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## **Ways and Means Committee**

Tuesday, February 6, 2018

3:00 p.m. – 6:00 p.m.

Morris Hall

**MEETING PACKET**

# The Florida House of Representatives

## Ways and Means Committee



**Richard Corcoran**  
Speaker

**Paul Renner**  
Chair

### AGENDA

February 6, 2018  
3:00 p.m. – 6:00 p.m.  
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration of the following bills:**  
HB 1089 East Mulloch Drainage District, Lee County by Rodrigues  
HB 1383 Tax Deed Sales by Latvala
- IV. **Workshop on the following:**  
Discussion of tax reduction concepts:
  - Aviation Fuel Tax
  - Brownfields Cleanup Tax Credits
  - Community Contribution Tax Credits
  - Documentary Stamp Tax - Spousal Transfers
  - Sales Tax - Donations to Charities
  - Save Our Homes Portability Adjustments Related to Hurricanes
  - Tax Credit Flexibility & Information - Florida Tax Credit Scholarship Program
  - Traffic Fines - 18% Discount
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1089  
**SPONSOR(S):** Rodrigues  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N	Miller	Miller
2) Ways & Means Committee		Curry <i>KLC</i>	Langston <i>[Signature]</i>
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The East Mulloch Drainage District is an independent special district in south central Lee County. Created in 1963 under chapter 298, F.S., this water control district is responsible for maintaining canals, water retention ponds, and drainage structures in an area of approximately 3,000 acres, primarily an area known as San Carlos Park. Under its charter, the district may impose an annual maintenance tax not exceeding \$30.10 per acre to fund the district costs.

In 2008, the Lee County Board of County Commissioners engaged an engineering firm to study and report on the condition of drainage structures in the district. The 2008 report estimated the cost at that time to return the district drainage structures to their original, "as built" condition would cost over \$5 million and the annual cost to maintain the refurbished structures would be approximately \$140,000.

The bill dissolves the current district and creates the East Mulloch Water Control District as a dependent district of Lee County. The new charter of the dependent district provides:

- The district will be administered by a three-member board of supervisors appointed by the Lee County Board of County Commissioners. The supervisors of the present district will act as the supervisors for the dependent district until the earlier of the expiration of their current terms, January 1, 2019, or the appointment of new supervisors by the Board of County Commissioners. The supervisors of the dependent district must reside in the district and will be appointed to staggered 3-year terms.
- The supervisors of the dependent district will receive a per diem of \$5 for attending board meetings, up to \$25 per month, and be reimbursed for expenses pursuant to s. 112.061, F.S. This schedule is identical to the per diem and expenses provided under the current charter of the independent district.
- The district must comply with all requirements for public records, public meetings, and financial disclosures.
- The charter provides the powers and authority of the dependent district.
- The cap of \$30.10 per acre on annual assessments is retained. The district may not levy ad valorem taxes.

The bill provides the East Mulloch Drainage District is dissolved as of October 1, 2018. All assets and liabilities of the former independent district are transferred to the dependent district and do not become liabilities of Lee County. All present contracts and obligations remain in full force and effect as obligations of the dependent district. All special acts forming the charter of the independent district are repealed.

The bill provides an effective date of July 1, 2018.

**Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.**



**FULL ANALYSIS**  
**I. SUBSTANTIVE ANALYSIS**

**A. EFFECT OF PROPOSED CHANGES:**

**Present Situation**

The East Mulloch Drainage District is an independent special district<sup>1</sup> comprised of approximately 3,046 acres located in south central Lee County, southwest of Lehigh Acres and west of the Village of Estero.<sup>2</sup> The district was created in 1963 by special act for “the purpose of draining and conserving the lands (described in the act)...for controlling and conserving water...and the water tables...for agricultural and sanitary purposes, and for the public health....”<sup>3</sup> The boundaries of the district have been adjusted four times since its creation, resulting in its present configuration.<sup>4</sup> As of July 2008, approximately 2,220 acres in the district were developed. The district is responsible for maintaining approximately 21 miles of canals, 20 retention ponds, and 9 developed drainage structures including swales and a number of culverts.<sup>5</sup>

The district is governed by a three member Board of Supervisors serving staggered three year terms, with one supervisor elected at each annual meeting of the district.<sup>6</sup> The annual meeting of district landowners is to be held each February in a public location within Lee County pursuant to published notice. Each landowner in the district is entitled to cast a number of votes equal to the total acres in the district owned, on a one-acre/one vote basis.<sup>7</sup> Votes may be cast in person or by proxy. The elected board members choose the board president and appoint a district secretary and district engineer. A competent outside individual, bank, or trust company may be employed as treasurer.<sup>8</sup>

The board has extensive powers to develop, operate, and maintain drainage structures throughout the district, including the power to contract,<sup>9</sup> to make necessary alterations to canals and other drainage structures,<sup>10</sup> to move water onto or from district lands into drainage structures,<sup>11</sup> and to make other changes as necessary to maintain structures in the district.<sup>12</sup> In addition to these enumerated powers, the board may exercise all powers and authority provided to water control districts in ch. 298, F.S.<sup>13</sup> The board may also purchase tax certificates sold to the state, county, or other governmental agency, which include taxes levied for the district.<sup>14</sup> Other powers include the authority to pledge maintenance tax receipts as security for a loan not exceeding five years.<sup>15</sup>

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<sup>1</sup> See s. 189.012, F.S.

<sup>2</sup> “East Mulloch Drainage District Facility Analysis Report, Volume 1.” prepared for the Lee County Board of County Commissioners by Boyle Engineering Corporation (July 1980), herein “2008 Report,” 1. According to the 2008 Report, the district lies within the natural basin of Mulloch Creek and the developed area is known generally as San Carlos Park. 2008 Report, 4. The 2008 Report is available at <https://www.leegov.com/naturalresources/Documents/East%20Mullock%20Report.pdf> (last accessed 1/21/2018).

<sup>3</sup> Ch. 63-930, s. 1, Laws of Fla. Until 1980, drainage districts could be created either by special act or circuit court decree. See s. 298.01, F.S., and historical note. Since 1978, all existing drainage districts operating under the authority of ch. 298, F.S., are legally designated as water control districts. Section 298.001, F.S.

<sup>4</sup> See chs. 83-443, 84-464, 86-425, 88-480, Laws of Fla.

<sup>5</sup> 2008 Report, 2. At the time of the report, the Three Oaks and Caloosa Trace subdivisions, both located outside the district, were paying district assessments and the district maintained their drainage structures as well. 2008 Report, 10.

<sup>6</sup> Ch. 63-930, s. 3(1), Laws of Fla.

<sup>7</sup> Ch. 63-930, s. 3(3), Laws of Fla.

<sup>8</sup> Ch. 63-930, s. 14, Laws of Fla.

<sup>9</sup> Ch. 63-930, s. 4(1), Laws of Fla.

<sup>10</sup> Ch. 63-930, s. 4(2), Laws of Fla.

<sup>11</sup> Ch. 63-930, s. 4(3), Laws of Fla.

<sup>12</sup> Ch. 63-930, s. 4(6), Laws of Fla.

<sup>13</sup> Ch. 63-930, s. 4(5), Laws of Fla. The powers enumerated in ch. 63-930, s. 4, effectively are included within the statute and applicable to the district. See s. 298.22, F.S.

<sup>14</sup> Ch. 63-930, s. 12, Laws of Fla.

<sup>15</sup> Ch. 63-930, s. 13, Laws of Fla.

Under the present charter, the board must divide the district into four approximately equal sections designated A, B, C, D. District work benefitting only those lands in a particular section may not be assessed against any land in the three other sections. The cost of district work benefitting lands in more than one section is to be apportioned between those sections only.<sup>16</sup> The district may impose an annual maintenance tax not to exceed \$30.10 per acre to pay the costs for district administration, operations, and maintenance.<sup>17</sup> As with other real property taxes, the maintenance tax creates a lien on the property assessed as of January 1.<sup>18</sup>

Maintenance taxes are deposited by the district in the maintenance fund and the money distributed only for district purposes.<sup>19</sup> The board must prepare an annual budget and the district's fiscal year begins November 1 and ends the following October 31.<sup>20</sup> District assessments are collected through the Lee County Tax Collector.<sup>21</sup>

The charter makes willfully damaging a ditch, canal, or other structure constructed by the district punishable as a misdemeanor.<sup>22</sup>

### Charter Issues

The present charter of the district contains several archaic references to ch. 298, F.S., pertaining to drainage and water control. The charter excepts the district from the applicability of ss. 298.30, 298.31, 298.32, 298.33,<sup>23</sup> 298.42, 298.43, 298.44, 298.45, and 298.46,<sup>24</sup> F.S., all of which have been repealed.<sup>25</sup> The charter also incorporates text subsequently added to ch. 298, F.S., making the charter now duplicative of the controlling law.<sup>26</sup>

In 1997, the Legislature required each special district to draft a codified charter comprised of the special acts creating and empowering the district.<sup>27</sup> The district never submitted a codified charter for reenactment by the Legislature and its charter remains a collection of its special acts.<sup>28</sup>

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<sup>16</sup> Ch. 63-930, s. 6(1), Laws of Fla.

<sup>17</sup> Ch. 63-930, s. 6(2), Laws of Fla., imposing an original annual cap of \$15.00 per acre. Chapter 84-464, s. 2, Laws of Fla., increased the annual cap to \$29.29 per acre, subject to the approval of the district voters in a referendum. The present maximum assessment is \$30.10 per acre, as provided in ch. 86-425, s. 2, Laws of Fla., and approved by the district voters in a referendum. The charter still contains the provision authorizing the initial board to levy a tax of \$1.00 per acre for the initial expenses of starting up the district after its creation. Ch. 63-930, s. 15, Laws of Fla.

<sup>18</sup> Ch. 63-930, s. 16, Laws of Fla.

<sup>19</sup> Ch. 63-930, s. 7, Laws of Fla.

<sup>20</sup> Ch. 63-930, s. 8, Laws of Fla., as amended by ch. 65-912, s. 2, Laws of Fla. The original chapter law for the district inadvertently had two sections numbered 8. The second section 8 described procedures for the board to create a list of all assessable district lands to be transmitted to the county tax assessor. This process appeared duplicative of the statutory procedures and duties of county property appraisers and tax collectors and was repealed two years later. Ch. 65-912, s. 3, Laws of Fla.

<sup>21</sup> Ch. 63-930, s. 9, Laws of Fla., as amended by ch. 65-912, s. 4, Laws of Fla. The charter later reiterates the responsibility of the tax collector, and anyone else responsible for the assessment and collection of taxes, to remit the taxes and assessments collected to the district treasurer. Ch. 63-930, s. 11, Laws of Fla. This general responsibility for all water control districts is now stated in s. 298.365, F.S.

<sup>22</sup> Ch. 63-930, s. 17, Laws of Fla. These would be punishable as second degree misdemeanors under s. 775.081(2), F.S., with maximum imprisonment of 60 days and maximum fine of \$500. Sections 775.082(4)(b), 775.083(1)(e), F.S.

<sup>23</sup> Ch. 63-930, s. 18, Laws of Fla.

<sup>24</sup> Ch. 63-930, s. 9(1), and s. 10, as amended by ch. 65-912, s. 5, Laws of Fla. The charter also excepts the district from s. 298.73, F.S., which is still in effect.

<sup>25</sup> See ch. 72-291 & ch. 97-40, Laws of Fla.

<sup>26</sup> Ch. 63-930, s. 10, as amended by ch. 65-912, s. 5, Laws of Fla., pertains to the subject of collection and enforcement of taxes, within the scope of s. 298.465, F.S., which became statute in 1972. See ch. 72-291, s. 19, Laws of Fla. Ch. 63-930, s. 19, as amended by ch. 65-912, s. 6, Laws of Fla., is identical to s. 298.366, F.S., which also became statute in 1972. See ch. 72-291, s. 17, Laws of Fla.

<sup>27</sup> Ch. 97-255, s. 24, Laws of Fla. Under the original law the bill proposed to recodify a charter could not contain amendments, a provision subsequently removed. See ch. 98-320, s. 3, Laws of Fla.; s. 189.019, F.S.

<sup>28</sup> The original deadline to submit charters for recodification was December 1, 2001. The next year the deadline was changed to December 1, 2004. Ch. 98-320, s. 3, Laws of Fla.

## Financial Issues

As early as 1983, the Legislature recognized problems within the district and provided for the automatic repeal of all acts enabling the district, and the dissolution of the district without further action, if Lee County by ordinance took responsibility for the drainage and maintaining the district structures.<sup>29</sup> Twenty-five years later, the County explored this option by commissioning the 2008 report. According to the 2008 report, the cost at that time to return the drainage structures to “as built” condition was \$5,003,079, and the annual cost of maintenance and operation of the district was \$140,000.<sup>30</sup> In the general election held in 2006, the qualified voters in the District rejected having the County assume responsibility for the operations of the district.<sup>31</sup>

Despite maintaining a positive net assets balance, in recent years the district apparently has struggled to maintain the drainage structures and fulfill its responsibilities. In its five most recent annual financial reports filed with the Department of Financial Services (DFS)<sup>32</sup> the district reported the following totals:

Year	Beginning Net Assets	Revenues	Expenses	Ending Net Assets
2012	\$171,916	\$66,155	\$55,622	\$182,449
2013	\$182,449	\$66,213	\$62,730	\$185,932
2014	\$185,932	\$65,423	\$61,616	\$189,739
2015	\$189,739	\$65,423	\$53,532	\$201,802
2016	\$201,802	\$64,604	\$72,545	\$193,861

Until FY 2016, the district maintained a growing fund reserve and expended less than annual revenues. In 2016 expenses exceeded revenues. However, the amount spent annually on maintenance is less than one-half the amount recommended for annual maintenance (if the drainage structures were returned to “as built” condition) in the 2008 report.

### **Effect of Bill**

The bill achieves a compromise between continuing the present independent special district operating under an outdated charter and complete elimination of the district. The bill dissolves the independent district and creates the East Molluch Water Control District as a dependent district of Lee County. The bill provides a complete new charter for the dependent district, requires the Lee County Board of County Commissioners (County Commission) to appoint the three members of the district board of supervisors, and provides the dependent district with the authority necessary to maintain and improve the district’s drainage structures. The old independent district is dissolved, its assets and liabilities are transferred to the dependent district and do not become liabilities of the county, and all existing contracts remain in full force and effect as obligations of the dependent district.

The new charter creates the dependent district within the same boundaries as the old district. The powers and authority of the district include those necessary for operation of a dependent special district<sup>33</sup> and for imposition and collection of special assessments.<sup>34</sup> The charter provides the dependent district with the authority, power, and duty to provide drainage and water control, and grants

<sup>29</sup> Ch. 83-455, Laws of Fla.

<sup>30</sup> 2008 Report, 53. However, even if repaired and maintained, the existing improvements would not solve the flooding issues in the district according to the authors of the report. *See* 2008 Report, 58.

<sup>31</sup> Lee County Supervisor of Elections archive page, at <http://docs.lee.vote/history/elhis06/download/elhis06/061107/result2.html> (last accessed 1/21/2018).

<sup>32</sup> *See* s. 218.32, F.S.

<sup>33</sup> *See* ch. 189, F.S.

<sup>34</sup> *See* ch. 197, F.S.



authority provided in specific sections of ch. 298, F.S., but the district is not created as a water control district under that chapter.<sup>35</sup>

The new charter authorizes the dependent district to employ a district manager and such other professionals and employees as necessary to implement its powers and fulfill its duties. The district is authorized to operate and maintain pumping facilities and to have its agents and employees at reasonable times to enter lands adjacent to the district's drainage works as necessary to maintain and operate these structures. Subject to general law and county ordinance, the district may borrow money and issue notes for such debts. Also as provided by law or ordinance, the district may grant permits to district landowners to install drainage structures.

Under the new charter, the dependent district is governed by a board of three supervisors who reside in the district and are appointed by the County Commission to three-year terms. The terms must be staggered so that only one supervisor is appointed in a given year. If a vacancy occurs on the board the County Commission will appoint a replacement for the remainder of the term. The board members will choose their own officers. The new charter retains the provisions in the charter of the old district for supervisor compensation. Supervisors of the dependent district will receive a \$5 per diem for each board meeting attended, not to exceed \$25 in any one month. Supervisors also will be reimbursed their expenses according to general law for government officials and employees.<sup>36</sup> The board is authorized to administer the district, including the power to contract, sue and be sued, and acquire or dispose of any interest in property. The charter requires the board to comply with all requirements for financial disclosure, public meetings, public records, and expense reimbursement for employees and officers.

The new charter retains the cap of \$30.10 per acre for annual assessments provided in the current charter of the independent district. Within this limit, the board of supervisors must annually levy an amount sufficient to pay the district's obligations. The charter expressly finds the dependent district confers a benefit on all lands in the district at least equal to the assessments imposed.<sup>37</sup>

The new charter provides the annual assessments will be levied as provided in s. 298.36, F.S., and will be due and payable at the same time as county taxes. However, in lieu of the procedure required in s. 298.36(2), F.S., the board of supervisors of the dependent district must prepare a list of all assessments levied and store it in an electronic format.

The new charter creates a district maintenance fund, into which the district must deposit all assessments received and the funds of which may only be used for the purposes authorized in the charter. The fiscal year of the dependent district will be from October 1 to September 30 of the following year. The annual budget of the dependent district will be adopted by the board of supervisors and is not subject to final approval by the County Commission. The charter expressly prohibits the dependent district from imposing ad valorem taxes.

The new charter is made an ordinance of Lee County, subject to subsequent amendment or repeal by the County Commission. The various special laws comprising the charter of the independent district<sup>38</sup> are repealed and the independent district dissolved. The bill provides for transition from the present independent district to the dependent district. The current supervisors of the independent district shall constitute the board of supervisors for the dependent district as of July 1, 2018. They shall so serve until the earlier of the expiration date of their current terms, January 1, 2019, or the appointment of new supervisors by the County Commission. As of July 1, 2018, all assets and liabilities of the independent district are transferred and vested directly in the dependent district and do not become liabilities of the

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<sup>35</sup> See s. 298.01, F.S. For example, the new charter provides for members of the board of supervisors to be appointed by the County Commission, not elected by the landowners of the district as required by s. 298.11, F.S.

<sup>36</sup> Section 112.061, F.S.

<sup>37</sup> Special assessments on property are not ad valorem taxes and thus are allowable only if 1) the property assessed derives a special benefit from the assessment, and 2) the assessment is fairly apportioned among all properties assessed. See *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992).

<sup>38</sup> Chs. 63-930, 65-912, 83-443, 83-455, 84-464, 86-425, 88-480, Laws of Fla.



County. All outstanding contracts and obligations of the independent district will continue in full force and effect as obligations of the dependent district. Also as of July 1, 2018, the independent district is authorized to take only those actions necessary to wind up its affairs, may not incur further obligations or debt, and must provide for the orderly transfer of its assets and liabilities to the dependent district.

**B. SECTION DIRECTORY:**

- Section 1: Creates the East Mulloch Water Control District as a dependent district of Lee County.
- Section 2: Makes the charter of the East Mulloch Water Control District, a dependent district of Lee County, provided in section 3 of the bill, a separate chapter of the Lee County Code of Ordinances, subject to revision, amendment, or repeal by the Board of County Commissioners.
- Section 3: Provides the charter for the East Mulloch Water Control District, a dependent district of Lee County.
- Section 4: Repeals chapters 63-930, 65-912, 83-443, 83-455, 84-464, 86-425, 88-480, Laws of Fla.
- Section 5: Dissolves the East Mulloch Drainage District as of October 1, 2018.
- Section 6: Provides the former members of the board of supervisors of the East Mulloch Drainage District will constitute the Board of Supervisors of the East Mulloch Water Control District as of July 1, 2018, until the earlier of the completion of their current terms, January 1, 2019, or the appointment of new supervisors by the Lee County Board of County Commissioners.
- Section 7: Transfers all assets and liabilities of the East Mulloch Drainage District to the East Mulloch Water Control District created by the bill, provides the liabilities are not liabilities of Lee County, and provides all contracts and obligations of the East Mulloch Drainage District remain in full force and effect as obligations of the East Mulloch Water Control District.
- Section 8: Authorizes the East Mulloch Drainage District as of July 1, 2018, to take only those actions necessary to wind up its affairs, prohibits the district from incurring further obligations or debt, and requires the district to provide for the orderly transfer of its assets and liabilities to the East Mulloch Water Control District.
- Section 9: Provides the act shall be liberally construed to carry out its purposes.
- Section 10: Requires the provisions of the act control over any other act to the extent of any conflict.
- Section 11: Provides an effective date of July 1, 2018.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 21, 2017

WHERE? News-Press in Fort Myers, Lee County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

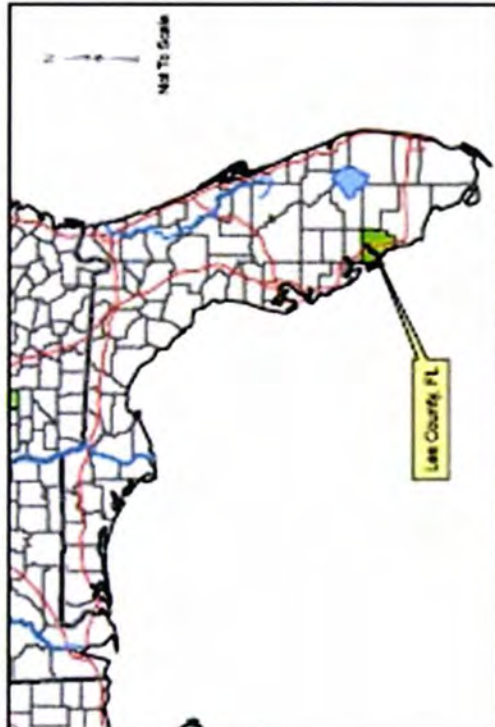
Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

APPENDIX A



East Mulloch Drainage District



State of Florida



Lee County, Florida



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A bill to be entitled  
 An act relating to the East Mulloch Drainage District,  
 Lee County; providing an exception to general law;  
 creating the East Mulloch Water Control District as a  
 dependent special district; providing that the charter  
 of the district shall be subject to amendment or  
 repeal by the county commission; providing the  
 district charter; providing boundaries; providing  
 powers; providing for the county commission to appoint  
 the board of supervisors; providing for staggered  
 terms; providing authority and duties of the board;  
 providing for compensation; providing for assessments  
 by the district; repealing chs. 63-930, 65-912, 83-  
 443, 83-455, 84-464, 86-425, and 88-480, Laws of  
 Florida; dissolving the East Mulloch Drainage  
 District; transferring all assets and liabilities of  
 the East Mulloch Drainage District to the East Mulloch  
 Water Control District; providing that liabilities of  
 the district are not liabilities of the county;  
 providing construction; providing that the act shall  
 take precedence over any conflicting law to the extent  
 of such conflict; providing an effective date.

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



26           Section 1. The East Mulloch Water Control District is  
 27 created as a dependent special district of Lee County and a body  
 28 corporate and politic.

29           Section 2. Upon becoming a law, section 3 shall become a  
 30 separate chapter of the Lee County Code of Ordinances and shall  
 31 be subject to revision, amendment, or repeal by the Board of  
 32 County Commissioners of Lee County.

33           Section 3. The charter for the East Mulloch Water Control  
 34 District is created to read:

35           Section 1. Name and corporate status.-

36           (1) The name of the district is the "East Mulloch Water  
 37 Control District."

38           (2) The district shall be a dependent special district of  
 39 Lee County and a body corporate and politic within the county.

40           Section 2. District boundaries.-The lands incorporated  
 41 within the East Mulloch Water Control District consist of the  
 42 following described lands in Lee County:

43  
 44                           Commencing at the Northeast corner of  
 45 Section 9, Township 46 South, Range 25 East in Lee  
 46 County, run South 50 feet along the East line of  
 47 Section 9 to the point of beginning; thence run West  
 48 50 feet South of and parallel to the North line of  
 49 Section 9 to the West line of Section 9; thence run  
 50 South along the West line of said Section 9 to the

51 Northeast corner of the South 1/2 of the Southeast 1/4  
 52 of Section 8; thence run West along the North line of  
 53 said South 1/2 of the Southeast 1/4 of Section 8 to  
 54 the Northwest corner of the South 1/2 of the Southeast  
 55 1/4 of Section 8; thence run South along the West line  
 56 of the South 1/2 of the Southeast 1/4 of Section 8 to  
 57 the Southwest corner of the South 1/2 of the Southeast  
 58 1/4 of Section 8; thence run East along the South line  
 59 of Section 8 to the Northwest corner of Section 16;  
 60 thence run South along the West line of Section 16 to  
 61 the center of said West line of Section 16; thence run  
 62 West along the North line of the South 1/2 of Section  
 63 17 to the Northwest corner of the East 1/2 of the  
 64 Northwest 1/4 of the Southwest 1/4 of Section 17;  
 65 thence run South along the West line of the East 1/2  
 66 of the Northwest 1/4 of the Southwest 1/4 of Section  
 67 17, to the Southwest corner of the East 1/2 of the  
 68 Northwest 1/4 of the Southwest 1/4 of Section 17,  
 69 thence run East to the North-South centerline of  
 70 Section 17; thence run South along the centerline of  
 71 Section 17 to the Southwest corner of the Southeast  
 72 1/4 of Section 17; thence run West on the South line  
 73 of Section 17 to the Easterly Right of way of U.S.  
 74 Highway 41; thence run Southeasterly along the  
 75 Easterly right of way of U.S. Highway 41 to a point



76     200.27 feet Northwesterly of a point on said Right of  
 77     way due West from the center of the East line of  
 78     Section 20; thence run East to the East line of  
 79     Section 20; thence run North along said East line of  
 80     Section 20 to the Southwest corner of Section 16;  
 81     thence run East along the South line of Section 16 to  
 82     the Southeast corner of Section 16; thence run South  
 83     along the West line of Section 22 to the Southwest  
 84     corner of the Northwest 1/4 of Section 22; thence run  
 85     East along the South line of the Northwest 1/4 of  
 86     Section 22 to the Southeast corner of the Northwest  
 87     1/4 of Section 22; thence run North along the East  
 88     line of the Northwest 1/4 of Section 22 to the  
 89     Northeast corner of the Southwest 1/4 of Section 15;  
 90     thence run West along the North line of the Southwest  
 91     1/4 of Section 15 to the Southeast corner of the West  
 92      $\frac{3}{4}$  of the Northwest 1/4 of Section 15; thence run North  
 93     along the East line of the West  $\frac{3}{4}$  of the Northwest 1/4  
 94     of Section 15 to the Southwest corner of the Northeast  
 95     1/4 of the Northeast 1/4 of the Northwest 1/4 of  
 96     Section 15; thence East along the South line of the  
 97     Northeast 1/4 of the Northeast 1/4 of the Northwest  
 98     1/4 of Section 15 to the Southeast corner of the  
 99     Northeast 1/4 of the Northeast 1/4 of the Northwest  
 100    1/4 of Section 15; thence run North along the East

101 line of the Northeast 1/4 of the Northeast 1/4 of the  
 102 Northwest 1/4 of Section 15 to the Northeast corner of  
 103 the Northeast 1/4 of the Northeast 1/4 of the  
 104 Northwest 1/4 of Section 15; thence run North along  
 105 the East line of the Southwest 1/4 of Section 10 to  
 106 the Northeast corner of the Southwest 1/4 of Section  
 107 10; thence run West along the North line of the  
 108 Southwest 1/4 of Section 10 to the Northwest corner of  
 109 the Southwest 1/4 of Section 10; thence run North on  
 110 the East line of Section 9 to the Northeast corner of  
 111 Section 9 to the point of beginning.

112  
 113 Together with:

114  
 115 A tract of land lying in Section 15,  
 116 Township 46 South,  
 117 Range 25 East, Lee County, Florida,  
 118 described as follows:

119 Beginning at the Northwest corner of  
 120 the Southeast quarter of said Section 15, run S.  
 121 84°08'36" E. for 356.42 feet; thence S. 63°23'58" E.  
 122 for 417.26 feet; thence S. 74°58'32" E. for 53.83  
 123 feet; thence N. 13°30'24" W. for 241.56 feet; thence  
 124 N. 76°29'36" E. for 264.18 feet; thence S. 13°30'24"  
 125 E. for 483.39 feet; thence S. 11°00'00" E. for 246.44



126 feet; thence Southerly along the arc of a curve to the  
 127 right through a central angle of 55°40'01" (Radius of  
 128 920.00 feet; chord bearing S. 16°50'01" W.; chord  
 129 length 859.10 feet) for 893.85 feet; thence S.  
 130 44°40'01" W. for 222.08 feet; thence Southwesterly  
 131 along the arc of a curve to the left through a central  
 132 angle of 13°39'14" (Radius of 920.00 feet; chord  
 133 bearing S. 37°50'24" W.; chord length 218.72 feet) for  
 134 219.24 feet; thence S. 89°40'01" W. for 590.43 feet to  
 135 the West line of the said Southeast quarter; thence N.  
 136 0°19'59" W. for 1808.93 feet to the Point of  
 137 Beginning. Said lands containing 40.81 acres, more or  
 138 less. Bearings used herein refer to the said West line  
 139 of the Southeast quarter of Section 15 as being N.  
 140 0°19'59" W.

141  
 142 and further together with:

143  
 144 A tract of land in the North Half (N  
 145 1/2) of Section 10,  
 146 Township 46S, Range 25E, Lee County,  
 147 Florida, lying southerly of the Alico Road right-of-  
 148 way line and westerly of the I-75 right-of-way line.  
 149 Said lands in this paragraph containing 140 acres,  
 150 more or less.

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Section 3. Powers of the district.-The district shall have all authority, powers, and duties granted by this charter and by chapters 189 and 197, Florida Statutes.

(1) The district shall have authority, power, and duties to provide drainage and water control as provided and limited by the following:

(a) In exercising its authority for drainage and water control, the district shall have the authority provided by, and be subject to, ss. 298.16, 298.17, 298.18, 298.20, 298.21, 298.22, 298.225, 298.23, 298.24, 298.25, 298.26, 298.28, 298.301, 298.305, 298.329, 298.333, 298.341, 298.345, 298.353, 298.36, 298.365, 298.366, 298.401, 298.41(1), 298.465, 298.47, 298.48, 298.49, 298.50, 298.52, 298.54, 298.56, 298.59, 298.61, 298.62, 298.63, and 298.66, Florida Statutes.

(b) The district shall have the power to employ a person as manager of the district and to vest such authority in, delegate the performance of such duties to, and provide compensation to such person as may be determined by the board of supervisors. The manager shall have charge to manage the works of said district and its construction, operation, and maintenance. The district may require the manager to furnish bond with good and sufficient surety in such amount as the board of supervisors may by resolution determine.



175 (c) The district is authorized to appoint or employ such  
 176 agents, engineers, attorneys, or employees as may be required to  
 177 carry out the provisions of this charter.

178 (d) The district may operate and maintain pumping plants  
 179 and stations, including pumping machinery, motive equipment, and  
 180 all appurtenant or auxiliary machines, devices, or equipment,  
 181 contract for the operation and maintenance of said pumping  
 182 plants and stations, and acquire all property and services  
 183 necessary for the maintenance and operation of the same.

184 (2) As provided by general law or county ordinance, the  
 185 district may grant permits to owners of land within the district  
 186 for the installation of water control structures.

187 (3) The district may borrow money and issue notes for such  
 188 indebtedness as provided by general law or county ordinance.

189 (4) As provided by general law and this charter, the  
 190 district and its agents and employees are authorized at all  
 191 reasonable times to enter upon the lands adjacent to the  
 192 drainage works maintained and operated by the district,  
 193 including, without limitation, canals, drains, levees, dikes,  
 194 dams, locks, reservoirs, pumping stations, water control  
 195 structures, and other works and improvements.

196 Section 4. Board of supervisors.-

197 (1) The authority, power, business, and affairs of the  
 198 district shall be exercised and administered by the Board of  
 199 Supervisors of the East Mulloch Water Control District.

200        (2) The following provisions control the East Mulloch  
 201 Water Control District:

202        (a) The board of supervisors shall be composed of three  
 203 persons who reside in the district and are appointed by the  
 204 board of county commissioners.

205        (b) The members of the board of supervisors shall serve  
 206 terms of 3 years each. The terms of supervisors shall be  
 207 staggered so that no more than one supervisor is reappointed or  
 208 replaced each year.

209        (c) If a vacancy occurs on the board of supervisors, the  
 210 board of county commissioners shall appoint a replacement for  
 211 the remainder of the term.

212        (d) The board of county commissioners may remove from the  
 213 board of supervisors any supervisor who has three or more  
 214 consecutive, unexcused absences from regularly scheduled  
 215 meetings.

216        (e) Each supervisor shall be entitled to receive a per  
 217 diem of \$5 for attending meetings of the board of supervisors,  
 218 provided that the compensation of any supervisor shall not  
 219 exceed the sum of \$25 during any 1 month. Supervisors shall be  
 220 reimbursed for their expenses pursuant to s. 112.061, Florida  
 221 Statutes.

222        (f) Each year, the board of supervisors shall hold an  
 223 annual organizational meeting and elect a chair, vice chair, and



224 treasurer, whose duties shall be established by resolution of  
 225 the board of supervisors.

226 (3) The board of supervisors shall have the administrative  
 227 duties set forth in this charter and chapter 189, Florida  
 228 Statutes.

229 (4) A quorum of the board of supervisors shall be a  
 230 majority of its members. Official action requires a majority of  
 231 those voting members present.

232 (5) Requirements for financial disclosure, meeting  
 233 notices, reporting, public records maintenance, and per diem  
 234 expenses for officers and employees shall be as set forth in  
 235 chapters 112, 119, 189, and 286, Florida Statutes.

236 (6) The board of supervisors shall have the power to  
 237 contract; to sue and be sued in the name of the district; to  
 238 acquire, hold, and control by gift, exchange, purchase, or other  
 239 means, any property real, personal, or mixed, which may be  
 240 needed to carry out the provisions of this charter or the  
 241 purposes for which the district is created; and to sell, lease,  
 242 or otherwise dispose of any such property as provided by general  
 243 law or this charter.

244 Section 5. Annual maintenance assessment.-Notwithstanding  
 245 any other provision of law, for the purpose of paying the cost  
 246 of administering the affairs of the district; for the purpose of  
 247 maintaining, operating, preserving, rendering efficient,  
 248 repairing, or restoring the water control structures of the

249 district; and for the purpose of defraying the current expenses  
 250 of the district, the board of supervisors is authorized,  
 251 empowered, and directed to levy and impose upon all lands lying  
 252 within the boundaries of the district an assessment not to  
 253 exceed \$30.10 per acre, per annum. The board of supervisors  
 254 shall levy annually, within the limits set by this charter, an  
 255 amount sufficient to pay promptly all obligations incurred or to  
 256 be incurred by the district.

257 (1) The East Mulloch Water Control District confers  
 258 benefits on all lands situated within the district in an amount  
 259 at least equal to the assessments imposed under this charter.

260 (2) Annual installment assessments levied pursuant to s.  
 261 298.36, Florida Statutes, shall be due and collected each year  
 262 at the same time that county taxes are due and collected,  
 263 pursuant to s. 298.36, Florida Statutes, chapter 197, Florida  
 264 Statutes, and this charter. Said assessments shall be a lien  
 265 until paid on the property against which assessed and  
 266 enforceable in like manner as county taxes.

267 (3) The methods for assessing and collecting non-ad  
 268 valorem assessments, fees, or service charges shall be as set  
 269 forth in this charter and chapter 170, chapter 189, chapter 197,  
 270 or chapter 298, Florida Statutes. The receipt and collection of  
 271 these charges or fees shall be in the manner prescribed by  
 272 resolution.



273 (4) There is established the East Mulloch Water Control  
 274 District maintenance fund, into which the district shall deposit  
 275 all assessments collected under this section.

276 (5) The board of supervisors is authorized to establish  
 277 such other funds for the moneys of the district as the board  
 278 determines to be necessary.

279 (6) The maintenance fund shall be used exclusively for the  
 280 purposes for which assessments are authorized under this charter  
 281 to be levied.

282 Section 6. Finances.-

283 (1) The district shall have no power or authority to  
 284 impose or collect ad valorem taxes.

285 (2) The methods for assessing and collecting non-ad  
 286 valorem assessments shall be as set forth in this charter and  
 287 chapter 170, chapter 189, chapter 197, or chapter 298, Florida  
 288 Statutes. The receipt and collection of these assessments shall  
 289 be in the manner prescribed by resolution.

290 (3) Notwithstanding s. 298.36(2), Florida Statutes, the  
 291 board of supervisors, as soon as said total assessment is  
 292 levied, shall, at the expense of the district, prepare a list of  
 293 all assessments levied and store said list in an electronic  
 294 format.

295 (4) The board of supervisors annually shall prepare,  
 296 consider, and adopt a district budget pursuant to the applicable



297 requirements of this charter and chapter 189, Florida Statutes.  
 298 The fiscal year shall be from October 1 through September 30.

299 (5) All warrants for the payment of labor, equipment,  
 300 materials, and other allowable expenses incurred by the board of  
 301 supervisors in carrying out this charter shall be payable on  
 302 accounts and vouchers approved by the board of supervisors.

303 Section 4. Chapters 63-930, 65-912, 83-443, 83-455, 84-  
 304 464, 86-425, and 88-480, Laws of Florida, are repealed.

305 Section 5. The East Mulloch Drainage District is dissolved  
 306 as of October 1, 2018.

307 Section 6. As of July 1, 2018, the members of the former  
 308 Board of Supervisors of the East Mulloch Drainage District shall  
 309 constitute the Board of Supervisors of the East Mulloch Water  
 310 Control District only until the earlier of the expiration of  
 311 their current terms or January 1, 2019, or until the Board of  
 312 County Commissioners of Lee County appoints new members to the  
 313 board of supervisors pursuant to section 4 of the charter.

314 Section 7. As of July 1, 2018, all property, whether real,  
 315 personal, or mixed, which is owned, possessed, or controlled by  
 316 the East Mulloch Drainage District and all other assets,  
 317 contracts, obligations, and liabilities of the East Mulloch  
 318 Drainage District are transferred and vested in the East Mulloch  
 319 Water Control District. All contracts and obligations of the  
 320 East Mulloch Drainage District existing on July 1, 2018, shall  
 321 remain in full force and effect, and this act shall in no way

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322 affect the validity of such contracts or obligations. All  
323 liabilities of the East Mulloch Drainage District outstanding on  
324 July 1, 2018, are transferred to the East Mulloch Water Control  
325 District and at no time become liabilities of Lee County.

326 Section 8. As of July 1, 2018, the East Mulloch Drainage  
327 District shall take only those further actions necessary to wind  
328 down its affairs; shall not incur any further debt, obligations,  
329 or liabilities; and shall take all steps necessary for the  
330 orderly transfer of its assets and liabilities to the East  
331 Mulloch Water Control District.

332 Section 9. The provisions of this act shall be liberally  
333 construed in order to effectively carry out the purposes of this  
334 act in the interest of the public health, welfare, and safety of  
335 the public served by the district.

336 Section 10. In the event of a conflict between any  
337 provision of this act and the provisions of any other act, the  
338 provisions of this act shall control to the extent of such  
339 conflict.

340 Section 11. This act shall take effect July 1, 2018.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1383 Tax Deed Sales  
**SPONSOR(S):** Latvala  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1504

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N	Rivera	Miller
2) Ways & Means Committee		Curry <i>KLC</i>	Langston <i>JS</i>
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Local ad valorem taxes are due on November 1 or as soon as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 of the following year or immediately upon the expiration of 60 days from the date the original tax notice was mailed, whichever is later. If ad valorem taxes are not paid by June 1 or the sixtieth day after the tax becomes delinquent, whichever is later, the tax collector advertises and sells tax certificates to pay the delinquency.

Two years after April 1 of the year in which the tax certificated was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector. Certificateholders other than the county must pay all costs required by statute before the sale may occur, including the costs of any title search or abstract. The tax collector is responsible for arranging for notice to all necessary parties.

The bill clarifies the responsibilities of the certificateholder applying for a tax deed, including specific costs to pay. The bill requires all tax collectors to contract with title companies to provide a property information report, and deletes references to title searches and abstracts. Fees for property information reports and updates will be added to the costs of sale. The bill defines "title company" and revises certain provisions on notice, distribution of surplus funds, and makes certain technical changes.

The Revenue Estimating Conference estimated the impact on the State School Trust Fund to be -\$1.7 million in Fiscal Year 2018-19, and -\$1.1 million on a recurring basis. The positive impact on local government revenues was estimated at \$1.7 million in Fiscal Year 2018-19, and \$2.3 million on a recurring basis.

The bill provides an effective date of July 1, 2018

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Property Taxation

Ad valorem taxes are levied annually by counties, school districts, municipalities, and, if authorized, special districts,<sup>1</sup> based on the value of real and tangible personal property as of January 1st of each year.<sup>2</sup> The state cannot levy ad valorem taxes on real or tangible personal property but has preempted all other forms of taxation except as provided by general law.<sup>3</sup> All property must be assessed at a just value for ad valorem tax purposes, and the property appraiser determines an assessed value of property based on statutory factors including the present cash value of the property, its highest and best use assessment limitation or use classification affecting the just value of a property.<sup>4</sup> Property's taxable base is the fair market value of locally assessed real estate, tangible personal property and state assessed railroad property, less certain exclusions, differentials, exemptions, and credits.<sup>5</sup>

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

All taxes are due on November 1 of each year or as soon as the certified tax roll is received by the tax collector.<sup>6</sup> Taxes become delinquent on April 1 of the following year or immediately upon the expiration of 60 days from the date the original tax notice was mailed, whichever is later.<sup>7</sup> After receiving the tax roll, the tax collector publishes 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>8</sup>

<sup>1</sup> Art. VII, s. 9, Fla. Const. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value, not including the vehicular items under art. VII, s. 1(b), Fla. Const. and elsewhere, capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Office of Economic & Demographic Research (OER), *2017 Florida Tax Handbook*, p.199, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (accessed 1/21/18)(hereinafter 2017 Tax Handbook). Section 192.001(1)and(2), F.S., define Ad valorem, or property, tax as a tax based upon the assessed value of property as determined annually by:

1. The just or fair market value of an item or property;
2. The value of property as limited by art. VII of the State Constitution; or
3. The value of property in a classified use or at a fractional value if the property is assessed solely on the basis of character or use or at a specified percentage of its value under art. VII of the State Constitution.

<sup>3</sup> Art. VII, s. 1, Fla. Const. All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; provided, as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations. Art. VII, s.2, Fla. Const.

<sup>4</sup> Art. VII, s. 4, Fla. Const. and s. 193.011, F.S.

<sup>5</sup> 2017 Tax Handbook, at 206. Exclusions are specific types of property constitutionally or statutorily removed from ad valorem taxation such as transportation vehicles which are alternatively subject to a license tax. The Homestead exemption under art. VII, s. 6, Fla. Const., provides that every person who owns real estate with legal and equitable title and permanently resides, or has a dependent who permanently resides upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

<sup>6</sup> Section 197.333, F.S.

<sup>7</sup> Section 197.333, F.S. If the delinquency date for ad valorem taxes is later than April 1st of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding, delinquent taxes are extended a like number of days.

<sup>8</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, F.S.

If ad valorem taxes are not paid by June 1 or the sixtieth day after the tax becomes delinquent, whichever is later, the tax collector advertises and sells tax certificates to pay the delinquency.<sup>9</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>10</sup> Once sold, the tax certificate becomes a first lien on the property, superior to all other liens, except as provided by law,<sup>11</sup> but can be enforced only through the remedies provided under ch. 197, F.S.<sup>12</sup>

The tax certificate expires after 7 years from the date the sale was advertised.<sup>13</sup> If a tax deed has not been applied for, and no other administrative or legal proceeding, including a bankruptcy, has been initiated, the tax certificate is null and void and shall be canceled.<sup>14</sup>

Before a tax certificate is awarded<sup>15</sup> to a buyer or struck to the county (an unsold tax certificate issued to the county<sup>16</sup>), the taxpayer may pay the delinquent taxes and all interest, costs, and charges to avoid issuance of the tax certificate.<sup>17</sup> Otherwise, a tax certificate can be redeemed 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 the tax deed is made to the clerk of the court.<sup>18</sup> The tax collector pays the tax certificateholder the amount received to redeem the certificate less a redemption fee.<sup>19</sup> If the certificateholder cannot be found for payment, the money is remitted to the state as unclaimed money.<sup>20</sup>

### Tax Deed Applications

Two years after April 1 of the year in which the tax certificated was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector.<sup>21</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>22</sup>

A certificateholder, other than the county, must buy or redeem all other outstanding tax certificates plus interest, any omitted taxes<sup>23</sup> plus interest, any delinquent taxes plus interest, and any current taxes due

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<sup>9</sup> Sections 197.402(3) and 197.432(1), F.S. The tax collector must advertise the sale once a week for 3 weeks. A public sale is not authorized if a tax certificate is valued under \$250 and applies to property that has been granted a homestead exemption for the relevant tax year. *See* s. 197.432(4), F.S. Instead, the tax certificate is issued to the county at the maximum rate of interest allowed and cannot be sold or used for a tax deed application unless the tax certificate and accrued interest are valued at \$250 or more. *See* ss. 197.432(4), 197.4725 and 197.502(3), F.S.

<sup>10</sup> Section 197.102(1)(f), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 197.432(2), F.S. A tax certificate can be transferred to another at any time before it is redeemed or a tax deed is executed. Section 197.462(1), F.S.

<sup>13</sup> Section 197.482, F.S.

<sup>14</sup> *Id.* A deferred payment tax certificate is not subject to this provision.

<sup>15</sup> "Awarded" means the time when the tax collector or a designee determines and announces verbally or through the closing of the bid process in a live or an electronic auction that a buyer has placed the winning bid on a tax certificate at a tax certificate sale. Section 197.102(1)(a), F.S.

<sup>16</sup> Section 197.432(6), F.S.

<sup>17</sup> Section 197.432(3), F.S.

<sup>18</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. *See* Section 197.472(4), F.S.

<sup>19</sup> Section 197.472(5), F.S.

<sup>20</sup> Section 197.473, F.S.

<sup>21</sup> Section 197.502(1), F.S.

<sup>22</sup> *Id.*

<sup>23</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, F.S.



on the property and, if applicable, pay the costs of resale.<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>

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>

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<sup>24</sup> Section 197.502(2), F.S. Failure to pay the costs of resale within 30 days after notice from the clerk shall result in the clerk's entering the land on a list entitled "lands available for taxes."

<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 two years after the April 1 of the year the tax certificate was issued.

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

<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. If any legal titleholder is identified as the most recent taxpayer of the property covered by the tax certificate, the clerk is permitted to mail notice to the address on the latest tax assessment roll.

<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. The contractual relationship must be consistent with rules adopted by the Department of Revenue.

<sup>31</sup> Section 197.502(5)(a), F.S. The tax collector may advertise and accept bids from the title or abstract company, if deemed appropriate, and may select any title or abstract company authorized to do business in this state, regardless of its location, as long as the fee is reasonable and the minimum information is submitted.

<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.

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>

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

<sup>34</sup> Section 627.7843(1), F.S. A property information report may be issued by any person, including a Florida-licensed title insurer, title agent, or title agency.

<sup>35</sup> Section 627.7843(2), F.S. A property information report is not title insurance pursuant to s. 624.608, F.S.

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

<sup>37</sup> s. 627.7843(3), F.S. 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(2)(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 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)(a)2., F.S.

<sup>43</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>44</sup> Section 197.502(5)(a)3., F.S.

## Tax Deed Sale

The clerk of the circuit clerk 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 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>
- All costs and fees paid by the county;<sup>53</sup> and

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;
- Omitted taxes, if any exist;<sup>54</sup>
- Interest at the rate of 1.5 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>

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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, 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> Sections 197.522(1)(c) and (2)(b), F.S.

<sup>50</sup> Section 197.522(1)(c), 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> Section 197.542(1), F.S. A clerk may conduct electronic tax deed sales in lieu of public outcry. See s. 197.542, F.S.

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

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

<sup>55</sup> Section 197.542(1), F.S. A clerk may conduct electronic tax deed sales in lieu of public outcry. See s. 197.542, F.S.



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 the one-half 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>

The property shall be struck off and 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 sale 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 all 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 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

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

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

<sup>58</sup> Section 197.542(1), F.S.

<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. If a demand for possession is refused, the purchaser may apply to the circuit court for a writ of assistance upon 5 days' notice directed to the person refusing to deliver possession. Upon service of the responsive pleadings, if any, the matter shall proceed as in chancery cases. If the court finds for the applicant, an order shall be issued by the court directing the sheriff to put the grantee in possession of the lands.

<sup>64</sup> Section 197.582(1), F.S. Interest is 1.5% 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> Section 197.582(1), F.S.

<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> Section 197.582(2), F.S. 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.

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> This may result in unclaimed proceeds being sent to the state under chapter 717, F.S. relating to disposition of unclaimed property. Such proceeds, net of refunds, are distributed to the State School Trust Fund.<sup>76</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>77</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>78</sup> Junior lienholders cannot be paid if a higher priority lienholder has not made a claim.<sup>79</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>80</sup>

### **Effect of Proposed Changes**

#### Section 197.502(1) and (2), F.S.

The bill makes technical changes revising the wording of the statutes.

#### Section 197.502(2), F.S.

The bill adds language requiring the certificateholder applying for a tax deed to pay the costs to bring the property to sale for mailing additional notices at the request of the certificateholder and sale at public auction.

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

The bill requires each tax collector to contract with a title company to provide a property information report, defined in s. 627.7843(1), F.S., and replaces references to title searches and abstracts with reference to a property information report only. The fees for the property information report and a 60-day update are added to the costs required from the certificateholder at the time an application for a tax deed is submitted and the cost must be added to the opening bid for the tax deed. The bill defines "title company" as a title insurer defined in s. 627.7711(3), F.S., and any licensed title insurance agencies and attorneys who are authorized agents for a Florida title insurer.

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

<sup>76</sup> Section 717.123, F.S.

<sup>77</sup> Section 197.582(2), F.S.

<sup>78</sup> Section 197.582(3), F.S.

<sup>79</sup> Id.

<sup>80</sup> Section 197.582(3), F.S.

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

The bill adds language requiring the clerk to record the Notice of Tax Deed Application in the official records as notice of the pending tax deed application after the tax collector submits the application to the clerk. The notice 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 without any requirement that the clerk give additional notice. 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. The costs of the notice must be paid by the certificateholder at the time of the application for a tax deed and included in the opening bid for the property in the tax deed sale.

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

The bill adds a subsection for language that is currently under subsection 197.502(5)(c), F.S., and adds the specific statutory references for the advertisement and administration of a tax deed sale.

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

The bill adds a subsection and 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 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 197.522(3), F.S.

The bill inserts a new subsection (3) providing the clerk may rely on the addresses submitted by the tax collector and is not required to seek additional information to verify the addresses. The bill provides the clerk assumes no liability for incorrect addresses. The bill renumbers current subsection (3) as new subsection (4).

Section 197.582(2)-(9), F.S.

The bills revises references and adds new subsections ss. 197.582(4) – (9). The bill provides that the clerk must send notice to the persons entitled to the excess proceeds from a tax deed sale to the addresses provided by the tax collector. The bill removes the rate limitation on the service charges charged by the clerk and removes the provision allowing the notice to satisfy the requirements to treat any unclaimed proceeds as unclaimed money under ch. 717, F.S. The bill provides a form Notice of Surplus Funds 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 received the total surplus after certifying the deficiency.

The bill adds subsections (4) through (9) which add provisions regarding claims of surplus or excess proceeds. Claimants have 120 days from the date of the notice to file a claim for the excess proceeds. The bill adds a claim form that can be used or a form that is substantially similar may be submitted. The bill provides 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. Otherwise, the date of delivery or receipt is recognized as the date of filing. Claims not filed by the close of business on the



120th day are barred and constitute a waiver of interest in the excess 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 according to the clerk's own determination of priority based on the submitted claims. No declaratory action may 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 from the mailing of the notice. The clerk 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 the legal titleholder of record of the tax-deeded property, defined in s. 197.592(4)(a), F.S., is entitled to any unclaimed surplus funds. If the legal titleholder of record does not claim the surplus proceeds the clerk processes the surplus proceeds as unclaimed money under s. 116.21, F.S. instead of ch. 717, F.S.

#### B. SECTION DIRECTORY:

- Section 1. Amends s. 190.502, F.S. requiring tax certificateholder to pay delinquent liens on title before transfer of title can be executed; requiring the tax collector to contract with a title company to determine who must receive notice and to prepare property information reports; defining the term "title company" for purposes of this requirement; revising provisions to require property information reports, excluding title searches or abstracts.
- Section 2. Amends s. 197.522, F.S.; authorizing a clerk to rely on addresses provided by the tax collector for specified purposes.
- Section 3. Amends s. 197.582, F.S.; revising procedures for the disbursement of surplus funds by clerks; providing forms for use in noticing and claiming surplus funds; specifying methods for delivering claims to the clerk's office; providing deadlines for filing claims; providing procedures to be used by clerks in determining disbursement of surplus funds; authorizing a tax deed recipient to pay specified liens; specifying procedures to be used by the tax clerk if surplus funds are not claimed;
- Section 4. Provides the act will take effect on July 1, 2018.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

The Revenue Estimating Conference on February 2, 2018 estimated the impact on the State School Trust Fund to be -\$1.7 million in Fiscal Year 2018-19, and -\$1.1 million on a recurring basis.

##### 2. Expenditures:

None.

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

1. Revenues:

The Revenue Estimating Conference on February 2, 2018 estimated the positive impact to local government revenues to be \$1.7 million in Fiscal Year 2018-19, and \$2.3 million on a recurring basis.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides authority nor requires rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill differs from a similar senate bill, SB 1504, in the use of clerk rather than "clerk or comptroller" Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia counties have separated the clerk of the circuit court position from the *ex officio* custodian of county funds.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1 A bill to be entitled

2 An act relating to tax deed sales; amending s.  
3 197.502, F.S.; requiring a tax certificateholder to  
4 pay specified costs required to bring the property on  
5 which taxes are delinquent to sale; requiring the tax  
6 collector to contract with title company to determine  
7 who must be noticed and provided property information  
8 reports; defining the term "title company" for  
9 purposes of this requirement; revising provisions to  
10 require property information reports, excluding title  
11 searches or abstracts; amending s. 197.522, F.S.;  
12 authorizing a clerk to rely on addresses provided by  
13 the tax collector for specified purposes; amending s.  
14 197.582, F.S.; revising procedures for the  
15 disbursement of surplus funds by clerks; providing  
16 forms for use in noticing and claiming surplus funds;  
17 specifying methods for delivering claims to the  
18 clerk's office; providing deadlines for filing claims;  
19 providing procedures to be used by clerks in  
20 determining disbursement of surplus funds; authorizing  
21 a tax deed recipient to pay specified liens;  
22 specifying procedures to be used by the tax clerk if  
23 surplus funds are not claimed; providing an effective  
24 date.  
25



26 Be It Enacted by the Legislature of the State of Florida:

27

28 Section 1. Subsections (1), (2), (5), and (6) of section  
29 197.502, Florida Statutes, are amended to read:

30 197.502 Application for obtaining tax deed by holder of  
31 tax sale certificate; fees.—

32 (1) The holder of a tax certificate at any time after 2  
33 years have elapsed since April 1 of the year of issuance of the  
34 tax certificate and before the cancellation of the certificate,  
35 may file the certificate and an application for a tax deed with  
36 the tax collector of the county where the property described in  
37 the certificate is located. The tax collector may charge a tax  
38 deed application fee of \$75 and for reimbursement of the costs  
39 for providing online tax deed application services. If the tax  
40 collector charges a combined fee in excess of \$75, applicants  
41 may use ~~shall have the option of using~~ the online electronic tax  
42 deed application process or may file applications without using  
43 such service.

44 (2) A certificateholder, other than the county, who  
45 applies ~~makes application~~ for a tax deed shall pay the tax  
46 collector at the time of application all amounts required for  
47 redemption or purchase of all other outstanding tax  
48 certificates, plus interest, any omitted taxes, plus interest,  
49 any delinquent taxes, plus interest, and current taxes, if due,  
50 covering the property. In addition, the certificateholder shall

51 pay the costs required to bring the property to sale as provided  
 52 in ss. 197.532 and 197.542, including the costs for property  
 53 information searches, mailing, and the costs of resale, if  
 54 applicable, and failure to pay such costs within 30 days after  
 55 notice from the clerk shall result in the clerk's entering the  
 56 land on a list entitled "lands available for taxes."

57       (5) (a) For purposes of determining who must be noticed and  
 58 provided the information required in subsection (4), the tax  
 59 collector must ~~may~~ contract with a title company ~~or an abstract~~  
 60 ~~company~~ to provide a property information report as defined in  
 61 s. 627.7843(1) the minimum information required in subsection  
 62 ~~(4), consistent with rules adopted by the department.~~ If  
 63 additional information is required, the tax collector must make  
 64 a written request to the title ~~or abstract~~ company stating the  
 65 additional requirements. The tax collector may select any title  
 66 ~~or abstract~~ company, regardless of its location, as long as the  
 67 fee is reasonable, the ~~minimum~~ information is submitted, and the  
 68 title ~~or abstract~~ company is authorized to do business in this  
 69 state. The tax collector may advertise and accept bids for the  
 70 title ~~or abstract~~ company if he or she considers it appropriate  
 71 to do so. For purpose of this section, the term "title company"  
 72 includes a title insurer, as defined in s. 627.7711(3), and any  
 73 licensed title insurance agencies and attorneys who are  
 74 authorized agents for a Florida licensed title insurer.

75       1. The property information report must include the



76 letterhead of the person, firm, or company that makes the  
 77 search, and the signature of the individual who makes the search  
 78 or of an officer of the firm. The tax collector is not liable  
 79 for payment to the firm unless these requirements are met. The  
 80 report may be submitted to the tax collector in an electronic  
 81 format.

82 2. The tax collector may not accept or pay for a property  
 83 information report ~~any title search or abstract~~ if financial  
 84 responsibility is not assumed for the search. However,  
 85 reasonable restrictions as to the liability or responsibility of  
 86 the title ~~or abstract~~ company are acceptable. Notwithstanding s.  
 87 627.7843(3), the tax collector may contract for higher maximum  
 88 liability limits.

89 3. In order to establish uniform prices for property  
 90 information reports within the county, the tax collector must  
 91 ensure that the contract for property information reports  
 92 includes ~~include~~ all requests for property information reports  
 93 ~~title searches or abstracts~~ for a given period of time.

94 (b) Any fee paid to obtain an initial property information  
 95 report and any fee paid for a 60-day update ~~for a title search~~  
 96 ~~or abstract~~ must be collected at the time of application under  
 97 subsection (1), and the amount of the fee must be added to the  
 98 opening bid.

99 (c) The clerk shall record a Notice of Tax Deed  
 100 Application in the official records to provide notice of the



101 pendency of a tax deed application after the tax collector  
102 submits a tax deed application to the clerk. The tax deed  
103 application notice remains effective for 1 year from the date of  
104 recording. A person acquiring an interest in the property after  
105 the tax deed application notice has been recorded is deemed to  
106 be on notice of the pending tax deed sale and the clerk is not  
107 required to provide additional notice. The sale of the property  
108 automatically releases any recorded tax deed application notices  
109 for that property. If the property is redeemed, the clerk must  
110 record a release of the tax deed application notice upon payment  
111 of the fees as required in ss. 28.24(8) and 28.24(12). The  
112 contents of the notice shall be the same as the contents which  
113 are required for a notice of publication as set forth in s.  
114 197.512. The cost of recording the notice must be collected at  
115 the time of application under subsection (1), and must be  
116 included in the opening bid.

117 (d) The clerk ~~must shall~~ advertise ~~and administer~~ the sale  
118 as set forth in s. 197.512 and must administer the sale as set  
119 forth in s. 197.542 and receive such fees for the issuance of  
120 the deed and sale of the property as provided in s. 28.24.

121 (e) The notice of the application of the tax deed in  
122 accordance with ss. 197.512 and 197.522 sent to the addresses  
123 shown on the statement described in subsection (4) is  
124 conclusively deemed sufficient to provide adequate notice of the  
125 tax deed application and the sale at public auction.

126 (6) The opening bid:

127 (a) On county-held certificates on nonhomestead property  
 128 shall be the sum of the value of all outstanding certificates  
 129 against the property, plus omitted years' taxes, delinquent  
 130 taxes, current taxes, if due, interest, and all costs and fees  
 131 paid by the county.

132 (b) On an individual certificate must include, in addition  
 133 to the amount of money paid to the tax collector by the  
 134 certificateholder at the time of application, the amount  
 135 required to redeem the applicant's tax certificate and all other  
 136 costs, ~~and~~ fees paid by the applicant, and additional fees or  
 137 costs incurred by the clerk, plus all tax certificates that were  
 138 sold subsequent to the filing of the tax deed application,  
 139 current taxes, if due, and omitted taxes, if any.

140 (c) On property assessed on the latest tax roll as  
 141 homestead property shall include, in addition to the amount of  
 142 money required for an opening bid on nonhomestead property, an  
 143 amount equal to one-half of the latest assessed value of the  
 144 homestead.

145 Section 2. Subsection (3) of section 197.522, Florida  
 146 Statutes, is renumbered as subsection (4), and a new subsection  
 147 (3) is added to that section to read:

148 197.522 Notice to owner when application for tax deed is  
 149 made.—

150 (3) The clerk of the circuit court when sending or serving



151 a notice under this section may rely on the addresses provided  
 152 by the tax collector and is not required to seek additional  
 153 information to verify an address, and assumes no liability if  
 154 the address provided is incorrect.

155 Section 3. Subsections (2) and (3) of section 197.582,  
 156 Florida Statutes, are amended, and subsections (4) through (9)  
 157 are added to that section, to read:

158 197.582 Disbursement of proceeds of sale.—

159 (2) (a) If the property is purchased for an amount in  
 160 excess of the statutory bid of the certificateholder, the  
 161 surplus ~~excess~~ must be paid over and disbursed by the clerk as  
 162 set forth in subsections (3), (5), and (6). If the opening bid  
 163 included the homestead assessment pursuant to s. 197.502(6)(c)—  
 164 ~~If the property purchased is homestead property and the~~  
 165 ~~statutory bid includes an amount equal to at least one half of~~  
 166 ~~the assessed value of the homestead,~~ that amount must be treated  
 167 as surplus ~~excess~~ and distributed in the same manner. The clerk  
 168 shall distribute the excess to the governmental units for the  
 169 payment of any lien of record held by a governmental unit  
 170 against the property, including any tax certificates not  
 171 incorporated in the tax deed application and omitted taxes, if  
 172 any. If the surplus ~~excess~~ is not sufficient to pay all of such  
 173 liens in full, the excess shall be paid to each governmental  
 174 unit pro rata. If, after all liens of governmental units are  
 175 paid in full, there remains a balance of undistributed funds,



176 the balance shall be retained by the clerk for the benefit of  
 177 persons described in s. 197.522(1)(a), except those persons  
 178 described in s. 197.502(4)(h), as their interests may appear.  
 179 The clerk shall mail notices to such persons notifying them of  
 180 the funds held for their benefit at the addresses provided in s.  
 181 197.502(4). ~~Such notice constitutes compliance with the~~  
 182 ~~requirements of s. 717.117(4).~~ Any service charges, ~~at the rate~~  
 183 ~~prescribed in s. 28.24(10),~~ and costs of mailing notices shall  
 184 be paid out of the excess balance held by the clerk. Notice must  
 185 be provided in substantially the following form:

186 Notice of Surplus Funds

187 CLERK OF COURT

188 STATE OF FLORIDA

189 COUNTY OF .....

190 Tax Deed #.....

191 Certificate #.....

192 Property description: .....

193 Pursuant to chapter 197, Florida Statutes, the above

194 property was sold at public sale on ....., and a surplus of \$  
 195 ..... (subject to change) will be held by this office for 120  
 196 days beginning on the date of this notice to benefit the persons  
 197 having an interest in this property as described in section  
 198 197.502(4), Florida Statutes, as their interests may appear  
 199 (except for those persons described in section 197.502(4)(h),  
 200 Florida Statutes).

201 To the extent possible, these funds will be used to satisfy  
 202 in full, each claimant with a senior mortgage or lien in the  
 203 property before distribution of any funds to a junior mortgage  
 204 or lien claimant or to the former property owner. To be  
 205 considered when funds are distributed, you must file a notarized  
 206 statement of claim with this office within 120 days of this  
 207 notice. If you are a lienholder, your claim must describe the  
 208 particulars of your lien and the amounts currently due. A  
 209 lienholder claim that is not filed within the 120-day deadline  
 210 is barred.

211 A copy of this notice must be attached to your statement of  
 212 claim. After the office examine the filed claim statements, it  
 213 will notify you if you are entitled to any payment.

214 Dated: .....  
 215 Clerk of Court

216 (b) The mailed notice must include a form for making a  
 217 claim under subsection (3). Service charges at the rate set  
 218 forth in s. 28.24(10), and the costs of mailing must be paid out  
 219 of the surplus funds held by the clerk. If the clerk certifies  
 220 that the surplus funds are not sufficient to cover the service  
 221 charges and mailing costs, the clerk shall receive the total  
 222 amount of surplus funds as a service charge.

223 ~~Excess proceeds shall be held and disbursed in the same manner~~  
 224 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~  
 225 ~~identifying unclaimed property pursuant to s. 717.113, excess~~



226 ~~proceeds shall be presumed payable or distributable on the date~~  
 227 ~~the notice is sent. If excess proceeds are not sufficient to~~  
 228 ~~cover the service charges and mailing costs, the clerk shall~~  
 229 ~~receive the total amount of excess proceeds as a service charge.~~

230 (3) Persons receiving the notice of surplus funds have 120  
 231 days from the date of the notice to file a written claim with  
 232 the clerk for such funds. A claim in substantially the following  
 233 form is sufficient:

234 Claim to Receive Surplus Proceeds of a Tax Deed Sale

235 Complete and return to: .....

236 By mail: .....

237 By e-mail: .....

238 Note: The clerk must pay all valid liens before  
 239 distributing surplus funds to a titleholder.

240 Claimant's name: .....

241 Contact name, if different: .....

242 Address: .....

243 Telephone Number: .....

244 Tax Deed #: .....

245 Date of Sale (if known): .....

246 .... I am not making a claim and waive any claim I might have to  
 247 the surplus funds on this tax deed sale.

248 .... I claim surplus proceeds resulting from the above tax deed  
 249 sale.

250 I am a ....Lienholder; ....Titleholder.



251 1. LIENHOLDER INFORMATION (complete if claim is based on a  
 252 lien against the sold property).

253 A. Type of Lien: ....Mortgage; ....Court Judgment;  
 254 ....Other

255 Describe in detail: .....

256 If your lien is recorded in the county's Official Records,  
 257 list the following, if known:

258 Recording Date: ....; Instrument #....; Book #....; Page  
 259 #.....

260 B. Original Amount of Lien: \$.....

261 C. Amount due: \$.....

262 (1) Principal remaining: \$.....

263 (2) Interest due: \$.....

264 (3) Fees and costs due, including late fees: \$.....

265 (describe costs in detail, include additional sheet if needed);

266 (4) Attorney fees: \$.....(provide agreement to show  
 267 entitlement to attorney fees)

268 D. Total Amount Claimed: \$.....

269 2. TITLEHOLDER INFORMATION (Complete if claim is based on  
 270 title formerly held on sold property.)

271 A. Nature of title: .....Deed; .....Court Judgment;  
 272 .....Other.

273 B. Amount of surplus tax deed sale proceeds claimed:  
 274 \$.....

275 C. Does the titleholder claim the subject property was

276 homestead property? ....Yes ....No.

277 3. I hereby swear or affirm that all of the above  
 278 information is true and correct.

279 Date: .....

280 Signature: .....

281 STATE OF FLORIDA

282 COUNTY OF .....

283 Sworn to or affirmed and signed before me on .....by

284 ...(Signature of Notary Public - State of Florida)...

285 ...(Print, Type, or Stamp Commissioned Name of Notary  
 286 Public or deputy clerk)...

287 Personally Known ..... OR Produced Identification

288 .....

289 Type of Identification Produced: .....

290 ~~If unresolved claims against the property exist on the date the~~  
 291 ~~property is purchased, the clerk shall ensure that the excess~~  
 292 ~~funds are paid according to the priorities of the claims. If a~~  
 293 ~~lien appears to be entitled to priority and the lienholder has~~  
 294 ~~not made a claim against the excess funds, payment may not be~~  
 295 ~~made on any lien that is junior in priority. If potentially~~  
 296 ~~conflicting claims to the funds exist, the clerk may initiate an~~  
 297 ~~interpleader action against the lienholders involved, and the~~  
 298 ~~court shall determine the proper distribution of the~~  
 299 ~~interpleaded funds. The clerk may move the court for an award of~~  
 300 ~~reasonable fees and costs from the interpleaded funds.~~



301       (4) Claims may be:  
 302       (a) Mailed using the United States Postal Service. The  
 303 filing date is the postmark on the mailed claim;  
 304       (b) Delivered using either a commercial delivery service  
 305 or in person. The filing date is the day of delivery; or  
 306       (c) Sent by fax or e-mail, as authorized by the clerk. The  
 307 filing date is the date the clerk receives the fax or e-mail.  
 308       (5) Except for claims by property owners, claims that are  
 309 not filed on or before close of business on the 120th day after  
 310 the date of the mailed notice as required by s. 197.582(2), are  
 311 barred. A person, other than the property owner, who fails to  
 312 file a proper and timely claim may not receive disbursement of  
 313 the surplus funds. The failure of any person described in s.  
 314 197.502(4), other than the property owner, to file a claim for  
 315 excess funds within the 120 days constitutes a waiver of  
 316 interest in the excess funds and all claims thereto are forever  
 317 barred.  
 318       (6) Within 90 days after the claim period expires, the  
 319 clerk may file an interpleader action in circuit court to  
 320 determine the proper disbursement or pay the surplus funds  
 321 according to the clerk's determination of the priority of claims  
 322 using the information provided by the claimants under subsection  
 323 (3). A declaratory action to require payment of surplus funds  
 324 may not be filed until the claim and review periods have  
 325 expired.



326       (7) Holders of recorded governmental liens, other than  
327 federal government liens and ad valorem tax liens, must file a  
328 request for disbursement of surplus funds within 120 days of the  
329 mailing of the notice of surplus funds. The clerk must disburse  
330 payments to each governmental unit to pay any lien of record  
331 held by it against the property, including any tax certificate  
332 not incorporated in the tax deed application and any omitted  
333 tax, before disbursing the surplus funds to nongovernmental  
334 claimants.

335       (8) The tax deed recipient may directly pay off liens to  
336 governmental units that could otherwise have been requested to  
337 be paid by the holder of the governmental lien, and, upon filing  
338 a timely claim and proof of payment, the tax deed recipient may  
339 receive the same amount of funds from the surplus funds that was  
340 paid to each governmental unit, in the same priority as the  
341 original lienholder.

342       (9) If the clerk does not receive claims for surplus funds  
343 within the 120 day claim period, the legal titleholder of record  
344 described in s. 197.502(4)(a) shall be entitled to the surplus  
345 funds. Funds that are not claimed by the titleholder of record  
346 become unclaimed moneys and the clerk must process them in the  
347 manner provided in s. 116.21.

348       Section 4. This act shall take effect July 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1383 (2018)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

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1 Committee/Subcommittee hearing bill: Ways & Means Committee  
2 Representative Latvala offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsections (1), (2), (5), and (6) of section  
7 197.502, Florida Statutes, are amended to read:

8 197.502 Application for obtaining tax deed by holder of  
9 tax sale certificate; fees.—

10 (1) The holder of a tax certificate at any time after 2  
11 years have elapsed since April 1 of the year of issuance of the  
12 tax certificate and before the cancellation of the certificate,  
13 may file the certificate and an application for a tax deed with  
14 the tax collector of the county where the property described in  
15 the certificate is located. The tax collector may charge a tax  
16 deed application fee of \$75 and for reimbursement of the costs

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17 for providing online tax deed application services. If the tax  
18 collector charges a combined fee in excess of \$75, applicants  
19 may use ~~shall have the option of using~~ the online electronic tax  
20 deed application process or may file applications without using  
21 such service.

22 (2) A certificateholder, other than the county, who  
23 applies ~~makes application~~ for a tax deed shall pay the tax  
24 collector at the time of application all amounts required for  
25 redemption or purchase of all other outstanding tax  
26 certificates, plus interest, any omitted taxes, plus interest,  
27 any delinquent taxes, plus interest, and current taxes, if due,  
28 covering the property. In addition, the certificateholder shall  
29 pay the costs required to bring the property to sale as provided  
30 in ss. 197.532 and 197.542, including property information  
31 searches, and mailing costs, as well as the costs of resale, if  
32 applicable. If the certificateholder fails to pay the costs to  
33 bring the property to sale within 30 days after notice from the  
34 clerk, the tax collector shall cancel the tax deed application.  
35 All taxes and costs associated with a cancelled tax deed  
36 application shall earn interest at the bid rate of the  
37 certificate on which the tax deed application was based.,—and  
38 Failure to pay the such costs of resale, if applicable, within  
39 30 days after notice from the clerk shall result in the clerk's  
40 entering the land on a list entitled "lands available for  
41 taxes."



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42 (5) (a) For purposes of determining who must be noticed and  
43 provided the information required in subsection (4), the tax  
44 collector must ~~may~~ contract with a title company or an abstract  
45 company to provide a property information report as defined in  
46 s. 627.7843(1) ~~the minimum information required in subsection~~  
47 ~~(4), consistent with rules adopted by the department.~~ If  
48 additional information is required, the tax collector must make  
49 a written request to the title or abstract company stating the  
50 additional requirements. The tax collector may select any title  
51 or abstract company, regardless of its location, as long as the  
52 fee is reasonable, the required ~~minimum~~ information is  
53 submitted, and the title or abstract company is authorized to do  
54 business in this state. The tax collector may advertise and  
55 accept bids for the title or abstract company if he or she  
56 considers it appropriate to do so.

57 1. The property information report must include the  
58 letterhead of the person, firm, or company that makes the  
59 search, and the signature of the individual who makes the search  
60 or of an officer of the firm. The tax collector is not liable  
61 for payment to the firm unless these requirements are met. The  
62 report may be submitted to the tax collector in an electronic  
63 format.

64 2. The tax collector may not accept or pay for a property  
65 information report ~~any title search or abstract~~ if financial  
66 responsibility is not assumed for the search. However,

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67 reasonable restrictions as to the liability or responsibility of  
68 the title or abstract company are acceptable. Notwithstanding s.  
69 627.7843(3), the tax collector may contract for higher maximum  
70 liability limits.

71 3. In order to establish uniform prices for property  
72 information reports within the county, the tax collector must  
73 ensure that the contract for property information reports  
74 includes include all requests for property information reports  
75 title searches or abstracts for a given period of time.

76 (b) Any fee paid for initial property information reports  
77 and any updates for a title search or abstract must be collected  
78 at the time of application under subsection (1), and the amount  
79 of the fee must be added to the opening bid.

80 (c) Upon receiving the tax deed application from the tax  
81 collector, the clerk shall record a notice of tax deed  
82 application in the official records, which constitutes notice of  
83 the pendency of a tax deed application with respect to the  
84 property and remains effective for 1 year from the date of  
85 recording. A person acquiring an interest in the property after  
86 the tax deed application notice has been recorded is deemed to  
87 be on notice of the pending tax deed sale and no additional  
88 notice is required. The sale of the property automatically  
89 releases any recorded notice of tax deed application for that  
90 property. If the property is redeemed, the clerk must record a  
91 release of the notice of tax deed application upon payment of

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92 the fees as authorized in s. 28.24(8) and (12). The contents of  
93 the notice shall be the same as the contents of the a notice of  
94 publication required by s. 197.512. The cost of recording must  
95 be collected at the time of application under subsection (1),  
96 and added to the opening bid.

97 (d) The clerk must ~~shall~~ advertise and ~~administer~~ the sale  
98 as set forth in s. 197.512, administer the sale as set forth in  
99 s. 197.542, and receive such fees for the issuance of the deed  
100 and sale of the property as provided in s. 28.24.

101 (e) A notice of the application of the tax deed in  
102 accordance with ss. 197.512 and 197.522 that is sent to the  
103 addresses shown on the statement described in subsection (4) is  
104 deemed conclusively sufficient to provide adequate notice of the  
105 tax deed application and the sale at public auction.

106 (6) The opening bid:

107 (a) On county-held certificates on nonhomestead property  
108 shall be the sum of the value of all outstanding certificates  
109 against the property, plus omitted years' taxes, delinquent  
110 taxes, current taxes, if due, interest, and all costs and fees  
111 paid by the county.

112 (b) On an individual certificate must include, in addition  
113 to the amount of money paid to the tax collector by the  
114 certificateholder at the time of application, the amount  
115 required to redeem the applicant's tax certificate and all other  
116 costs, ~~and~~ fees paid by the applicant, and any additional fees



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117 or costs incurred by the clerk, plus all tax certificates that  
118 were sold subsequent to the filing of the tax deed application,  
119 current taxes, if due, and omitted taxes, if any.

120 (c) On property assessed on the latest tax roll as  
121 homestead property shall include, in addition to the amount of  
122 money required for an opening bid on nonhomestead property, an  
123 amount equal to one-half of the latest assessed value of the  
124 homestead.

125 Section 2. Subsection (3) of section 197.522, Florida  
126 Statutes, is renumbered as subsection (4), and a new subsection  
127 (3) is added to that section to read:

128 197.522 Notice to owner when application for tax deed is  
129 made.-

130 (3) When sending or serving a notice under this section,  
131 the clerk of the circuit court may rely on the addresses  
132 provided by the tax collector based on the certified tax roll  
133 and property information report. The clerk of the circuit court  
134 has no duty to seek further information as to the validity of  
135 such addresses, because property owners are presumed to know  
136 that taxes are due and payable annually under s. 197.122.

137 Section 3. Subsections (2) and (3) of section 197.582,  
138 Florida Statutes, are amended, and subsections (4) through (9)  
139 are added to that section, to read:

140 197.582 Disbursement of proceeds of sale.-

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141 (2) (a) If the property is purchased for an amount in  
142 excess of the statutory bid of the certificateholder, the  
143 surplus excess must be paid over and disbursed by the clerk as  
144 set forth in subsections (3), (5), and (6). If the opening bid  
145 included the homestead assessment pursuant to s. 197.502(6)(c) -  
146 ~~If the property purchased is homestead property and the~~  
147 ~~statutory bid includes an amount equal to at least one-half of~~  
148 ~~the assessed value of the homestead, that amount must be treated~~  
149 ~~as surplus excess and distributed in the same manner. The clerk~~  
150 ~~shall distribute the surplus excess to the governmental units~~  
151 ~~for the payment of any lien of record held by a governmental~~  
152 ~~unit against the property, including any tax certificates not~~  
153 ~~incorporated in the tax deed application and omitted taxes, if~~  
154 ~~any. If the excess is not sufficient to pay all of such liens in~~  
155 ~~full, the excess shall be paid to each governmental unit pro~~  
156 ~~rata. If, after all liens of governmental units are paid in~~  
157 ~~full, there remains a balance of undistributed funds, the~~  
158 ~~balance must shall~~ be retained by the clerk for the benefit of  
159 persons described in s. 197.522(1)(a), except those persons  
160 described in s. 197.502(4)(h), as their interests may appear.  
161 The clerk shall mail notices to such persons notifying them of  
162 the funds held for their benefit at the addresses provided in s.  
163 197.502(4). Such notice constitutes compliance with the  
164 requirements of s. 717.117(4). Any service charges, ~~at the rate~~

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165 ~~prescribed in s. 28.24(10)~~, and costs of mailing notices shall  
166 be paid out of the excess balance held by the clerk.

167

168 Notice must be provided in substantially the following form:

169

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

170

CLERK OF COURT

171

. . . COUNTY, FLORIDA

172

173

Tax Deed #.....

174

Certificate #.....

175

Property Description: .....

176

Pursuant to chapter 197, Florida Statutes, the above

177

property was sold at public sale on ... (date of sale) ....., and

178

a surplus of \$ .... (amount) .... (subject to change) will be held

179

by this office for 120 days beginning on the date of this notice

180

to benefit the persons having an interest in this property as

181

described in section 197.502(4), Florida Statutes, as their

182

interests may appear (except for those persons described in

183

section 197.502(4)(h), Florida Statutes).

184

To the extent possible, these funds will be used to satisfy

185

in full, each claimant with a senior mortgage or lien in the

186

property before distribution of any funds to any junior mortgage

187

or lien claimant or to the former property owner. To be

188

considered for funds when they are distributed, you must file a

189

notarized statement of claim with this office within 120 days of



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190 this notice. If you are a lienholder, your claim must include  
191 the particulars of your lien and the amounts currently due. Any  
192 lienholder claim that is not filed within the 120-day deadline  
193 is barred.

194 A copy of this notice must be attached to your statement of  
195 claim. After the office examine the filed claim statements, it  
196 will notify you if you are entitled to any payment.

197 Dated: .....

198 Clerk of Court

199  
200 (b) The mailed notice must include a form for making a  
201 claim under subsection (3). Service charges at the rate set  
202 forth in s. 28.24(10) and the costs of mailing must be paid out  
203 of the surplus funds held by the clerk. If the clerk or  
204 comptroller certifies that the surplus funds are not sufficient  
205 to cover the service charges and mailing costs, the clerk shall  
206 receive the total amount of surplus funds as a service charge.  
207 ~~Excess proceeds shall be held and disbursed in the same manner~~  
208 ~~as unclaimed redemption moneys in s. 197.473. For purposes of~~  
209 ~~identifying unclaimed property pursuant to s. 717.113, excess~~  
210 ~~proceeds shall be presumed payable or distributable on the date~~  
211 ~~the notice is sent. If excess proceeds are not sufficient to~~  
212 ~~cover the service charges and mailing costs, the clerk shall~~  
213 ~~receive the total amount of excess proceeds as a service charge.~~

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214 (3) A person receiving the notice under subsection (2) has  
215 120 days from the date of the notice to file a written claim  
216 with the clerk for the surplus proceeds. A claim in  
217 substantially the following form is deemed sufficient:

218 Claim to Receive Surplus Proceeds of a Tax Deed Sale

219 Complete and return to: .....

220 By mail: .....

221 By e-mail: .....

222 Note: The Clerk of the Court must pay all valid liens  
223 before distributing surplus funds to a titleholder.

224 Claimant's name: .....

225 Contact name, if applicable: .....

226 Address: .....

227 Telephone Number: ..... Email Address: .....

228 Tax No. ....

229 Date of sale (if known): .....

230 .... I am not making a claim and waive any claim I might have to  
231 the surplus funds on this tax deed sale.

232 .... I claim surplus proceeds resulting from the above tax deed  
233 sale.

234 I am a (check one)....Lienholder; ....Titleholder.

235 (1) LIENHOLDER INFORMATION (Complete if claim is based on  
236 a lien against the sold property).

237 (a) Type of Lien: ....Mortgage; ....Court Judgment;

238 ....Other

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1383 (2018)

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239 Describe in detail: .....  
240 If your lien is recorded in the county's official records,  
241 list the following, if known:  
242 Recording date: ....; Instrument #....; Book #....; Page  
243 #.....  
244 (b) Original amount of lien: \$.....  
245 (c) Amounts due: \$.....  
246 1. Principal remaining due: \$.....  
247 2. Interest due: \$.....  
248 3. Fees and costs due, including late fees: \$.....  
249 (describe costs in detail, include additional sheet if needed);  
250 4. Attorney fees: \$.....(provide amount claimed):  
251 \$.....  
252 (2) TITLEHOLDER INFORMATION (Complete if claim is based on  
253 title formerly held on sold property.)  
254 (a) Nature of title (check one): .....Deed;  
255 .....Court Judgment; .....Other (describe in detail)  
256 .....  
257 (b) If your former title is recorded in the county's  
258 official records, list the following, if known: Recording  
259 date:.....; Instrument#:.....Book #:.....; Page  
260 #:.....  
261 (c) Amount of surplus tax deed sale proceeds claimed:  
262 \$.....



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263           (d) Does the titleholder claim the subject property was  
264 homestead property? ....Yes ....No.

265           (3) I hereby swear or affirm that all of the above  
266 information is true and correct.

267           Date: .....

268           Signature: .....

269           STATE OF FLORIDA

270           .....COUNTY.

271           Sworn to or affirmed and signed before me on ...(date)

272 .....by ...(name of affiant).....

273           NOTARY PUBLIC or DEPUTY CLERK

274           ...(Print, Type, or Stamp Commissioned Name of Notary)...

275           Personally known, or

276           Produced identification; .....

277           Identification Produced: .....

278 ~~If unresolved claims against the property exist on the date the~~  
279 ~~property is purchased, the clerk shall ensure that the excess~~  
280 ~~funds are paid according to the priorities of the claims. If a~~  
281 ~~lien appears to be entitled to priority and the lienholder has~~  
282 ~~not made a claim against the excess funds, payment may not be~~  
283 ~~made on any lien that is junior in priority. If potentially~~  
284 ~~conflicting claims to the funds exist, the clerk may initiate an~~  
285 ~~interpleader action against the lienholders involved, and the~~  
286 ~~court shall determine the proper distribution of the~~

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287 ~~interpleaded funds. The clerk may move the court for an award of~~  
288 ~~reasonable fees and costs from the interpleaded funds.~~

289 (4) A claim may be:

290 (a) Mailed using the United States Postal Service. The  
291 filing date is the postmark on the mailed claim;

292 (b) Delivered using either a commercial delivery service  
293 or in person. The filing date is the day of delivery; or

294 (c) Sent by fax or e-mail, as authorized by the clerk. The  
295 filing date is the date the clerk receives the fax or e-mail.

296 (5) Except for a claim by a property owner, claims that  
297 are not filed on or before close of business on the 120th day  
298 after the date of the mailed notice as required by s.  
299 197.582(2), are barred. A person, other than the property owner,  
300 who fails to file a proper and timely claim is barred from  
301 receiving any disbursement of the surplus funds. The failure of  
302 any person described in s. 197.502(4), other than the property  
303 owner, to file a claim for surplus funds within the 120 days  
304 constitutes a waiver of interest in the surplus funds and all  
305 claims thereto are forever barred.

306 (6) Within 90 days after the claim period expires, the  
307 clerk may either file an interpleader action in circuit court to  
308 determine the proper disbursement or pay the surplus funds  
309 according to the clerk's determination of the priority of claims  
310 using the information provided by the claimants under subsection  
311 (3). The clerk may move the court to award reasonable fees and

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312 costs from the interpleaded funds. An action to require payment  
313 of surplus funds is not ripe until the claim and review periods  
314 expire. The failure of a person described in s. 197.502(4),  
315 other than the property owner, to file a claim for surplus funds  
316 within the 120 days constitutes a waiver of all interest in the  
317 surplus funds and all claims for them are forever barred.

318 (7) A holder of a recorded governmental lien, other than  
319 federal government lien or ad valorem tax liens, must file a  
320 request for disbursement of surplus funds within 120 days after  
321 the mailing of the notice of surplus funds. The clerk or  
322 comptroller must disburse payments to each governmental unit to  
323 pay any lien of record held by a governmental unit against the  
324 property, including any tax certificate not incorporated in the  
325 tax deed application and any omitted taxes, before disbursing  
326 the surplus funds to nongovernmental claimants.

327 (8) The tax deed recipient may directly pay off all liens  
328 to governmental units that could otherwise have been requested  
329 from surplus funds, and, upon filing a timely claim under  
330 subsection (3) with proof of payment, the tax deed recipient may  
331 receive the same amount of funds from the surplus funds for all  
332 amounts paid to each governmental unit in the same priority as  
333 the original lienholder.

334 (9) If the clerk does not receive claims for surplus funds  
335 within the 120 day claim period, as required in subsection (5),  
336 there is a conclusive presumption that the legal titleholder of



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337 record described in s. 197.502(4) (a) is entitled to the surplus  
338 funds. The clerk must process the surplus funds in the manner  
339 provided in chapter 717, regardless of whether the legal  
340 titleholder is a resident of the state or not.

341 Section 4. This act applies to tax deed applications filed  
342 on or after October 1, 2018 with the tax collector pursuant to  
343 s. 197.502, Florida Statutes.

344 Section 5. This act shall take effect July 1, 2018.

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346

347

348 T I T L E A M E N D M E N T

349 Remove everything before the enacting clause and insert:

350 A bill to be entitled

351 An act relating to tax deed sales; amending s.

352 197.502, F.S.; requiring a tax certificateholder to

353 pay specified costs required to bring the property on

354 which taxes are delinquent to sale; requiring the tax

355 collector to cancel a tax deed application if certain

356 costs are not paid within a specified period for

357 certain purposes; revising procedures for applying

358 for, recording, and releasing tax deed applications;

359 revising provisions to require property information

360 reports for certain purposes; prohibiting a tax

361 collector from accept or paying for a property

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362 information report under certain circumstances;  
363 amending s. 197.522, F.S.; authorizing a clerk to rely  
364 on addresses provided by the tax collector for  
365 specified purposes; amending s. 197.582, F.S.;  
366 revising procedures for the disbursement of surplus  
367 funds by clerks; providing forms for use in noticing  
368 and claiming surplus funds; specifying methods for  
369 delivering claims to the clerk's office; providing  
370 deadlines for filing claims; providing procedures to  
371 be used by clerks in determining disbursement of  
372 surplus funds; authorizing a tax deed recipient to pay  
373 specified liens; specifying procedures to be used by  
374 the tax clerk if surplus funds are not claimed;  
375 providing an effective date.

376

## Tax Reduction Concepts



## **Tax Reduction Concepts**

### **1. Aviation Fuel Tax**

- Provide a further reduction in the aviation fuel tax rate.
- Currently, the rate is scheduled to be reduced from 6.9 to 4.27 cents per gallon July 1, 2019 as a result of revenue neutral legislation passed in 2016 that eliminated an exemption.

### **2. Brownfields Cleanup Tax Credits (Corporate Income Tax)**

- Provides tax credits for businesses that voluntarily cleanup polluted or contaminated properties.
- Currently, there is a backlog of approximately \$13 million in applied-for credits that will not be funded in FY 2018-19.
- Provide a one-time increase in the annual \$10 million program tax credit limit.

### **3. Documentary Stamp Tax – Spousal Transfers**

- Exempt deed transfers of homestead property between spouses from documentary stamp tax if done within one year of marriage.

### **4. Sales Tax – Donations to Charities**

- Exempt state and local sales tax for a business that purchased tangible personal property for resale and instead of reselling, subsequently donates it to a 501(c)(3) exempt organization.

### **5. Save our Homes Portability Related to Hurricanes**

- Provide a mechanism for a homestead property owners with significant damage to their homes from a named tropical storm or hurricane to not lose their Save our Homes differential related to decreases in property value related to storm damage.
- Applies if they move within the calendar year that follows the storm.

### **6. Tax Credit Flexibility & Information – Florida Tax Credit Scholarship Program**

- Add flexibility in the use of tax credits for businesses making contributions to the Florida Tax Credit Scholarship program.
- Provide more information to scholarship organizations regarding potential donors.

### **7. Traffic Fines – 18% Discount**

- Provide an 18% discount for noncriminal traffic fines if driver attends driver improvement course.

### **8. Community Contribution Tax Credit Program (Sales/Corporate/Ins. Prem. Taxes)**

- Offers tax credits to businesses or persons that contribute to certain affordable housing or community development projects.
- Provide an increase to the annual \$14 million program tax credit limit.