

Even though §197.016(1), *supra*, specifically provides that delinquent real and *personal property taxes* shall draw interest at the rate of 18 percent from date of delinquency it is modified by the provision, "*until a certificate is sold*, from which time the interest rate shall be as bid by the buyer." (Emphasis supplied.) The law does not provide for a tax certificate to be sold on delinquent personal property taxes which implies that the above section was intended to be limited to delinquent real property taxes. Section 1 [§197.062(3), Ch. 72-268, *supra*, is consistent with and carries out this apparent legislative intent as to real property taxes. This is further evidenced by the fact that the language used in §197.016(1) was derived from §197.081, F. S. 1971, which pertained only to real property and that the language of §197.062(2), *supra*, was derived basically from §197.095(2), F. S. 1971, which provided for interest on delinquent personal property taxes at the rate of one percent per month which is, in essence, 12 percent per year. Therefore, the proper interest rate to charge on the 1972 delinquent personal property taxes is 12 percent as provided for in §197.062(2).

The above conclusion is indicated by the fundamental rules of statutory construction that require a statute to be construed so as to give effect to the plain legislative intent and at the same time not reach an absurd conclusion if any other construction is possible. *Pinellas County v. Wooley*, 189 So.2d 217 (2 D.C.A. Fla., 1966); *State Department of Public Welfare v. Bland*, 66 So.2d 59 (Fla. 1953). Where there is any reasonable basis for consistency, the statutes should be construed so as to be consistent with one another rather than in conflict, and the legislature should not be charged with enacting contradictory provisions in the same act. *State v. Putnam Co. Develop. Auth.*, 249 So.2d 6 (Fla. 1971).

073-73—March 22, 1973

#### PROBATE

#### FEE FOR FILING CAVEAT NOT TO BE CREDITED AGAINST UNIFORM FILING FEE

To: *Ernie Lee Magaha, Clerk, Circuit Court, Pensacola*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

#### QUESTION:

Under the provisions of §28.2401, F. S. (1972 Supp.), is the ten dollar fee collected for the filing of a caveat to be credited against the required uniform filing fee of twenty-five, sixty, or seventy-five dollars?

#### SUMMARY:

Pending legislative or judicial clarification, the ten dollar fee for filing a caveat under §732.29, F. S., should not be credited against the uniform fee payable by the personal representative under §28.2401, *id.*, when a decedent's estate is opened for administration or for the purpose of obtaining an Order of Administration Unnecessary.

As noted in AGO's 072-327 and 072-408, the uniform filing fee in probate and guardianship estates required by §28.2401, *supra*, is intended to cover the cost of filing and recording all routine papers in the estate. And it was ruled in AGO 072-390 that a twenty-five dollar fee paid by the personal representative to open an estate to obtain an Order of Administration Unnecessary should be credited to the sixty dollar fee which must be paid by him when it is discovered that the estate must be administered. In so ruling, it was pointed out that, except

for the Petition for No Administration Necessary, all of the documents filed in the estate in connection therewith "are relevant to and would have been filed in the estate if it had originally contemplated the issuance of letters and the administration of the estate."

Under §732.29, F. S. 1971, a state agency-creditor of the estate of a decedent or an heir who is apprehensive that the administration of the estate of a decedent may be initiated without its or his knowledge may file a "caveat" in the office of the county judge (now the circuit court under revised Art. V, State Const.), entitling such agency or heir to notice when and if the decedent's will is filed for probate. But the estate of the decedent is not actually opened for the administration by the filing of the caveat. The caveat serves the purposes only of the caveator and does not constitute a part of the administration of the estate as in the case of the documents referred to in AGO 072-390. This being so, I am inclined to the view that the personal representative is not entitled to any credit for the ten dollar fee paid by a caveator and should pay the uniform filing fee prescribed by the statute—twenty-five, sixty, or seventy-five dollars—for the "filing of all documents in any estate."

Accordingly, pending legislative or judicial clarification of this matter, your question is answered in the negative.

073-74—March 22, 1973

#### ARRESTS

#### FINGERPRINTING PERSONS ARRESTED BY MUNICIPAL POLICE OFFICERS

*To: Bernard Garmire, Chief of Police, Miami*

*Prepared by: Michael M. Corin, Assistant Attorney General*

#### QUESTIONS:

1. Are municipal police officers permitted to fingerprint persons charged with criminal offenses to the same extent as are sheriffs pursuant to §30.31, F. S.?

2. If a person is arrested by municipal police officers and charged with a criminal offense but refuses to submit to fingerprinting, what action can be taken to secure the fingerprints?

#### SUMMARY:

Municipal police officers may fingerprint persons lawfully arrested and charged with criminal offenses. If the lawfully arrested person refuses to submit to fingerprinting, the fingerprints may be secured pursuant to the provisions of Rules 3.130(b) (1) and 3.220(b) (1) (iii), Florida Rules of Criminal Procedure.

The authority for sheriffs of this state to fingerprint all persons charged with any criminal offense is established by §30.31, F. S., which provides:

#### **Fingerprinting persons charged with crime.—**

(1) It is the duty of the sheriffs of the state to fingerprint all persons hereafter charged with or convicted of a felony upon so being charged or convicted and to submit such prints to the federal bureau of investigation and the department of law enforcement. The sheriffs of the state may fingerprint all persons charged with or convicted of any criminal offense when in their opinion it is necessary for the protection of the public.