

## **Basic Considerations for Tax Deeds in Florida**

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A tax deed is a written instrument which transfers title to real property from the nonpayment of property taxes. Black's Law Dictionary (9<sup>th</sup> ed. 2009). Tax collection, tax deed sales and tax liens are governed in Florida by Chapter 197 of Florida Statutes and specifically section 197.522 illustrates the validity of a tax deed.

Every year, real property taxes are due on November 1<sup>st</sup>. By April 1<sup>st</sup> of the following year, if the taxes remain unpaid, they will be categorized as delinquent. After April 30<sup>th</sup>, the tax collector shall provide the taxpayer documentation that payment has not been received. This will declare the status of the unpaid tax and a caveat, as the property may be sold at a future date.

By June 1<sup>st</sup>, the tax collector will advertise to the public a list of delinquent properties and the amount due for each permitting tax certificate sales. Fla. Sta. §197.402(3). A tax certificate is a legal document which illustrates unpaid, delinquent taxes including special assessments, interest and related costs of said property. The tax certificate will create a first lien superior to any other liens, except by those provided in the statute. Fla. Sta. § 197.102(f).

As a tax certificate holder, you may obtain a tax deed by filing an application with the county tax collector. The application process is permitted at any time after two (2) years have elapsed from April 1<sup>st</sup> of the year in which the tax certificate was issued, and prior to the elapse of the seven (7) year expiration of the tax certificate. Fla. Sta. § 197.502(1). All amounts required for redemption or purchase of all other outstanding tax certificates, delinquent taxes, omitted taxes, current taxes and any interest associated with the property will be paid to the tax collector at the time of application. The tax collector will then certify and deliver a statement to the clerk of the circuit court stipulating to the payment of the all fees attached to the real property as well as providing notification to any legal titleholders; lien holders; mortgagees; and vendees.

The application has now become a bid in the grand scheme of a public auction. The clerk of court will hold the auction in the county where the real property is located. The auction date and time will be stated in a published notice, where the real property will be sold to the highest bidder. In order for the tax deed to be valid, it must be issued in the name of a county and shall be signed by the clerk. Two (2) witnesses are necessary for its signature and an official seal must be attached. Unless provided for in the statute, no right, interest, restriction, or covenant will survive the issuance of the tax deed except for a lien of record held by a county government or a municipality. Fla. Sta. §197.552.

Successful bidders will obtain a tax deed at a higher value than the taxes owed with the eighteen (18) percent per year interest with a five (5) % return that attaches to the property. If the bidder is not successful, all deposits and funds given in advance for the tax certificate and application will be returned. One risk is that the original taxpayer can pay the delinquent tax and retaining ownership. Nonetheless, a potential tax deed purchaser who remains prepared and informed with records pertaining to the real property, can successfully obtain clean title and ownership of property resulting from the current owner's failure to pay property taxes.