



TAX COLLECTOR'S OFFICE

Polk County, Florida

TOURIST DEVELOPMENT TAX
Administrative Advisory
Number 07-03

SUBJECT: Priority of Tourist Development Tax Liens

ISSUE: Order of payment of liens and encumbrances

DATE: May 11, 2007

Tourist development tax liens are given priority over other judgments and liens according to the date they are recorded in the court clerk's office's public records index. An instrument bearing the lower number in the then-current series of numbers shall have priority over any instrument bearing a higher number in the same series.¹

OTHER STATUTES CONSIDERED

The Florida Statute referenced herein requires the court clerk to disburse proceeds from a forced sale on a tax deed application, first to pay off outstanding ad valorem assessments, and secondly, to pay off any government liens (which would include tourist development tax liens). However, the Attorney General's Office has indicated that if this was done, it would violate the due process and contract clauses of the United States Constitution and the Florida Constitution.²

The Florida Statute referenced herein states that, "all taxes imposed pursuant to the State Constitution and laws of this state shall be a first lien." This language is very broad and has been interpreted only to apply to ad valorem assessments on real and personal property. Therefore, it does not give priority to tourist development tax liens.³

¹ Florida Statutes 695.11

² Florida Statutes 197.582(2), AGO 82-14 and 91-64

³ Florida Statutes 197.122(1), (Legal opinion, D.O.R. legal department)