

## House Bill No. 1721

An act relating to subdivision property; amending s. 197.502, F.S.; increasing a tax deed application fee; providing notification to legal titleholders of contiguous property which is included in a tax certificate for unpaid taxes; requiring a county to notify the legal titleholder of property contiguous to land available for taxes prior to sale under certain circumstances; amending s. 197.582, F.S.; excluding certain persons as beneficiaries of certain undistributed remainder funds; amending s. 197.522, F.S.; requiring notification to certain persons when an application for a tax deed is made; providing for a statement to accompany such notice; prohibiting the assessment of ad valorem taxes and non-ad valorem assessments by certain entities against property constituting the common elements of a subdivision; requiring that the property appraiser prorate the value of ad valorem taxes and non-ad valorem assessments against easements and other common elements of a subdivision and include such prorated value among the lots within the subdivision conveyed or intended to be conveyed into private ownership; defining the term "common element"; providing an effective date.

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

Section 1. Subsections (1) and (7) of section 197.502, Florida Statutes, are amended and paragraph (h) is added to subsection (4) of said section, to read:

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

(1) The holder of any tax certificate, other than the county, at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the expiration of 7 years from the date of issuance, may file the certificate and an application for a tax deed with the tax collector of the county where the lands described in the certificate are located. The application may be made on the entire parcel of property or any part thereof which is capable of being readily separated from the whole. The tax collector shall be allowed a tax deed application fee of \$75 \$15.

(4) The tax collector shall deliver to the clerk of the circuit court a statement that payment has been made for all outstanding certificates or, if the certificate is held by the county, that all appropriate fees have been deposited, and stating that the following persons are to be notified prior to the sale of the property:

(h) Any legal titleholder of record of property that is contiguous to the property described in the tax certificate, when the property described is either submerged land or common elements of a subdivision, if the address of the titleholder of contiguous property appears on the record of conveyance of the land to that legal titleholder. However, if the legal titleholder of property contiguous to the property described in the tax certificate is the

same as the person to whom the property described in the tax certificate was assessed on the tax roll for the year in which the property was last assessed, the notice may be mailed only to the address of the legal titleholder as it appears on the latest assessment roll.

(7) On county-held certificates for which there are no bidders at the public sale, the clerk shall enter the land on a list entitled "lands available for taxes" and shall immediately notify the county commission and all other persons holding certificates against the land that the land is available. During the first 90 days after the land is placed on the list of lands available for taxes, the county may purchase the land for the opening bid. Thereafter, any person, the county, or any other governmental unit may purchase the land from the clerk, without further notice or advertising, for the opening bid, except that when the county or other governmental unit is the purchaser for its own use, the board of county commissioners may cancel omitted years' taxes, as provided under s. 197.447. If the county does not elect to purchase the land, the county must notify each legal titleholder of property contiguous to the land available for taxes, as provided in paragraph (4)(h), before expiration of the 90-day period. Interest on the opening bid continues to accrue through the month of sale as prescribed by s. 197.542.

Section 2. Subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the excess shall be paid over and disbursed by the clerk. If the property purchased is homestead property and the statutory bid includes an amount equal to at least one-half of the assessed value of the homestead, that amount shall be treated as excess and distributed in the same manner. The clerk shall distribute the excess to the governmental units for the payment of any lien of record held by a governmental unit against the property. In the event the excess is not sufficient to pay all of such liens in full, the excess shall then be paid to each governmental unit pro rata. If, after all liens of record of the governmental units upon the property are paid in full, there remains a balance of undistributed funds, the balance of the purchase price shall be retained by the clerk for the benefit of the persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit. Any service charges, at the same rate as prescribed in s. 28.24(13), and costs of mailing notices shall be paid out of the excess balance held by the clerk. Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys in s. 197.473. In the event 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.

Section 3. Subsection (2) of section 197.522, Florida Statutes, is amended to read:

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

(2)(a) In addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. The original notice and sufficient copies shall be prepared by the clerk and provided to the sheriff. Such notice shall be served as specified in chapter 48; if the sheriff is unable to make service, he or she shall 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 the clerk as provided in subsection (1). The notice shall be in substantially the following form:

**WARNING**

There are unpaid taxes on the property which you own. The property will be sold at public auction on ...(date)... unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court at ...(address)..., ...(telephone number)....

In addition, if the legal titleholder does not reside in the county in which the property to be sold is located, a copy of such notice shall be posted in a conspicuous place on the property by the sheriff of the county in which the property is located. 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.

(b) In addition to the notice provided in subsection (1), the clerk shall notify by certified mail with return receipt requested, or by registered mail if the notice is to be sent outside the continental United States, the persons listed in the tax collector's statement pursuant to s. 197.502(4)(h) that application for a tax deed has been made. Such notice shall be mailed at least 20 days prior to the date of sale. If no address is listed in the tax collector's statement, then no notice shall be required. Enclosed with the copy of the notice shall be a statement in substantially the following form:

**WARNING**

There are unpaid taxes on property contiguous to your property. The property with the unpaid taxes will be sold at auction on ...(date)... unless the back taxes are paid. To make payment, or to receive further information about the purchase of the property, contact the clerk of court immediately at ...(address)..., ...(telephone number)....

Neither the failure of the tax collector to include the list of contiguous property owners pursuant to s. 197.502(4)(h) in his or her statement to the clerk nor the failure of the clerk to mail this notice to any or all of the persons listed in the tax collector's statement pursuant to s. 197.502(4)(h) shall be a basis to challenge the validity of the tax deed issued pursuant to any notice under s. 197.522

Section 4. Ad valorem taxes and non-ad valorem assessments against subdivision property.—

(1) Ad valorem taxes and non-ad valorem assessments shall be assessed against the lots within a platted residential subdivision and not upon the subdivision property as a whole. An ad valorem tax or non-ad valorem assessment, including a tax or assessment imposed by a county, municipality, special district, or water management district, may not be assessed separately against common elements utilized exclusively for the benefit of lot owners within the subdivision, regardless of ownership. The value of each parcel of land that is or has been part of a platted subdivision and that is designated on the plat or the approved site plan as a common element for the exclusive benefit of lot owners shall, regardless of ownership, be prorated by the property appraiser and included in the assessment of all the lots within the subdivision which constitute inventory for the developer and are intended to be conveyed or have been conveyed into private ownership for the exclusive benefit of lot owners within the subdivision.

(2) As used in this section, the term “common element” includes:

(a) Subdivision property not included within lots constituting inventory for the developer which are intended to be conveyed or have been conveyed into private ownership.

(b) An easement through the subdivision property, not including the property described in paragraph (a), which has been dedicated to the public or retained for the benefit of the subdivision.

(c) Any other part of the subdivision which has been designated on the plat or is required to be designated on the site plan as a drainage pond, or detention or retention pond, for the exclusive benefit of the subdivision.

Section 5. This act shall take effect January 1, 2004.

Approved by the Governor July 11, 2003.

Filed in Office Secretary of State July 11, 2003.