

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1852

By: Kirby

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 3127, 3129, as amended by Section 3, Chapter 187, O.S.L. 1999, 3130 and 3131, as last amended by Section 4, Chapter 187, O.S.L. 1999 (68 O.S. Supp. 2000, Sections 3129 and 3131), which relate to tax liens; modifying contents of notice of resale of real property by county treasurer; modifying calculation for minimum amount a property may be sold at a resale; adding procedure for payment of municipal liens from proceeds of a resale; adding requirement that municipal liens will be satisfied with issuance of a deed; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 3127, is amended to read as follows:

Section 3127. The county treasurer shall give notice of the resale of such real estate by publication of said notice once a week for four (4) consecutive weeks preceding such sale, in some newspaper, having been continuously published one hundred four (104) consecutive weeks with admission to the United States mails as second-class mail matter, with paid circulation and published in the county where delivered to the mails, to be designated by the county treasurer; and if there be no paper published in the county, or publication is refused, he shall give notice by written or printed notice posted on the door of the courthouse. Such notice shall contain a description of the real estate to be sold, the name of the owner of said real estate as shown by the last tax rolls in the

office of the county treasurer, the time and place of sale, a statement of the date on which said real estate was sold to the county for delinquent taxes, the year or years for which taxes have been assessed but remain unpaid and a statement that the same has not been redeemed for the period of two (2) years from the date of sale, the total amount of all delinquent taxes, costs, penalties, municipal liens, if any, and interest accrued, due and unpaid on the same, and a statement that such real estate will be sold to the highest bidder for cash. It shall not be necessary to set forth the amount of taxes, penalties, interest, municipal liens, if any, and costs accrued each year separately, but it shall be sufficient to publish the total amount of all due and unpaid taxes, penalties, interest, municipal liens, if any, and costs. The county treasurer shall, at least thirty (30) days prior to such resale of real estate, give notice by certified mail, by mailing to the owner of said real estate, as shown by the last tax rolls in his office, and to all mortgagees of record of said real estate a notice stating the time and place of said resale and showing the legal description of the real property to be sold. If the county treasurer does not know and cannot, by the exercise of reasonable diligence, ascertain the address of any mortgagee of record, then the county treasurer shall cause an affidavit to be filed with the county clerk, on a form approved by the State Auditor and Inspector, stating such fact, which affidavit shall suffice, along with publication as provided for by this section, to give any mortgagee of record notice of such resale. Neither failure to send notice to any mortgagee of record of said real estate nor failure to receive notice as provided for by this section shall invalidate the resale, but the resale tax deed shall be ineffective to extinguish any mortgage on said real estate of a mortgagee to whom no notice was sent. Beginning on the effective date of this act, no encumbrancer of real property in this state shall be permitted to file any instrument purporting to

encumber real property in any county of the state with any county clerk unless the instrument states on its face the mailing address of such encumbrancer.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 3129, as amended by Section 3, Chapter 187, O.S.L. 1999 (68 O.S. Supp. 2000, Section 3129), is amended to read as follows:

Section 3129. A. On the day real estate is advertised for resale, the county treasurer shall offer same for sale at the office of the county treasurer between the hours of nine a.m. and four p.m. and continue the sale thereafter from day to day between such hours until all of the real estate is sold. The real estate shall be sold at public auction to the highest bidder for cash.

B. All property must be sold for a sum not less than two-thirds of the assessed value of such real estate as fixed for the current fiscal year and the amount of any municipal liens filed on the property as of the date of notice of sale, or for the total amount of taxes, penalties, interest, liens of municipalities and costs due on such property, whichever is the lesser. If there is no bid equal to or greater than the sum so required, the county treasurer shall bid off the same in the name of the county. All property bid off in the name of the county shall be for the amount of all taxes, municipal liens, penalties, interest and costs due thereon, and the county treasurer shall issue a deed therefor to the board of county commissioners for the use and benefit of the county.

C. The county shall not be liable to the state, municipality or any taxing district thereof for any part of the amount for which any property may be sold to such county. All property bid off in the name of the county shall be exempt from ad valorem taxation as long as title is held for the county.

D. 1. The county shall not be civilly liable for any environmental problems or conditions on any property which existed on the property prior to the county's involuntary ownership of the

property pursuant to this section, or which may result from such environmental problems or conditions on the property. During the period of the county's involuntary ownership of the property, the person or persons who would be legally liable for the environmental problems or conditions on the property but for the county's ownership shall continue to be liable for such environmental problems or conditions.

2. In addition, the county shall not be subject to civil liability with regard to any actions taken by the county to remediate any problems or conditions on the property resulting from the environmental problems or conditions if the remedial action is not performed in a reckless or negligent manner.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 3130, is amended to read as follows:

Section 3130. Monies received by the county treasurer at resale from individual purchasers, not redemptioners, shall nevertheless be deemed to be collections of tax and municipal liens, if any, and if no redemption be had before issuance and delivery of a deed therefor, the tax monies and municipal liens, if any, so collected, not including excess proceeds to be held for the owner thereof, shall be credited, paid to the municipality and/or apportioned as such taxes and municipal liens would have been apportioned had they been paid in the proper time and manner, and the monies so collected representing penalties on ad valorem tax, listing fees and publication costs shall be credited to the "resale property fund" of such county as hereinafter provided. In instances where vacant lots are offered for sale for ~~both~~ ad valorem taxes, municipal liens and special improvement taxes, but are sold for less than the total sum due, the county treasurer shall, after deducting the listing fees and publication costs, apportion the proceeds of such sale ratably between the ad valorem and special improvement tax accounts, and the

municipality in the same ratio such proceeds bear to the total ~~tax~~
amount published as due for such resale.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 3131, as last amended by Section 4, Chapter 187, O.S.L. 1999 (68 O.S. Supp. 2000, Section 3131), is amended to read as follows:

Section 3131. A. Within thirty (30) days after resale of property, the county treasurer shall file in the office of the county clerk a return, and retain a copy thereof in the county treasurer's office, which shall show or include, as appropriate:

1. Each tract or parcel of real estate so sold;
2. The date upon which it was resold;
3. The name of the purchaser;
4. The price paid therefor;
5. A copy of the notice of such resale with an affidavit of its publication or posting; and
6. The complete minutes of sale, and that the same was adjourned from day to day until the sale was completed.

Such notice and return shall be presumptive evidence of the regularity, legality and validity of all the official acts leading up to and constituting such resale. Within such thirty (30) days, the county treasurer shall execute, acknowledge and deliver to the purchaser or the purchaser's assigns, or to the board of county commissioners where such property has been bid off in the name of the county, a deed conveying the real estate thus resold. The issuance of such deed shall effect the cancellation and setting aside of all delinquent taxes, municipal liens, assessments, penalties and costs previously assessed or existing against the real estate, and of all outstanding individual and county tax sale certificates, and shall vest in the grantee an absolute and perfect title in fee simple to the real estate, subject to all claims which the state may have had on the real estate for taxes or other liens or encumbrances. Twelve (12) months after the deed shall have been

filed for record in the county clerk's office, no action shall be commenced to avoid or set aside the deed. Provided, that persons under legal disability shall have one year after removal of such disability within which to redeem the real estate.

B. Any number of lots or tracts of land may be included in one deed, for which deed the county treasurer shall collect from the purchaser One Dollar (\$1.00) for the first tract, and ten cents (\$0.10) for each additional tract included therein. The county treasurer shall also charge and collect from the purchaser at such sale an amount in addition to the bid placed on such real estate, sufficient to pay all expenses incurred by the county in preparing, listing and advertising the lot or tract purchased by such bidder, which sums shall be credited and paid into the resale property fund hereinafter provided, to be used to defray to that extent the costs of resale.

C. When any tract or lot of land sells for more than the taxes, penalties, interest, municipal liens, if any, and cost due thereon, the excess shall be held in a separate fund for the prior owner of such land to be withdrawn any time within two (2) years. At the end of two (2) years, if such money has not been withdrawn or collected from the county, it shall be credited to the county resale property fund.

SECTION 5. This act shall become effective November 1, 2001.

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