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2014 Legislature

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

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27 specified priorities; providing for interpleader
 28 actions and the award of reasonable fees and costs;
 29 providing an effective date.

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

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

35 40.32 Clerks to disburse money; payments to jurors and
 36 witnesses.—

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

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

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

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

51 77.27 No appeal until fees are paid.—If the writ is
 52 dismissed or plaintiff fails to sustain his or her claim, an ~~no~~

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53 appeal from the judgment is not ~~shall be~~ permitted until the
54 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~
55 ~~court~~.

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

58 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,
59 expenses; deposit required. ~~Upon~~ Before issuance of any writ of
60 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~
61 ~~the registry of the court which shall be paid~~ to the garnishee
62 on the garnishee's demand at any time after the service of the
63 writ for the payment or part payment of his or her attorney
64 ~~attorney's~~ fee which the garnishee expends or agrees to expend
65 in obtaining representation in response to the writ. ~~At the time~~
66 ~~of deposit, the clerk shall collect the statutory fee provided~~
67 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~
68 ~~registry of the court.~~ On rendering final judgment, the court
69 shall determine the garnishee's costs and expenses, including a
70 reasonable attorney ~~attorney's~~ fee, and in the event of a
71 judgment in favor of the plaintiff, the amount is ~~shall be~~
72 subject to offset by the garnishee against the defendant whose
73 property or debt owing is being garnished. In addition, the
74 court shall tax the garnishee's costs and expenses as costs. The
75 plaintiff may recover in this manner the sum advanced by him or
76 her ~~plaintiff and paid into registry of court~~, and, if the
77 amount allowed by the court is greater than the amount paid ~~of~~
78 ~~the deposit~~, together with any offset, judgment for the

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79 garnishee shall be entered against the party against whom the
80 costs are taxed for the deficiency.

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

83 197.432 Sale of tax certificates for unpaid taxes.—

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

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

99 197.472 Redemption of tax certificates.—

100 (1) A ~~Any~~ person may redeem a tax certificate at any time
101 after the certificate is issued and before a tax deed is issued
102 unless full payment for a tax deed is made to the clerk of the
103 court, including documentary stamps and recording fees ~~or the~~
104 ~~property is placed on the list of lands available for sale. The~~

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105 person redeeming a tax certificate shall pay the tax collector
 106 the face amount plus all interest, costs, and charges.

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

109 197.502 Application for obtaining tax deed by holder of
 110 tax sale certificate; fees.—

111 (2) A certificateholder, other than the county, who makes
 112 application for a tax deed shall pay the tax collector at the
 113 time of application all amounts required for redemption or
 114 purchase of all other outstanding tax certificates, plus
 115 interest, any omitted taxes, plus interest, any delinquent
 116 taxes, plus interest, and current taxes, if due, covering the
 117 property. In addition, the certificateholder shall pay the costs
 118 of resale, if applicable, and failure to pay such costs within
 119 30 days after notice from the clerk shall result in the clerk's
 120 entering the land on a list entitled "lands available for
 121 taxes."

122 (7) On county-held or individually held certificates for
 123 which there are no bidders at the public sale and for which the
 124 certificateholder fails to timely pay costs of resale or fails
 125 to pay the amounts due for issuance of a tax deed within 30 days
 126 after the sale, the clerk shall enter the land on a list
 127 entitled "lands available for taxes" and shall immediately
 128 notify the county commission ~~and all other persons holding~~
 129 ~~certificates against the property~~ that the property is
 130 available. During the first 90 days after the property is placed

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131 on the list, the county may purchase the land for the opening
 132 bid or may waive its rights to purchase the property.
 133 Thereafter, any person, the county, or any other governmental
 134 unit may purchase the property from the clerk, without further
 135 notice or advertising, for the opening bid, except that if the
 136 county or other governmental unit is the purchaser for its own
 137 use, the board of county commissioners may cancel omitted years'
 138 taxes, as provided under s. 197.447. ~~If the county does not~~
 139 ~~elect to purchase the property, the county must notify each~~
 140 ~~legal titleholder of property contiguous to the property~~
 141 ~~available for taxes, as provided in paragraph (4) (h), before~~
 142 ~~expiration of the 90-day period.~~ Interest on the opening bid
 143 continues to accrue through the month of sale as prescribed by
 144 s. 197.542.

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

147 197.542 Sale at public auction.—

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

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157 certificates on the same property, and all other costs to the
 158 applicant for tax deed, plus interest at the rate of 1.5 percent
 159 per month for the period running from the month after the date
 160 of application for the deed through the month of sale and costs
 161 incurred for the service of notice provided for in s.
 162 197.522(2), shall be the bid of the certificateholder for the
 163 property. If tax certificates exist or if delinquent taxes
 164 accrued subsequent to the filing of the tax deed application,
 165 the amount required to redeem such tax certificates or pay such
 166 delinquent taxes must be included in the minimum bid. However,
 167 if the land to be sold is assessed on the latest tax roll as
 168 homestead property, the bid of the certificateholder must be
 169 increased to include an amount equal to one-half of the assessed
 170 value of the homestead property as required by s. 197.502. If
 171 there are no higher bids, the property shall be struck off and
 172 sold to the certificateholder, who shall pay to the clerk any
 173 amounts included in the minimum bid not already paid, including,
 174 but not limited to, the documentary stamp tax, the ~~and~~ recording
 175 fees, and, if the property is homestead property, the moneys to
 176 cover the one-half value of the homestead within 30 days after
 177 the sale ~~due~~. Upon payment, a tax deed shall be issued and
 178 recorded by the clerk. If the certificateholder fails to make
 179 full payment when due, the clerk shall enter the land on a list
 180 entitled "lands available for taxes."

181 (3) If the sale is canceled for any reason~~r~~ or the buyer
 182 fails to make full payment within the time required, the clerk

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

200 Section 8. Subsection (2) of section 197.582, Florida
 201 Statutes, is amended, and subsection (3) is added to that
 202 section, to read:

203 197.582 Disbursement of proceeds of sale.—

204 (2) If the property is purchased for an amount in excess
 205 of the statutory bid of the certificateholder, the excess must
 206 be paid over and disbursed by the clerk. If the property
 207 purchased is homestead property and the statutory bid includes
 208 an amount equal to at least one-half of the assessed value of

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209 the homestead, that amount must be treated as excess and
 210 distributed in the same manner. The clerk shall distribute the
 211 excess to the governmental units for the payment of any lien of
 212 record held by a governmental unit against the property,
 213 including any tax certificates not incorporated in the tax deed
 214 application and omitted taxes, if any. If the excess is not
 215 sufficient to pay all of such liens in full, the excess shall be
 216 paid to each governmental unit pro rata. If, after all liens of
 217 governmental units are paid in full, there remains a balance of
 218 undistributed funds, the balance shall be retained by the clerk
 219 for the benefit of persons described in s. 197.522(1)(a), except
 220 those persons described in s. 197.502(4)(h), as their interests
 221 may appear. The clerk shall mail notices to such persons
 222 notifying them of the funds held for their benefit. Such notice
 223 constitutes compliance with the requirements of s. 717.117(4).
 224 Any service charges, at the rate prescribed in s. 28.24(10), and
 225 costs of mailing notices shall be paid out of the excess balance
 226 held by the clerk. Excess proceeds shall be held and disbursed
 227 in the same manner as unclaimed redemption moneys in s. 197.473.
 228 For purposes of identifying unclaimed property pursuant to s.
 229 717.113, excess proceeds shall be presumed payable or
 230 distributable on the date the notice is sent. If excess proceeds
 231 are not sufficient to cover the service charges and mailing
 232 costs, the clerk shall receive the total amount of excess
 233 proceeds as a service charge.

234 (3) If unresolved claims against the property exist on the

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

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