

CHAPTER 2014-211

Committee Substitute for Committee Substitute for House Bill No. 797

An act relating to clerks of court; amending s. 40.32, F.S.; authorizing jurors and witnesses to be paid by check; amending s. 77.27, F.S.; conforming a provision to changes made by the act; amending s. 77.28, F.S.; requiring a party applying for garnishment to pay a deposit to the garnishee, rather than in the registry of the court; deleting a provision that requires the clerk to collect a specified fee; amending s. 197.432, F.S.; providing requirements for the sale of tax certificates; amending s. 197.472, F.S.; revising requirements for the redemption of tax certificates; amending s. 197.502, F.S.; requiring the certificateholder to pay costs of resale within a specified number of days under certain circumstances; providing circumstances under which land shall be placed on a specified list; deleting a provision relating to a notification procedure; amending s. 197.542, F.S.; requiring the certificateholder to pay a specified amount of the assessed value of the homestead under certain circumstances; providing circumstances under which land shall be placed on a specified list; amending s. 197.582, F.S.; clarifying notice requirements; providing for excess proceeds relating to unclaimed property; requiring the clerk to ensure that excess funds are paid according to specified priorities; providing for interpleader actions and the award of reasonable fees and costs; providing an effective date.

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

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

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

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

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

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

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

77.27 No appeal until fees are paid.—If the writ is dismissed or plaintiff fails to sustain his or her claim, ~~an~~ no appeal from the judgment ~~is not~~ shall

be permitted until the attorney attorney's fee provided in s. 77.28 has been paid into court.

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

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

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

197.432 Sale of tax certificates for unpaid taxes.—

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

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

197.472 Redemption of tax certificates.—

(1) ~~A~~ Any person may redeem a tax certificate at any time after the certificate is issued and before a tax deed is issued unless full payment for a tax deed is made to the clerk of the court, including documentary stamps and

~~recording fees or the property is placed on the list of lands available for sale.~~
The person redeeming a tax certificate shall pay the tax collector the face amount plus all interest, costs, and charges.

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

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

(2) A certificateholder, other than the county, who makes application for a tax deed shall pay the tax collector at the time of application all amounts required for redemption or purchase of all other outstanding tax certificates, plus interest, any omitted taxes, plus interest, any delinquent taxes, plus interest, and current taxes, if due, covering the property. In addition, the certificateholder shall pay the costs of resale, if applicable, and failure to pay such costs 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."

(7) On county-held or individually held certificates for which there are no bidders at the public sale and for which the certificateholder fails to timely pay costs of resale or fails to pay the amounts due for issuance of a tax deed within 30 days after the 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 property~~ that the property is available. During the first 90 days after the property is placed on the list, the county may purchase the land for the opening bid or may waive its rights to purchase the property. Thereafter, any person, the county, or any other governmental unit may purchase the property from the clerk, without further notice or advertising, for the opening bid, except that if 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 property, the county must notify each legal titleholder of property contiguous to the property 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 7. Subsections (1) and (3) of section 197.542, Florida Statutes, are amended to read:

197.542 Sale at public auction.—

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

tax certificates on the same property, and all other costs to the applicant for tax deed, plus interest at the rate of 1.5 percent per month for the period running from the month after the date of application for the deed through the month of sale and costs incurred for the service of notice provided for in s. 197.522(2), shall be the bid of the certificateholder for the property. If tax certificates exist or if delinquent taxes accrued subsequent to the filing of the tax deed application, the amount required to redeem such tax certificates or pay such delinquent taxes must be included in the minimum bid. However, if the land to be sold is assessed on the latest tax roll as homestead property, the bid of the certificateholder must be increased to include an amount equal to one-half of the assessed value of the homestead property as required by s. 197.502. If there are no higher bids, the property shall be struck off and sold to the certificateholder, who shall pay to the clerk any amounts included in the minimum bid not already paid, including, but not limited to, the documentary stamp tax, the and 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 due. Upon payment, a tax deed shall be issued and recorded by the clerk. If the certificateholder fails to make full payment when due, the clerk shall enter the land on a list entitled "lands available for taxes."

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

Section 8. Subsection (2) of section 197.582, Florida Statutes, is amended, and subsection (3) is added to that section, 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 must 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 must 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, including any tax certificates not incorporated in the tax deed

application and omitted taxes, if any. 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. If, after all liens of governmental units are paid in full, there remains a balance of undistributed funds, the balance shall be retained by the clerk for the benefit of 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. Such notice constitutes compliance with the requirements of s. 717.117(4). Any service charges, at the rate prescribed in s. 28.24(10), 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. For purposes of identifying unclaimed property pursuant to s. 717.113, excess proceeds shall be presumed payable or distributable on the date the notice is sent. 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.

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

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

Approved by the Governor June 20, 2014.

Filed in Office Secretary of State June 20, 2014.