

THE HOUSE OF REPRESENTATIVES
Tuesday, March 6, 2007

Committee Substitute for
House Bill No. 1412

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1412 - By: JOYNER of the House
and ALDRIDGE of the Senate.

(revenue and taxation - county board of equalization - board of tax roll
corrections – county excise boards - delinquent taxes - notice of sale -
assignment fee –
effective date)

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

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

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

6 B. Each member of the county board of equalization shall be required to attend and
7 successfully complete a course for purposes of instructing the members about the duties
8 imposed on the board by law. The course shall be developed by the Oklahoma State
9 University Center for Local Government Technology and shall include subjects similar to
10 those prescribed by law for certification of county assessors and their deputies. Failure
11 of a county board of equalization member to successfully complete such course within

1 eighteen (18) months of the date as of which the member was appointed shall result in
2 forfeiture of the office and the vacancy shall be filled in the manner provided by law.

3 C. The members of county boards of equalization in all counties having an assessed
4 valuation of Two Billion Dollars (\$2,000,000,000.00) or more shall receive as
5 compensation an amount not to exceed Seventy-five Dollars (\$75.00) per day. The
6 members of county boards of equalization in all other counties may receive as
7 compensation an amount not to exceed Fifty Dollars (\$50.00) per day, such amount to be
8 established by the boards.

9 D. In addition to the amounts specified in subsection C of this section, members of
10 county boards of equalization ~~residing outside of the county seat~~ shall be reimbursed for
11 each mile of travel to and from their residences to the place of meeting of the board for
12 each session attended at the rate provided for other county officers. The members shall
13 also be reimbursed for each mile of necessary travel in the performance of their official
14 duties at the same rate.

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

17 1. In counties having an assessed valuation of Forty Million Dollars
18 (\$40,000,000.00) or less, not to exceed forty (40) days;

19 2. In counties having an assessed valuation of more than Forty Million Dollars
20 (\$40,000,000.00) and not more than Eighty Million Dollars (\$80,000,000.00), not to
21 exceed forty-five (45) days; and

1 3. In counties having an assessed valuation of more than Eighty Million Dollars
2 (\$80,000,000.00), not to exceed ninety (90) days.

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

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

10 B. A board of tax roll corrections is hereby created and shall consist of the chair of
11 the board of county commissioners as chair or, in the chair's absence, the vice-chair of the
12 board of county commissioners, the chair of the county equalization board or, in the
13 chair's absence, the vice-chair of the county equalization board as vice-chair, the county
14 clerk as nonvoting member and secretary, and the county assessor, a majority of whom
15 shall constitute a quorum. The board is hereby authorized to hear and determine
16 allegations of error, mistake or difference as to any item or items so contained in the tax
17 rolls, in any instances hereinafter enumerated, on application of any person or persons
18 whose interest may in any manner be affected thereby, or by his or her agent or attorney,
19 verified by affidavit and showing that the complainant was not at fault through failure to
20 fulfill any duty enjoined upon him or her by law, or upon discovery by the county
21 treasurer or assessor before the tax has been paid or attempted to be paid and disclosure
22 by statement of fact in writing signed by the treasurer or assessor and verified by the

1 assessor or treasurer as the case may be. Such right shall not be available to anyone
2 attempting to acquire, or who has acquired, the lien of the county for such tax, whether
3 by purchase, assignment, deed or otherwise. In counties with two county boards of
4 equalization, the chair of each such board shall serve, in alternating years, as the vice-
5 chair of the board of tax roll corrections. When a complaint is pending before the board
6 of tax roll corrections, such taxes as may be owed by the protesting taxpayer shall not
7 become due until thirty (30) days after the decision of the board of tax roll corrections.
8 When a complaint is filed on a tax account which has been delinquent for more than one
9 (1) year, and upon showing that the tax is delinquent, the complaint shall be dismissed,
10 with prejudice.

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

- 12 1. Any personal or real property has been assessed to any person, firm, or
13 corporation not owning or claiming to own the same;
- 14 2. Property exempt from taxation has been assessed;
- 15 3. Exemption deductions allowed by law have not been taken into account;
- 16 4. The same property, whether real or personal, has been assessed more than once
17 for the taxes of the same year;
- 18 5. Property, whether real or personal, has been assessed in the county for the taxes
19 of a year to which the same was not subject;
- 20 6. The county board of equalization has, after delivery of the tax rolls, made a
21 finding of fact under authority of law that, after January 1 of any year and before May 1
22 of the same year, improvements to real estate or other property assessed have been

1 destroyed by fire, or that the value of land has been impaired, damaged or destroyed by
2 floods or overflow of streams, and has made and entered an adjustment to assessments
3 previously made and entered;

4 7. Lands or lots have in any manner been erroneously described;

5 8. Any valuation or valuations assessed and entered are at variance with the
6 valuation finally equalized;

7 9. Any valuation or valuations returned for assessment and not increased by the
8 county assessor have been entered on the assessment rolls for equalization at variance
9 with the value returned, or in the event of increase by either the county assessor or the
10 county board of equalization and no notice thereof was sent; provided, offer of proof of
11 failure to receive notice may not be heard;

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

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

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

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

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

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

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

18 17. Any personal property assessment and personal tax charge has been entered
19 upon the assessment and tax rolls except upon proper return of assessment by the
20 taxpayer or increase thereof with due notice, or as a delinquent assessment made by the
21 county assessor or deputies in detail either on view or reliable information; then, in the
22 event any of the grounds stated in this subsection are present, it shall be the duty of the

1 board of tax roll corrections to make and the secretary to enter its findings of fact and to
2 correct such error, if such exists, by issuing its order, in words and figures, to accomplish
3 such:

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

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

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

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

17 F. Beginning January 1, 1987, notwithstanding the one-year limitations period for
18 filing a claim for refund as provided in subsection D of this section, if there be any error
19 in taxes collected from any person on property constitutionally exempt under Section 6B
20 of Article X of the Oklahoma Constitution, by the county treasurer in counties with a
21 population in excess of five hundred thousand (500,000) persons, according to the latest
22 Federal Decennial Census, to the extent that such county has been reimbursed from the

1 Ad Valorem Reimbursement Fund provided by Section 193 of Title 62 of the Oklahoma
2 Statutes, the overpayment or duplicate payment of any such taxes collected in error may
3 be recovered by the taxpayer as provided by law.

4 G. Upon dismissal of a complaint or denial of relief to the taxpayer, the county
5 clerk, as secretary of the board of tax roll corrections, shall prepare a letter order of
6 dismissal or denial which shall be mailed to the taxpayer or person at the address found
7 on the complaint.

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

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

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

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

21 B. It shall be unlawful for any member of the county excise board to sell or contract
22 to sell, or to lease or contract to lease, or to represent any person, firm, corporation or

1 association in the sale or the lease of any machinery, supplies, equipment, material, or
2 other goods, wares, or merchandise to any county or city or town of the county. It shall
3 also be unlawful for any member of the county excise board to serve as employee, official,
4 or attorney for any county or city, or town of the county, or for any such member to
5 represent any taxpayer before such board in any manner, or to use his or her position as
6 a board member to further his or her own interests. It shall also be unlawful for any
7 taxpayer or interested party to employ any member of the county excise board in any
8 matter coming before the board.

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

15 In addition, the members of county excise boards ~~residing outside of the county seat~~
16 shall be reimbursed for each mile of travel to and from their residences to the place of
17 meeting of the board for each session attended at the rate provided for other county
18 officers. The members of county excise boards shall be also reimbursed for each mile of
19 necessary travel in the performance of their official duties at the same rate.

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

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

3 In counties having an assessed valuation of more than Forty Million Dollars
4 (\$40,000,000.00) and not more than Eighty Million Dollars (\$80,000,000.00), not to
5 exceed sixty-five (65) days;

6 In counties having an assessed valuation of more than Eighty Million Dollars
7 (\$80,000,000.00) and not more than Five Hundred Million Dollars (\$500,000,000.00), not
8 to exceed one hundred (100) days;

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

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

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

19 Section 3105. A. The county treasurer shall in all cases, except those provided for
20 in subsection B of this section, where taxes are a lien upon real property and are unpaid
21 on the first day of April of any year proceed, as hereinafter provided, to advertise and sell
22 such real estate for such taxes, special assessments and costs, and shall not be bound

1 before so doing to proceed to collect by sale all personal taxes on personal property which
2 are by law made a lien on realty, but shall include such personal tax with that due on the
3 realty, and shall sell the realty for all of the taxes and special assessments.

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

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

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

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

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

17 5. The fair market value of the real property as reflected on the tax rolls in the
18 office of the county assessor does not exceed One Hundred Twenty-five Thousand Dollars
19 (\$125,000.00).

20 C. As used in this section, a person who is “totally disabled” means a person who is
21 unable to engage in any substantial gainful activity by reason of a medically determined
22 physical or mental impairment which can be expected to last for a continuous period of

1 twelve (12) months or more. Proof of disability may be established by certification by an
2 agency of state government, an insurance company, or as may be required by the county
3 treasurer. Eligibility to receive disability benefits pursuant to a total disability under
4 the Federal Social Security Act shall constitute proof of disability for purposes of this
5 section.

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

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

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

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

1 Section 3106. The county treasurer shall give notice of the sale of real property for
2 delinquent taxes and special assessments by publication of said sale once a week for the
3 two (2) consecutive weeks immediately prior to the third Friday in September preceding
4 the sale, in some newspaper in the county to be designated by the county treasurer.
5 Such notice shall contain a notification that all lands on which the taxes are delinquent
6 and remain due and unpaid will be sold, the time and place of the sale, a list of the lands
7 to be sold, the name or names of the last owner or owners as reflected by the records in
8 the office of the county treasurer, and the amount of taxes due and delinquent. Such
9 notice shall also contain the following language: "The sale hereby advertised is
10 conditional and subject to a two-year right of redemption by the record owner as provided
11 in Section ~~24323~~ 3118 of Title 68 of the Oklahoma Statutes." If the sale involves
12 property upon which is located a manufactured home the notice shall also contain the
13 following language: "The sale hereby advertised involves a manufactured home which
14 may be subject to the right of a secured party to repossess. A holder of a perfected
15 security interest in such manufactured home may be able to pay ad valorem taxes based
16 upon the value of the manufactured home apart from the value of real property. If a
17 secured party exercises this right, the holder of the tax sale certificate will be refunded
18 the amount of taxes paid upon the value of the manufactured home." In addition to said
19 published notice, the county treasurer shall give notice by certified mail by mailing to the
20 owner of said real property, as shown by the last tax rolls in his office, a notice of said
21 sale stating the time and place of said sale and showing the legal description of the
22 property of the owner being sold. Failure to receive said notice shall not invalidate said

1 sale. The county treasurer shall charge and collect in cash, cashier's check or money
2 order, in addition to the taxes, interest and penalty, the publication fees as provided by
3 the provisions of Section 121 of Title 28 of the Oklahoma Statutes, and Five Dollars
4 (\$5.00) plus postage for mailing the notice by certified mail, which shall be paid into the
5 county treasury, and the county shall pay the cost of the publication of such notice. But
6 in no case shall the county be liable for more than the amount charged to the delinquent
7 lands for advertising and the cost of mailing. No person or entity that has delinquent ad
8 valorem taxes shall be eligible to bid on property offered at a tax lien sale, a tax resale or
9 at the sale of a treasurer as provided for in Section 3135 of this title.

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

13 Section 3112. When any tax sale certificate which has been issued to an individual
14 is by such individual assigned to another person, it shall be the duty of the assignee to
15 present such assigned certificate, or a separate written assignment duly acknowledged,
16 to the county treasurer who shall note such assignment upon the tax sale record, and no
17 assignment shall be valid until entered upon such record. The county treasurer shall
18 charge a fifteen-dollar fee for each such assignment and said cost shall not be
19 reimbursable to the assignor or the assignee by the taxpayer upon redemption. Said fee
20 shall be deposited into the "resale property fund" of the county.

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

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
2 dated 03-05-07 - DO PASS, As Amended and Coauthored.