

**Florida Department of Revenue
Tax Information Publication**

TIP 0260BB-01

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**LEGISLATIVE CHANGE AFFECTING NOTIFICATION OF DISBURSEMENTS
FROM FORECLOSURE ACTIONS INVOLVING UNEMPLOYMENT TAX LIENS**

In 2000, the Florida Legislature directed the Department of Revenue (DOR) to contract with the Agency for Workforce Innovation (AWI) for the collection and enforcement of unemployment tax on behalf of AWI. Since beginning the enforcement of this tax, DOR now files answers on behalf of AWI or the Department of Labor and Employment Security (DLES) in foreclosure actions involving unemployment tax liens in order to protect the state's right to participate in any surplus of funds.

Change that took effect May 1, 2002

This is to advise you of a new law that became effective May 1, 2002. Chapter 2002-218, Laws of Florida, permits DOR to participate in a surplus of funds even if DOR, **or AWI or DLES** has been defaulted in the foreclosure. **As of May 1, 2002, the Clerk of the Circuit Court must give DOR notice of the disbursement of proceeds even if DOR, AWI or DLES was defaulted in the action.**

Therefore, beginning on May 1, 2002, DOR will, in most cases, no longer file an answer when it appears DOR has a subordinate position. The clerk may then enter a default against DOR since Rule 1.500(a) of the Florida Rules of Civil Procedure allows the clerk to default, without prior notice, a party who does not file a response.

Section 45.031(7), Florida Statutes, previously only required that the Clerk of the Circuit Court notify DOR of any surplus proceeds in actions when DOR was named as a defendant in the

action. The Clerk of the Circuit Court must now notify the Department of Revenue of any surplus proceeds in any action whenever DOR, AWI, or DLES is named as a party.

Section 69.041(4)(a), Florida Statutes, was also amended to entitle DOR to participate in the distribution of any funds pursuant to the priority of its recorded tax warrant, child support lien or unemployment tax lien. Notification is required, and DOR's right to surplus funds remains, regardless of the entry of a default against DOR, AWI, or DLES.

The Clerks of the Circuit Court are to ensure that the statutory provisions regarding notification and surplus proceeds are satisfied. The certificate of surplus monies shall include the amount of surplus, if any, and the parties to whom distribution has been made.

References: Sections 45.031(7) and 69.041, Florida Statutes (2001); Chapters 2000-165, and 2002-218, Laws of Florida

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor. Or call Tax Information Services, 8:00 a.m., to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 (Florida only), or 850-488-6800.

Hearing- or speech-impaired persons should call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Tax Information Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.

To receive a fax copy of a form, call 850-922-3676 from your fax machine telephone.