

By: Herbert of the Senate
and
Seikel of the House

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 1358.1, as amended by Section 2, Chapter 70, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1358.1), which relates to agriculture sales tax exemption and proof of eligibility; modifying conditions under which certain certification may be made; amending 68 O.S. 1991, Sections 3107, 3108, 3111, 3120 and 3135, which relate to tax liens; deleting certain requirement to offer property at public sale on day-to-day basis; modifying certain references; modifying form of certain certification and certificate tax deed; authorizing county to hold certain auctions and providing procedures related thereto; authorizing contracts with auctioneer; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1358.1, as amended by Section 2, Chapter 70, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1358.1), is amended to read as follows:

Section 1358.1 A. In order to qualify for any exemption authorized by Section 1358 of this title, at the time of sale, the person to whom the sale is made shall be required to furnish the vendor proof of eligibility for the exemption as required by this section.

B. All vendors shall honor the proof of eligibility for sales tax exemption as authorized by this section and sales to a person providing such proof shall be exempt from the tax levied by this article, Section 1350 et seq. of this title.

C. For persons holding a valid motor fuel tax exemption permit issued pursuant to Section 509 of this title, the permit shall constitute proof of eligibility for a sales tax exemption as

provided by Section 1358 of this title. Upon the expiration of the permit or if an original application for the exemption is made, the holder may apply for the motor fuel tax exemption and, if the application is approved, a new permit shall be issued indicating the nature of the motor fuel tax exemption and the permit shall contain a statement that the holder of the permit is eligible for sales tax exemptions authorized by Section 1358 of this title.

D. For persons who do not hold a motor fuel tax exemption permit as provided by this section, the person shall obtain an agricultural exemption permit, the size and design of which shall be prescribed by the Oklahoma Tax Commission, which shall constitute proof of eligibility for sales tax exemptions authorized by Section 1358 of this title. The permit shall be obtained by listing personal property used in farming or ranching by the person with the county assessor each year as provided by law. If the assessor determines that the personal property is correctly listed and assessed for ad valorem taxation and the county treasurer certifies whether the person has delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office, the assessor shall certify the assessment upon a form prescribed by the Oklahoma Tax Commission. One (1) copy shall be retained by the assessor, one (1) copy shall be forwarded to the Oklahoma Tax Commission and one (1) copy shall be given to the person listing the personal property. Upon verification that the applicant qualifies for the exemptions authorized by Section 1358 of this title and that the applicant has no delinquent accounts appearing on the personal property tax lien docket in the office of the county treasurer, the Commission shall issue a permit as prescribed by this section. The permit shall constitute proof of eligibility for sales tax exemptions as authorized by Section 1358 of this title. The permit shall be renewable annually in the manner provided by this section.

E. A person who does not otherwise qualify for a permit pursuant to subsection D of this section, except as provided in subsection F of this section, shall file with the Oklahoma Tax Commission an application for an agricultural exemption permit constituting proof of eligibility for the sales tax exemptions authorized by Section 1358 of this title, setting forth such information as the Tax Commission may require. The application shall be certified by the applicant that the applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

F. For a person who is a resident of another state and who is engaged in custom farming operations in this state, the person shall provide the vendor proof of residency, the name, address and telephone number of the person engaging the custom farmer and certification on the face of the invoice, under the penalty of perjury, that the property purchased shall be used in agricultural production as proof of eligibility for the sales tax exemption authorized by Section 1358 of this title.

G. If an agricultural exemption permit holder purchases tangible personal property from a vendor on a regular basis, the permit holder may furnish the vendor proof of eligibility as provided for in subsections D and E of this section and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring proof of eligibility for each subsequent sale. Provided, the permit holder shall notify the vendor of all purchases which are not exempt from sales tax under the provisions of Section 1358 of this title and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not exempt from sales tax, then sufficient grounds shall exist for the Oklahoma Tax Commission to

cancel the agricultural exemption permit of the permit holder who so failed to notify the vendor.

H. A purchaser who uses an agricultural exemption permit or provides proof of eligibility pursuant to subsection F of this section to purchase, exempt from sales tax, items not authorized for exemption under Section 1358 of this title shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

SECTION 2. AMENDATORY 68 O.S. 1991, Section 3107, is amended to read as follows:

Section 3107. On the first Monday in October in each year between the hours of 9:00 a.m. and 4:00 p.m., the treasurer shall offer at public sale at his office where by law the taxes are made payable, all lands, town lots or other real property which shall be liable for taxes of any description for the preceding year, or years, and which shall remain due and unpaid.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 3108, is amended to read as follows:

Section 3108. The first person who offers to pay the full amount due on any parcel of land shall be considered to be the successful purchaser. In the event that more than one such person shall so appear at the same time the county treasurer shall decide the issue by fair and impartial drawing. Parcels of land shall be sold to prospective purchasers on a first-come, first-served basis. The county treasurer is hereby authorized at all tax sales made under the laws of this state, in case there are no other purchasers offering the amount due, to purchase all or any real estate offered at the sale for the amount of taxes, penalty, interest and costs due and unpaid thereon, in the name of the county in which the sale takes place, the county acquiring all the rights both legal and equitable that any other purchaser could acquire by reason of the purchase. Whenever the county treasurer of any county shall purchase any real estate in the name of the county, the county treasurer shall note the purchase upon the sale record and show the same in the return of sale.

If any person is desirous of purchasing the interest of the county in the real estate, the person shall have an absolute right to purchase a certificate by paying to the county treasurer the amount of all the taxes, penalties, interest and costs of sale and transfer, for the year or years so purchased, up to the date of the purchase; and thereupon the treasurer shall issue, assign and deliver to the purchaser a certificate of purchase to the real estate which assignment and transfer shall convey to the purchaser all the rights and interest of the county as fully as if the purchaser had been the original purchaser at the tax sale. The county treasurer shall note the assignment on the tax sale record.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 3111, is amended to read as follows:

Section 3111. The purchaser of any tract of land sold by the county treasurer for taxes shall be entitled to a certificate in writing describing the land purchased and the sum paid, and the time when the purchaser will be entitled to a deed. The certificate shall be assignable and the assignment must be acknowledged before some officer having power to take acknowledgment of deeds. The certificate shall be signed by the treasurer in the treasurer's official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The county treasurer shall collect an additional Ten Dollars (\$10.00) for the issuance and acknowledgment of the certificate. The purchaser shall have a lien on the land for the delinquent taxes and if the purchaser subsequently pays the taxes levied on the land, whether levied for one (1) year or years, previous or subsequent to the sale, the purchaser shall have the same lien for the delinquent taxes and may add the delinquent taxes to the amount paid in the purchase. The

to have and to hold said mentioned tract or parcel of land with the appurtenances thereunto belonging, to the said party of the second part, _____ heirs and assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to sell the same.

IN TESTIMONY WHEREOF, the said C. D., treasurer of said county of _____, has hereunto set the treasurer's hand and seal on the day and year aforesaid.

Attest:

(Seal)

Which deed shall be acknowledged by said treasurer before some one authorized by law to take acknowledgment of deeds.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 3135, is amended to read as follows:

Section 3135. A. Any property acquired by the county under the provisions of the resale tax laws may be sold by the county treasurer, after notice by publication, at a price as may be approved by the board of county commissioners, the notice to be given after receipt of bid on the property. The notice shall be published by the county treasurer once during each of the three (3) consecutive weeks preceding the sale, and if there be no paper published in the county, the county treasurer shall give notice by written or printed notice posted on the door of the courthouse. The notice shall embrace a description of the property, the amount bid and the name of the bidder, and state that the sale of the property so listed shall be made at the price and to the bidder at a given date, beginning at an hour to be specified therein, subject to the approval of the board of county commissioners, unless higher bids are received at the sale. On the date stated in the notice, the property shall be sold by the county treasurer to the highest competitive bidder, for cash in hand, or to the original bidder if there be no higher price offered. The sale in any event shall be subject to the approval of the board of county commissioners in its discretion. The cost of the advertisement and other expense incident to the sale, as provided by law, shall be apportioned to the respective tracts listed in the sale and shall be added to the sale price of the real estate as a separate and additional charge and shall be paid by the purchaser, in addition to the amount bid upon the real estate. A deposit shall be required of any bidder before advertisement of the property to cover the advertisement and costs. Upon declaring the successful bidder at the sale, and before closing the sale, the bidder shall be required to make, or increase, the bid sufficient to cover cost of advertising and sale, and sufficient to cover the fees of the county clerk for the recording mandatorily required by law upon approval by the board of county commissioners, otherwise the sale shall continue. Upon approval of the sale as hereinbefore provided, the chair of the board of county commissioners shall execute a deed conveying title to the purchaser of the property in as full and ample manner as by law provided on a form prescribed by the State Auditor and Inspector.

B. In addition to the methods provided for in subsection A of this section, the county may also periodically hold auctions to sell any property or properties acquired by the county under the provisions of the resale tax laws. The auctions shall be held at a time, date and place as set by the county treasurer with the approval of the county commissioners. On the date of the auction, the property or properties shall be sold by the county treasurer to the highest competitive bidder, for cash in hand. Provided, in no event shall any bid be accepted which is less than all of the real estate ad valorem taxes owed at the time of the original resale. The county treasurer and county commissioners may contract with an auctioneer to conduct the auction for a fee or commission as may be

mutually agreed upon. If an auctioneer is employed, the auctioneer shall be responsible for conducting the auction and all the necessary advertising.

SECTION 7. This act shall become effective November 1, 1995.