

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1412

By: Joyner

6
7 COMMITTEE SUBSTITUTE

8 (revenue and taxation - county board of equalization

9 - board of tax roll corrections - county excise

10 boards - delinquent taxes - notice of sale -

11 assignment fee -

12 effective date)

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

17 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2862, is
18 amended to read as follows:

19 Section 2862. A. The members of the county board of
20 equalization for each county in the state, before entering upon
21 their duties, shall subscribe to the oath required of other county
22 officers.

23 B. Each member of the county board of equalization shall be
24 required to attend and successfully complete a course for purposes

1 of instructing the members about the duties imposed on the board by
2 law. The course shall be developed by the Oklahoma State University
3 Center for Local Government Technology and shall include subjects
4 similar to those prescribed by law for certification of county
5 assessors and their deputies. Failure of a county board of
6 equalization member to successfully complete such course within
7 eighteen (18) months of the date as of which the member was
8 appointed shall result in forfeiture of the office and the vacancy
9 shall be filled in the manner provided by law.

10 C. The members of county boards of equalization in all counties
11 having an assessed valuation of Two Billion Dollars
12 (\$2,000,000,000.00) or more shall receive as compensation an amount
13 not to exceed Seventy-five Dollars (\$75.00) per day. The members of
14 county boards of equalization in all other counties may receive as
15 compensation an amount not to exceed Fifty Dollars (\$50.00) per day,
16 such amount to be established by the boards.

17 D. In addition to the amounts specified in subsection C of this
18 section, members of county boards of equalization ~~residing outside~~
19 ~~of the county seat~~ shall be reimbursed for each mile of travel to
20 and from their residences to the place of meeting of the board for
21 each session attended at the rate provided for other county
22 officers. The members shall also be reimbursed for each mile of
23 necessary travel in the performance of their official duties at the
24 same rate.

1 E. The total number of days in each year for which the members
2 of a county board of equalization may be paid shall be as follows:

3 1. In counties having an assessed valuation of Forty Million
4 Dollars (\$40,000,000.00) or less, not to exceed forty (40) days;

5 2. In counties having an assessed valuation of more than Forty
6 Million Dollars (\$40,000,000.00) and not more than Eighty Million
7 Dollars (\$80,000,000.00), not to exceed forty-five (45) days; and

8 3. In counties having an assessed valuation of more than Eighty
9 Million Dollars (\$80,000,000.00), not to exceed ninety (90) days.

10 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2871, is
11 amended to read as follows:

12 Section 2871. A. After delivery of the tax rolls to the county
13 treasurer of any county, no correction or alteration as to any item
14 contained therein as of such date of delivery shall ever be made,
15 except by the county treasurer and on authority of a proper
16 certificate authorized by law or pursuant to order or decree of
17 court in determination of a tax protest or other proper case.

18 B. A board of tax roll corrections is hereby created and shall
19 consist of the chair of the board of county commissioners as chair
20 or, in the chair's absence, the vice-chair of the board of county
21 commissioners, the chair of the county equalization board or, in the
22 chair's absence, the vice-chair of the county equalization board as
23 vice-chair, the county clerk as nonvoting member and secretary, and
24 the county assessor, a majority of whom shall constitute a quorum.

1 The board is hereby authorized to hear and determine allegations of
2 error, mistake or difference as to any item or items so contained in
3 the tax rolls, in any instances hereinafter enumerated, on
4 application of any person or persons whose interest may in any
5 manner be affected thereby, or by his or her agent or attorney,
6 verified by affidavit and showing that the complainant was not at
7 fault through failure to fulfill any duty enjoined upon him or her
8 by law, or upon discovery by the county treasurer or assessor before
9 the tax has been paid or attempted to be paid and disclosure by
10 statement of fact in writing signed by the treasurer or assessor and
11 verified by the assessor or treasurer as the case may be. Such
12 right shall not be available to anyone attempting to acquire, or who
13 has acquired, the lien of the county for such tax, whether by
14 purchase, assignment, deed or otherwise. In counties with two
15 county boards of equalization, the chair of each such board shall
16 serve, in alternating years, as the vice-chair of the board of tax
17 roll corrections. When a complaint is pending before the board of
18 tax roll corrections, such taxes as may be owed by the protesting
19 taxpayer shall not become due until thirty (30) days after the
20 decision of the board of tax roll corrections. When a complaint is
21 filed on a tax account which has been delinquent for more than one
22 (1) year, and upon showing that the tax is delinquent, the complaint
23 shall be dismissed, with prejudice.

24 C. If, upon such hearing, it appears that:

- 1 1. Any personal or real property has been assessed to any
2 person, firm, or corporation not owning or claiming to own the same;
- 3 2. Property exempt from taxation has been assessed;
- 4 3. Exemption deductions allowed by law have not been taken into
5 account;
- 6 4. The same property, whether real or personal, has been
7 assessed more than once for the taxes of the same year;
- 8 5. Property, whether real or personal, has been assessed in the
9 county for the taxes of a year to which the same was not subject;
- 10 6. The county board of equalization has, after delivery of the
11 tax rolls, made a finding of fact under authority of law that, after
12 January 1 of any year and before May 1 of the same year,
13 improvements to real estate or other property assessed have been
14 destroyed by fire, or that the value of land has been impaired,
15 damaged or destroyed by floods or overflow of streams, and has made
16 and entered an adjustment to assessments previously made and
17 entered;
- 18 7. Lands or lots have in any manner been erroneously described;
- 19 8. Any valuation or valuations assessed and entered are at
20 variance with the valuation finally equalized;
- 21 9. Any valuation or valuations returned for assessment and not
22 increased by the county assessor have been entered on the assessment
23 rolls for equalization at variance with the value returned, or in
24 the event of increase by either the county assessor or the county

1 board of equalization and no notice thereof was sent; provided,
2 offer of proof of failure to receive notice may not be heard;

3 10. Any valuation assessed and entered included, in whole or in
4 part, as of the date of assessment under the law relating thereto,
5 any property that had no taxable situs in the county, did not exist
6 or had been erroneously placed;

7 11. Any property subject to taxation as of January 1 of any
8 year was thereafter acquired by conveyance of title, including tax
9 title, by the county, or any city, town or school district therein;

10 12. An error resulted from inclusion in the total of levies
11 computed against the valuation entered, a tax levy or levies
12 certified and final for none or part of which such property was
13 liable in fact and the same be self-evident on recomputation, and
14 involve no question of law;

15 13. As to personal tax, if there has been an error in the name
16 of the person assessed, or, as to real property, the record owner at
17 the time of assessment desires that his or her name be entered in
18 lieu of whatever other name may have been entered as "owner" upon
19 the roll;

20 14. There has been any error in the tax extended against the
21 valuation entered, whether by erroneous computation or otherwise;

22 15. There has been any error in transcribing from the county
23 assessor's permanent survey record to the assessment rolls either as
24 to area or value of lands or lots or as to improvements thereon;

1 16. The county treasurer has, of his or her own volition,
2 restored to the tax rolls any tax or assessment where the entry upon
3 the tax rolls shows the same theretofore to have been stricken or
4 reduced by certificate issued by constituted authority, except where
5 restored by specific court order or in conformity to general decree
6 of the Supreme Court of Oklahoma invalidating in mass all such
7 certificates of a class certain, and except if the owner of such
8 property demand its restoration and make payment, in which instance
9 the county treasurer shall require that the owner sign on the face
10 of the owner's receipt a statement that the owner "paid voluntarily
11 without demand, request or duress"; or

12 17. Any personal property assessment and personal tax charge
13 has been entered upon the assessment and tax rolls except upon
14 proper return of assessment by the taxpayer or increase thereof with
15 due notice, or as a delinquent assessment made by the county
16 assessor or deputies in detail either on view or reliable
17 information; then, in the event any of the grounds stated in this
18 subsection are present, it shall be the duty of the board of tax
19 roll corrections to make and the secretary to enter its findings of
20 fact and to correct such error, if such exists, by issuing its
21 order, in words and figures, to accomplish such:

22 a. if such error increases the amount of tax charged, the
23 county clerk shall issue a certificate of error to the
24 county assessor ordering the assessor to certify such

1 correction or increase to the county treasurer for
2 entry on the tax rolls, and

3 b. if such error does not increase the amount of tax
4 charged, the county clerk shall issue a certificate of
5 error to the county treasurer if the tax be not paid,
6 stating the amount or other effect of such order, and
7 it shall be the duty of such county treasurer to make
8 and enter such correction upon the tax rolls and, if
9 there be a decrease to the amount of tax charged, to
10 enter a credit, in lieu of cash, for the amount of
11 decrease of tax shown in such certificate.

12 D. If, prior to such hearing by the board, as provided by this
13 section, the tax has been paid, no certificate shall issue; but if
14 less than one (1) year shall have elapsed after the payment of the
15 tax and before the filing of such application for correction of
16 error, and after such hearing the findings of fact disclose that
17 less tax was due to have been paid than was paid, then the person
18 who paid the tax, or such person's heirs, successors, or assigns,
19 may execute a cash voucher claim setting forth facts and findings,
20 verify it, and file it with the county clerk, who shall thereupon
21 deliver such claim to the county treasurer for designation of the
22 fund from which the claim must be paid and approval of the claim as
23 to availability of funds by the county treasurer. If taxes have
24 been paid under protest, the county treasurer must designate the

1 refund to be paid from such protest fund. If taxes have been paid
2 but not paid under protest and if there are funds available in
3 current collections of the taxing unit which received the taxes
4 paid, then the county treasurer must designate the refund to be paid
5 from such current collections of such taxing unit. The county clerk
6 shall thereupon issue a cash voucher against the appropriate fund of
7 the county, directing the county treasurer to pay to such person the
8 amount so found to be erroneous. The word "person" as used in this
9 subsection shall comprehend the person, firm, or corporation who
10 paid such tax and the heirs, assigns or successors, as the case may
11 be. No such claim for refund shall be allowed and paid unless the
12 same be filed within six (6) months after the effective date of the
13 order of correction.

14 E. If there be any error in the taxes collected from any
15 person, the overpayment or duplicate payment of any such taxes
16 collected in error may be recovered by the taxpayer, and the county
17 treasurer may make such payment from the resale property fund of the
18 county if funds are not available as stated in subsection D of this
19 section.

20 F. Beginning January 1, 1987, notwithstanding the one-year
21 limitations period for filing a claim for refund as provided in
22 subsection D of this section, if there be any error in taxes
23 collected from any person on property constitutionally exempt under
24 Section 6B of Article X of the Oklahoma Constitution, by the county

1 treasurer in counties with a population in excess of five hundred
2 thousand (500,000) persons, according to the latest Federal
3 Decennial Census, to the extent that such county has been reimbursed
4 from the Ad Valorem Reimbursement Fund provided by Section 193 of
5 Title 62 of the Oklahoma Statutes, the overpayment or duplicate
6 payment of any such taxes collected in error may be recovered by the
7 taxpayer as provided by law.

8 G. Upon dismissal of a complaint or denial of relief to the
9 taxpayer, the county clerk, as secretary of the board of tax roll
10 corrections, shall prepare a letter order of dismissal or denial
11 which shall be mailed to the taxpayer or person at the address found
12 on the complaint.

13 H. Both the taxpayer and the county assessor shall have the
14 right of appeal from any order of the board of tax roll corrections
15 to the district court of the same county. In case of appeal the
16 trial in the district court shall be de novo.

17 I. Notice of appeal shall be served upon the county clerk, as
18 secretary of the board of tax roll corrections, and a copy served
19 upon the county assessor. The appeal shall be filed in the district
20 court within fifteen (15) days of the date of the mailing of the
21 order of the board of tax roll corrections to the taxpayer.

22 SECTION 3. AMENDATORY 68 O.S. 2001, Section 3005.1, is
23 amended to read as follows:

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1 Section 3005.1 A. A county excise board is hereby created for
2 each county in the state, to be composed of the members of the
3 county board of equalization as created in Section 2861 of this
4 title. The county clerk shall serve as secretary and clerk of said
5 board without additional compensation.

6 B. It shall be unlawful for any member of the county excise
7 board to sell or contract to sell, or to lease or contract to lease,
8 or to represent any person, firm, corporation or association in the
9 sale or the lease of any machinery, supplies, equipment, material,
10 or other goods, wares, or merchandise to any county or city or town
11 of the county. It shall also be unlawful for any member of the
12 county excise board to serve as employee, official, or attorney for
13 any county or city, or town of the county, or for any such member to
14 represent any taxpayer before such board in any manner, or to use
15 his or her position as a board member to further his or her own
16 interests. It shall also be unlawful for any taxpayer or interested
17 party to employ any member of the county excise board in any matter
18 coming before the board.

19 C. The members of county excise boards in all counties having
20 an assessed valuation of Two Billion Dollars (\$2,000,000,000.00) or
21 more shall receive as compensation an amount not to exceed Seventy-
22 five Dollars (\$75.00) per day. The members of county excise boards
23 in all other counties may receive as compensation an amount not to
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1 exceed Fifty Dollars (\$50.00) per day, said amount to be established
2 by the boards.

3 In addition, the members of county excise boards ~~residing~~
4 ~~outside of the county seat~~ shall be reimbursed for each mile of
5 travel to and from their residences to the place of meeting of the
6 board for each session attended at the rate provided for other
7 county officers. The members of county excise boards shall be also
8 reimbursed for each mile of necessary travel in the performance of
9 their official duties at the same rate.

10 The total number of days in each year for which the members of
11 said board may be paid shall be as follows:

12 In counties having an assessed valuation of Forty Million
13 Dollars (\$40,000,000.00) and less, not to exceed sixty (60) days;

14 In counties having an assessed valuation of more than Forty
15 Million Dollars (\$40,000,000.00) and not more than Eighty Million
16 Dollars (\$80,000,000.00), not to exceed sixty-five (65) days;

17 In counties having an assessed valuation of more than Eighty
18 Million Dollars (\$80,000,000.00) and not more than Five Hundred
19 Million Dollars (\$500,000,000.00), not to exceed one hundred (100)
20 days;

21 In counties having an assessed valuation of more than Five
22 Hundred Million Dollars (\$500,000,000.00), not to exceed two hundred
23 fifty (250) days.

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1 D. Any person violating any of the provisions of this section
2 shall be deemed guilty of a felony, and upon conviction thereof
3 shall be punished by a fine of not less than Two Hundred Dollars
4 (\$200.00) and not more than One Thousand Dollars (\$1,000.00) or by
5 imprisonment in the State Penitentiary for not less than six (6)
6 months or more than two (2) years, or by both such fine and
7 imprisonment.

8 SECTION 4. AMENDATORY 68 O.S. 2001, Section 3105, as
9 last amended by Section 1, Chapter 181, O.S.L. 2003 (68 O.S. Supp.
10 2006, Section 3105), is amended to read as follows:

11 Section 3105. A. The county treasurer shall in all cases,
12 except those provided for in subsection B of this section, where
13 taxes are a lien upon real property and are unpaid on the first day
14 of April of any year proceed, as hereinafter provided, to advertise
15 and sell such real estate for such taxes, special assessments and
16 costs, and shall not be bound before so doing to proceed to collect
17 by sale all personal taxes on personal property which are by law
18 made a lien on realty, but shall include such personal tax with that
19 due on the realty, and shall sell the realty for all of the taxes
20 and special assessments.

21 B. In counties with a population in excess of one hundred
22 thousand (100,000) persons according to the most recent federal
23 decennial census, the county treasurer shall not conduct a tax sale
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1 of such real estate where taxes are a lien upon real property if the
2 following conditions are met:

3 1. The real property contains a single-family residential
4 dwelling;

5 2. The individual residing on the property is sixty-five (65)
6 years of age or older or has been classified as totally disabled, as
7 defined in subsection C of this section, and such individual owes
8 the taxes due on the real property;

9 3. The real property is not currently being used as rental
10 property;

11 4. The individual living on the property has an annual income
12 that does not exceed the HHS Poverty Guidelines as established each
13 year by the United States Department of Health and Human Services
14 that are published in the Federal Register and in effect at the time
15 that the proposed tax sale is to take place; and

16 5. The fair market value of the real property as reflected on
17 the tax rolls in the office of the county assessor does not exceed
18 One Hundred Twenty-five Thousand Dollars (\$125,000.00).

19 C. As used in this section, a person who is "totally disabled"
20 means a person who is unable to engage in any substantial gainful
21 activity by reason of a medically determined physical or mental
22 impairment which can be expected to last for a continuous period of
23 twelve (12) months or more. Proof of disability may be established
24 by certification by an agency of state government, an insurance

1 company, or as may be required by the county treasurer. Eligibility
2 to receive disability benefits pursuant to a total disability under
3 the Federal Social Security Act shall constitute proof of disability
4 for purposes of this section.

5 D. It shall be the duty of the individual owning property
6 subject to the provisions of subsection B of this section to make
7 application to the county treasurer for an exemption from a tax sale
8 ~~no later than sixty (60) days prior to the date the property is~~
9 ~~scheduled to be~~ being sold. It shall also be the duty of the
10 individual to provide evidence to the county treasurer that the
11 individual meets the financial requirements outlined in paragraph 4
12 of subsection B and all other requirements of this section to
13 qualify for the exemption. Any individual claiming the exemption
14 provided in this section shall establish eligibility for the
15 exemption each year the exemption is claimed.

16 E. Taxes, interest and penalties will continue to accrue while
17 the exemption is claimed. The exemption from sale of property
18 described in this section shall no longer be applicable and the
19 county treasurer shall proceed with the sale of such real estate if
20 any of the conditions prescribed in this section are no longer met.

21 F. Every notice of tax sale or tax resale shall contain
22 language approved by the Office of the State Auditor and Inspector
23 informing the taxpayer of the provisions of this section.

24

1 SECTION 5. AMENDATORY 68 O.S. 2001, Section 3106, is
2 amended to read as follows:

3 Section 3106. The county treasurer shall give notice of the
4 sale of real property for delinquent taxes and special assessments
5 by publication of said sale once a week for the two (2) consecutive
6 weeks immediately prior to the third Friday in September preceding
7 the sale, in some newspaper in the county to be designated by the
8 county treasurer. Such notice shall contain a notification that all
9 lands on which the taxes are delinquent and remain due and unpaid
10 will be sold, the time and place of the sale, a list of the lands to
11 be sold, the name or names of the last owner or owners as reflected
12 by the records in the office of the county treasurer, and the amount
13 of taxes due and delinquent. Such notice shall also contain the
14 following language: "The sale hereby advertised is conditional and
15 subject to a two-year right of redemption by the record owner as
16 provided in Section ~~24323~~ 3118 of Title 68 of the Oklahoma
17 Statutes." If the sale involves property upon which is located a
18 manufactured home the notice shall also contain the following
19 language: "The sale hereby advertised involves a manufactured home
20 which may be subject to the right of a secured party to repossess.
21 A holder of a perfected security interest in such manufactured home
22 may be able to pay ad valorem taxes based upon the value of the
23 manufactured home apart from the value of real property. If a
24 secured party exercises this right, the holder of the tax sale

1 certificate will be refunded the amount of taxes paid upon the value
2 of the manufactured home." In addition to said published notice, the
3 county treasurer shall give notice by certified mail by mailing to
4 the owner of said real property, as shown by the last tax rolls in
5 his office, a notice of said sale stating the time and place of said
6 sale and showing the legal description of the property of the owner
7 being sold. Failure to receive said notice shall not invalidate
8 said sale. The county treasurer shall charge and collect in cash,
9 cashier's check or money order, in addition to the taxes, interest
10 and penalty, the publication fees as provided by the provisions of
11 Section 121 of Title 28 of the Oklahoma Statutes, and Five Dollars
12 (\$5.00) plus postage for mailing the notice by certified mail, which
13 shall be paid into the county treasury, and the county shall pay the
14 cost of the publication of such notice. But in no case shall the
15 county be liable for more than the amount charged to the delinquent
16 lands for advertising and the cost of mailing. No person or entity
17 that has delinquent ad valorem taxes shall be eligible to bid on
18 property offered at a tax lien sale, a tax resale or at the sale of
19 a treasurer as provided for in Section 3135 of this title.

20 SECTION 6. AMENDATORY 68 O.S. 2001, Section 3112, as
21 amended by Section 2, Chapter 177, O.S.L. 2004 (68 O.S. Supp. 2006,
22 Section 3112), is amended to read as follows:

23 Section 3112. When any tax sale certificate which has been
24 issued to an individual is by such individual assigned to another

1 person, it shall be the duty of the assignee to present such
2 assigned certificate, or a separate written assignment duly
3 acknowledged, to the county treasurer who shall note such assignment
4 upon the tax sale record, and no assignment shall be valid until
5 entered upon such record. The county treasurer shall charge a
6 fifteen-dollar fee for each such assignment and said cost shall not
7 be reimbursable to the assignor or the assignee by the taxpayer upon
8 redemption. Said fee shall be deposited into the "resale property
9 fund" of the county.

10 SECTION 7. This act shall become effective November 1, 2007.

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12 51-1-7407 CJB 02/27/07
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