(5)(a)1., F.S.

<sup>39</sup> Section 627.7711(4), F.S.

<sup>40</sup> *Adams v. Whittle*, 101 Fla. 705, 135 So.152 (Fla. 1931). The decision actually uses “epitome,” as in a summary of a written work.

<sup>41</sup> Section 703.03, F.S. An abstract of tax sales relating to real estate must include the number of the tax certificate, date of sale, the year for which taxes were unpaid, number and page of book where it was recorded, date of redemption or cancellation, date of the tax sales deed, number and page of book where recorded, and such other information and in such order as may be deemed advisable by the clerk. Section 703.04, F.S.

<sup>42</sup> Section 197.502(5)(b), F.S. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable.

<sup>43</sup> Section 197.502(5)(a)2., F.S.

<sup>44</sup> Section 197.502(5)(a)3., F.S.

## Tax Deed Sale

The clerk of the circuit court must advertise<sup>45</sup> and administer a sale and receive fees pursuant to a statutory fee schedule.<sup>46</sup> The clerk of the circuit court must notify the persons listed in the tax collector's statement of the tax deed application.<sup>47</sup> The notice must be mailed at least 20 days before the date of the sale. No notice is required if no addresses are listed in the tax collector's statement.<sup>48</sup> The clerk must certify the names and addresses of those persons notified and the date the notice was mailed or certify no address was listed on the tax collector's certification.<sup>49</sup> The failure of anyone to receive notice as provided by statute does not affect the validity of the tax deed issued pursuant to the notice.<sup>50</sup>

The opening bid for county-held tax certificates against non-homestead property must include:

- All outstanding tax certificates against the property plus taxes for any omitted years;
- Delinquent taxes;
- Interest at the rate of 1.5 percent per month for the period running from the month after the date of application for the deed through the month of sale;<sup>51</sup>
- Costs incurred for the service of notice to the required parties by the clerk;<sup>52</sup> and
- All costs and fees paid by the county.<sup>53</sup>

The opening bid for individual tax certificates must include:

- The amount of money paid to the tax collector by the certificateholder at the time of application;
- The amount required to redeem the applicant's tax certificate and all other costs and fees paid by the applicant;
- All tax certificates that were sold subsequent to the filing of the tax deed application;

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<sup>45</sup> Upon the receipt of the tax deed application and payment of proper charges, the clerk shall publish a form notice once each week for 4 consecutive weeks at weekly intervals in a newspaper selected as provided in s. 197.402, F.S., or as required if there is no available newspaper. No tax deed sale can be held until 30 days after the first publication of the notice. Section 197.512(1)-(2), F.S.

<sup>46</sup> Sections 197.502(5)(c) and 28.24(21)-(22), F.S. Currently, the clerk's fee is \$60.00 for processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds and \$10 for distribution of the excess proceeds for the first \$100, or fraction thereof.

<sup>47</sup> Section 197.522(1)(a), F.S. Notice must be made by certified mail with return receipt requested or, if the notice is to be sent outside the continental United States, by registered mail. The notice must include the warning language listed in the statute.

<sup>48</sup> *Id.* The certificateholder may also request the clerk mail notice to names and addresses provided by the certificateholder. The charges are paid by the certificateholder and added to the amount required to redeem the land for sale. Section 197.532, F.S.

<sup>49</sup> Section 197.522(1)(c) and (2)(b), F.S.

<sup>50</sup> Section 197.522(1)(d), F.S. In addition to the mailed notice, the sheriff of the county in which the legal titleholder resides must notify the legal titleholder of record of the property on which the tax certificate is outstanding at least 20 days prior to the date of sale. If the sheriff is unable to make service, he or she must post a copy of the notice in a conspicuous place at the legal titleholder's last known address. The inability of the sheriff to serve notice on the legal titleholder shall not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by mail as required. However, no posting of notice shall be required if the property to be sold is classified for assessment purposes, according to use classifications established by the department, as nonagricultural acreage or vacant land. *See* Section 197.522(2)(a), F.S.

<sup>51</sup> Section 197.542(1), F.S.

<sup>52</sup> *Id.*

<sup>53</sup> Section 197.502(6)(a), F.S.

- Omitted taxes, if any exist;<sup>54</sup>
- Interest at the rate of 1.5 percent per month for the period running from the month after the date of application for the deed through the month of sale; and
- Costs incurred for the service of notice to the required parties by the clerk.<sup>55</sup>

Opening bids for any property assessed as homestead property on the latest tax roll must include one-half of the latest assessed value of the homestead in addition to the amounts for an opening bid on non-homestead property.<sup>56</sup>

The property is sold at public auction by the clerk of the circuit court, or the clerk's deputy, during regular office hours and pursuant to the published notice.<sup>57</sup> The opening bid is the bid of the certificateholder.<sup>58</sup> If there are no higher bids, the property is sold to the certificateholder, who must pay the clerk any amounts included in the minimum bid not already paid, including, but not limited to, documentary stamp taxes, recording fees, and, if the property is homestead property, the moneys to cover one-half the value of the homestead within 30 days after the sale.<sup>59</sup> If the certificateholder fails to make full payment when due, the clerk enters the land on a list entitled "lands available for taxes."<sup>60</sup>

At the sale, the property shall be sold to the highest bidder, who must post with the clerk a nonrefundable deposit of 5 percent of the bid or \$200, whichever is greater, at the time of the sale, to be applied to the sales price at the time of full payment.<sup>61</sup> If the sale is canceled for any reason or the buyer fails to make full payment within the time required, the clerk must re-advertise the sale within 30 days after the buyer's nonpayment or, if canceled, within 30 days after the clerk receives the costs of resale.<sup>62</sup> Any person, firm, corporation, or county that is the grantee of any tax deed is entitled to the immediate possession of the lands described in the deed.<sup>63</sup>

### **Tax Sale Proceeds Distribution**

If the property is not purchased by the certificateholder, the clerk must reimburse the certificateholder of the sums paid, including the amount required to redeem the certificate or certificates together with any and all subsequent unpaid taxes plus the costs and expenses of the

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<sup>54</sup> Section 197.502(6)(b), F.S.

<sup>55</sup> Section 197.542(1), F.S.

<sup>56</sup> Section 197.502(6)(c), F.S.

<sup>57</sup> Section 197.542(1), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* Upon payment, a tax deed shall be issued and recorded by the clerk. Under s. 197.573, F.S., the usual restrictions and covenants limiting the use of property; the type, character and location of building; covenants against nuisances and what the former parties deemed to be undesirable conditions, in, upon, and about the property; and other similar restrictions and covenants; survive the tax deed sale. *See* s. 197.573, F.S.

<sup>60</sup> Section 197.542(1), F.S.

<sup>61</sup> Section 197.542(2), F.S.

<sup>62</sup> Section 197.542(3), F.S.

<sup>63</sup> Section 197.562, F.S.

application for deed, with interest.<sup>64</sup> The clerk distributes the proceeds of sale in the same manner as money received for the redemption of tax certificates owned by the county.<sup>65</sup>

Any proceeds exceeding the certificateholder's statutory bid must be paid over to and disbursed by the clerk.<sup>66</sup> If the property purchased is homestead property and the statutory bid included the required homestead deposit,<sup>67</sup> that amount must be treated as excess and distributed in the same manner.<sup>68</sup>

The clerk must distribute the excess proceeds to governmental units to pay any lien of record held by the governmental unit against the property.<sup>69</sup> If there is a balance after all governmental units are paid in full, the clerk retains the excess proceeds for the benefit of persons who were entitled to notice of the tax deed sale as identified by the tax collector, including any legal titleholder of record of property contiguous to tax deed property that is submerged land or common elements of a subdivision.<sup>70</sup> The clerk must notify these persons by mail that the funds are being held for their benefit.<sup>71</sup> If the money is not claimed, the clerk may report the money as unclaimed and remit it to the state.<sup>72</sup> The clerk may take money from the excess proceeds to cover any service charges, at the rate prescribed under the clerk's fee schedule,<sup>73</sup> and the costs of mailing notice.<sup>74</sup> Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys.<sup>75</sup> If excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.<sup>76</sup>

If unresolved claims against the property exist on the date the property is purchased, the clerk must ensure that the excess funds are paid according to the priorities of the claims.<sup>77</sup> Junior lienholders cannot be paid if a higher priority lienholder has not made a claim.<sup>78</sup> The clerk may initiate an interpleader action against the lienholders to resolve any potential conflicts in claim and seek reasonable fees and costs.<sup>79</sup>

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<sup>64</sup> Section 197.582(1), F.S. Interest is 1.5 percent per month on the total of such sums for the period running from the month after the date of application for the deed through the month of sale.

<sup>65</sup> *Id.*

<sup>66</sup> Section 197.582(2), F.S.

<sup>67</sup> The homestead deposit is an amount equal to at least one-half of the assessed value of the homestead. Section 197.502(6)(c), F.S.

<sup>68</sup> Section 197.582(2), F.S.

<sup>69</sup> *Id.* Any tax certificates not incorporated in the tax deed application and omitted taxes, if any, are included. If the excess is not sufficient to pay all of such liens in full, the excess shall be paid to each governmental unit pro rata.

<sup>70</sup> Sections 197.502(4)(h) and 197.582(2), F.S.

<sup>71</sup> Section 197.582(2), F.S.

<sup>72</sup> Sections 197.582(2) and 717.117(4), F.S.

<sup>73</sup> *See* s. 28.24(10), F.S.

<sup>74</sup> Sections 197.582(2) and 197.473, F.S.

<sup>75</sup> *Id.*

<sup>76</sup> Section 197.582(2), F.S.

<sup>77</sup> Section 197.582(3), F.S.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*



### III. Effect of Proposed Changes:

**Section 1** amends section 197.502, F.S., relating to the application for obtaining a tax deed by holder of the tax sale certificate.

Section 197.502(2), F.S.

The bill requires the certificateholder applying for a tax deed to pay the mailing costs when the certificateholder requests additional mailing notices pursuant to s. 197.532, F.S., and other costs to bring the property to sale at public auction as outlined in s. 197.542, F.S. The bill also adds language requiring the tax collector to cancel a tax deed application if the certificateholder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk's office and provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate of the certificate on which the application was based.

Section 197.502(5)(a)-(b), F.S.

The bill requires, rather than allows, each tax collector to contract with a title company or an abstract company to provide a property information report, defined in s. 627.7843(1), F.S., and replaces references to "title searches or abstracts" with a reference to a "property information report."

Section 197.502(5)(c), F.S.

The bill requires the clerk to record a notice of tax deed application in the official records after the tax collector submits the application to the clerk. The notice serves as notice of the pendency of the tax deed application, remains effective for 1 year after the recording date, and is deemed to provide notice to any person who acquires an interest in the described property after the date of recording. The notice will be released automatically upon the sale, or, if the property is redeemed, released upon payment of the required clerk's fees. The notice must have the same information required for the notice that must be published by a newspaper or posted publicly under s. 197.512, F.S. The costs of recording the notice must be collected at the time of application and added to the opening bid for the property in the tax deed sale.

Section 197.502(5)(d), F.S.

The bill adds the specific statutory references for the advertisement and administration of a tax deed sale.

Section 197.502(5)(e), F.S.

The bill provides that sending the notice of the application for tax deed as required under ss. 197.512 and 197.522, F.S., to the persons entitled to receive notice under s. 197.502(4), F.S., is conclusively deemed sufficient to provide adequate notice of the application and sale at public auction.

Section 197.502(6)(a) and (b), F.S.

The bill adds current taxes to the list of costs required to be added to the opening bid for the tax deed on both county-held and individually purchased tax certificates, and adds “additional fees or costs incurred by the clerk” to the opening bid for individually purchased certificates.

**Section 2** amends section 197.522, F.S., relating to notice to the property owner of a pending application for tax deed, to provide that the clerk may rely on the addresses provided by the tax collector and is not required to seek additional information to verify the addresses because property owners are presumed to know what taxes are due and payable annually under s. 197.122, F.S.

**Section 3** amends section 197.582, F.S., relating to the disbursement of proceeds of sale.

Section 197.582(2) and (3), F.S.

The bill provides that the clerk must mail notices to the persons entitled to the excess proceeds from a tax deed sale to the addresses provided by the tax collector. The bill provides a form entitled the “Notice of Surplus Funds from Tax Deed Sale” for the clerk to use to notify claimants. Service charges and mailing costs are taken out of the surplus. If the surplus is not enough to cover the service charges and mailing costs, the clerk receives the total surplus proceeds as a service charge after certifying the deficiency.

Claimants have 120 days after the date of the notice to file a claim for the surplus proceeds. The bill provides a claim form that may be used by claimants.

Section 197.582(4)-(9), F.S.

The bill provides that the claims may be submitted by mail, commercial delivery service, in person, or by fax or e-mail. If submitted by mail, the postmark date is the date of filing the claim. For a claim submitted by commercial delivery service or delivered in person, the date of delivery is the filing date. The filing date for a faxed or e-mailed claim is the date of receipt by the clerk. Claims that are not filed by the close of business on the 120th day after the date of the mailed notice of surplus funds are barred and constitute a waiver of interest in the surplus proceeds, unless they are claims by the property owner.

The bill adds a review period of 90 days during which the clerk may file an interpleader action to determine the proper disbursement of the proceeds or pay the surplus funds according to the clerk’s own determination of priority based on the submitted claims. A declaratory action may not be filed until after the claim and review periods have expired.

The bill requires holders of governmental liens, other than federal government liens and ad valorem tax liens, to file a request for disbursement of surplus funds within 120 days after the mailing of the notice of surplus funds. The clerk or comptroller must disburse funds to governmental units holding any lien of record against the property, including any tax certificate not incorporated in the tax deed application and any omitted tax, before non-governmental claimants. The tax deed recipient may directly pay off the liens to governmental units then file a

timely claim with proof of payment and receive the same amount of funds, in the same priority, as the original lienholder.

The bill provides that if the clerk does not receive any claims for the surplus funds within the 120-day claim period, there is a conclusive presumption that the legal titleholder of record described in s. 197.502(4)(a), F.S., is entitled to the surplus funds. If the legal titleholder does not claim the surplus proceeds, the clerk must process the surplus proceeds as unclaimed money in the manner provided in ch. 717, F.S., regardless of whether the legal titleholder is a resident of the state or not.

**Section 4** provides that the bill applies to tax deed applications filed on or after October 1, 2018, with the tax collector pursuant to s. 197.502, F.S.

**Section 5** provides that the bill takes effect July 1, 2018.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties or municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The bill does not affect state or local government revenues.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The bill clarifies and improves noticing requirements regarding the application for tax deeds by tax certificateholders and the related sale at public auction.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 197.502, 197.522, and 197.582.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on February 13, 2018:**

- Restores current law to allow tax collectors to contract with title companies and abstract companies for the preparation of property information reports;
- Removes the definition of “title company”;
- Adds language to provide that the tax collector must cancel a tax deed application if the certificateholder fails to pay the costs required to bring the property to sale within 30 days after notice from clerk;
- Provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate for the certificate on which the application was based;
- Removes the negative revenue impacts to the state by returning to current law regarding disposition of unclaimed property; and
- Makes other technical changes.

**B. Amendments:**

None.