

THE HOUSE OF REPRESENTATIVES
Thursday, April 10, 2008

ENGROSSED

Senate Bill No. 1770

ENGROSSED SENATE BILL NO. 1770 - By: LERBLANCE AND COATES of the Senate and BANZ AND DORMAN of the House.

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 3105, as last amended by Section 4, Chapter 172, O.S.L. 2007, 3106, as amended by Section 5, Chapter 172, O.S.L. 2007, 3113, 3119, 3125, as amended by Section 3, Chapter 177, O.S.L. 2004 and 3127 (68 O.S. Supp. 2007, Sections 3105, 3106 and 3125), which relate to delinquent property taxes; modifying procedures relating to, and length of time before, county treasurer sale of certain property; deleting reference; modifying requirements for certain notice of sale of property; permitting deposit of certain fees into specified fund; eliminating ability to redeem interest in certain real estate for as a result of delinquent tax sale and providing for ability to redeem interest in same for delinquent taxes, interest and costs; deleting procedures related to delinquent tax sale; eliminating reference to certain tax deed; eliminating reference to delinquent tax sale and modifying time period relating to resale; modifying information required on certain notice; authorizing certain persons to continue specified process under certain conditions; repealing 68 O.S. 2001, Sections 3107, 3108, as last amended by Section 22, Chapter 272, O.S.L. 2006, 3109, 3110, 3111, 3112, as last amended by Section 6, Chapter 172, O.S.L. 2007, 3114, 3115, 3116, as amended by Section 2, Chapter 232, O.S.L. 2002, 3117, as amended by Section 7, Chapter 77, O.S.L. 2006, 3118, as amended by Section 3, Chapter 232, O.S.L. 2002, 3120, 3121, as amended by Section 16, Chapter 447, O.S.L. 2004, 3122, 3123 and 3124 (68 O.S. Supp. 2007, Sections 3108, 3112, 3116, 3117, 3118 and 3121), which relate to delinquent property taxes; providing for codification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3105, as last amended by
2 Section 4, Chapter 172, O.S.L. 2007 (68 O.S. Supp. 2007, Section 3105), is amended to
3 read as follows:

4 Section 3105. A. The county treasurer shall in all cases, except those provided for
5 in subsection B of this section, where taxes are a lien upon real property and ~~are~~ have
6 been unpaid ~~on the first day of April of any year proceed, as hereinafter provided, to for a~~
7 period of three (3) years or more as of the date such taxes first became due and payable,
8 advertise and sell such real estate for such taxes and all other delinquent taxes, special
9 assessments and costs, ~~and at the tax resale provided for in Section 3125 of this title,~~
10 which shall be held on the second Monday of June each year in each county. The county
11 treasurer shall not be bound before so doing to proceed to collect by sale all personal
12 taxes on personal property which are by law made a lien on realty, but shall include such
13 personal tax with that due on the realty, and shall sell the realty for all of the taxes and
14 special assessments.

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

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

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

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

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

9 5. The fair market value of the real property as reflected on the tax rolls in the
10 office of the county assessor does not exceed One Hundred Twenty-five Thousand Dollars
11 (\$125,000.00).

12 C. As used in this section, a person who is “totally disabled” means a person who is
13 unable to engage in any substantial gainful activity by reason of a medically determined
14 physical or mental impairment which can be expected to last for a continuous period of
15 twelve (12) months or more. Proof of disability may be established by certification by an
16 agency of state government, an insurance company, or as may be required by the county
17 treasurer. Eligibility to receive disability benefits pursuant to a total disability under
18 the Federal Social Security Act shall constitute proof of disability for purposes of this
19 section.

20 D. It shall be the duty of the individual owning property subject to the provisions of
21 subsection B of this section to make application to the county treasurer for an exemption
22 from a tax sale prior to the property being sold. It shall also be the duty of the individual

1 to provide evidence to the county treasurer that the individual meets the financial
2 requirements outlined in paragraph 4 of subsection B and all other requirements of this
3 section to qualify for the exemption. Any individual claiming the exemption provided in
4 this section shall establish eligibility for the exemption each year the exemption is
5 claimed.

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

10 F. Every notice of ~~tax sale or~~ tax resale shall contain language approved by the
11 Office of the State Auditor and Inspector informing the taxpayer of the provisions of this
12 section.

13 SECTION 2. AMENDATORY 68 O.S. 2001, Section 3106, as amended by
14 Section 5, Chapter 172, O.S.L. 2007 (68 O.S. Supp. 2007, Section 3106), is amended to
15 read as follows:

16 Section 3106. The county treasurer shall give notice of ~~the sale of real property for~~
17 delinquent taxes and special assessments by publication of ~~said sale~~ once a week for the
18 two (2) consecutive weeks immediately prior to the third Friday in September ~~preceding~~
19 ~~the sale~~ following the year the taxes were first due and payable, in some newspaper in
20 the county to be designated by the county treasurer. Such notice shall contain a
21 notification that all lands on which the taxes are delinquent and remain due and unpaid
22 will be sold, ~~the time and place of the sale~~ in accordance with Section 3105 of this title, a

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1 list of the lands to be sold, the name or names of the last owner or owners as reflected by
2 the records in the office of the county treasurer, and the amount of taxes due and
3 delinquent. ~~Such notice shall also contain the following language: "The sale hereby~~
4 ~~advertised is conditional and subject to a two-year right of redemption by the record~~
5 ~~owner as provided in Section 3118 of Title 68 of the Oklahoma Statutes."~~ If the sale
6 involves property upon which is located a manufactured home the notice shall also
7 contain the following language: "The sale hereby advertised involves a manufactured
8 home which may be subject to the right of a secured party to repossess. A holder of a
9 perfected security interest in such manufactured home may be able to pay ad valorem
10 taxes based upon the value of the manufactured home apart from the value of real
11 property. ~~If a secured party exercises this right, the holder of the tax sale certificate will~~
12 ~~be refunded the amount of taxes paid upon the value of the manufactured home."~~ In
13 addition to said published notice, the county treasurer shall give notice by certified mail
14 by mailing to the owner of said real property, as shown by the last tax rolls in ~~his~~ the
15 county treasurer's office, a notice ~~of said sale stating the time and place of said sale~~
16 stating the amount of delinquent taxes owed and informing the owner that the subject
17 real property will be sold as provided for in Section 3105 of this title if the delinquent
18 taxes are not paid and showing the legal description of the property of the owner being
19 sold. Failure to receive said notice shall not invalidate said sale. The county treasurer
20 shall charge and collect in cash, cashier's check or money order, in addition to the taxes,
21 interest and penalty, the publication fees as provided by the provisions of Section 121 of
22 Title 28 of the Oklahoma Statutes, and Five Dollars (\$5.00) plus postage for mailing the

1 notice by certified mail, which shall be paid into the county treasury or whatever fund
2 the publication and mailing fee expenses came from, and the county shall pay the cost of
3 the publication of such notice. But in no case shall the county be liable for more than the
4 amount charged to the delinquent lands for advertising and the cost of mailing.

5 SECTION 3. AMENDATORY 68 O.S. 2001, Section 3113, is amended to read
6 as follows:

7 Section 3113. The owner of any real estate ~~sold for taxes~~, or any person having a
8 legal or equitable interest therein, may redeem the same ~~from the lien resulting from tax~~
9 ~~sale~~ at any time before the execution of a deed of conveyance therefor by the county
10 treasurer, ~~by paying to the county treasurer, if the tax sale certificate is held by an~~
11 ~~individual purchaser, the sum paid to the county for such certificate and all taxes paid~~
12 ~~and endorsed thereon, together with interest thereon at the rate of eight percent (8%) per~~
13 ~~annum from the date of sale or purchase thereof from the county, and interest at the rate~~
14 ~~of eight percent (8%) per annum on taxes endorsed on such certificate from the date of~~
15 ~~each such endorsement, and in addition thereto costs provided in this article, for the use~~
16 ~~of the owner of the certificate of such sale, and the county treasurer shall hold the money~~
17 ~~paid to the order of such certificate owner, his or her agent, or attorney; and if the county~~
18 ~~is the holder of such tax lien, by paying to the county treasurer the sum for which the~~
19 ~~property was sold with penalty at the rate of twelve percent (12%) per annum which was~~
20 originally delinquent including interest at the lawful rate as provided in Section 2913 of
21 this title and such additional costs as may have accrued; provided, that minors or
22 incapacitated or partially incapacitated persons may redeem from taxes any real

1 property belonging to them within one (1) year after the expiration of such disability,
2 with interest and penalty at not more than ten percent (10%) per annum. ~~Upon such~~
3 ~~redemption, the county treasurer shall enter the same upon the sales record, giving a~~
4 ~~receipt therefor to the person redeeming, file the duplicate with the county clerk, and~~
5 ~~retain the triplicate in the county treasurer's office.~~

6 SECTION 4. AMENDATORY 68 O.S. 2001, Section 3119, is amended to read
7 as follows:

8 Section 3119. A ~~certificate tax deed or~~ resale tax deed shall convey only the surface
9 and surface rights and mineral interests owned by the owners of the surface rights as
10 distinguished from mineral and mineral rights of such real property. The ~~certificate tax~~
11 ~~deed or~~ resale tax deed shall not convey any other interest owned by any other individual
12 or legal entity.

13 SECTION 5. AMENDATORY 68 O.S. 2001, Section 3125, as amended by
14 Section 3, Chapter 177, O.S.L. 2004 (68 O.S. Supp. 2007, Section 3125), is amended to
15 read as follows:

16 Section 3125. If any real estate ~~purchased by the county at delinquent tax sale~~
17 shall remain unredeemed for a ~~period of two (2) years from date of sale~~ the period
18 provided for in Section 3105 of this title, the county treasurer shall proceed to sell such
19 real estate at resale, which shall be held on the second Monday of June each year in each
20 county.

21 SECTION 6. AMENDATORY 68 O.S. 2001, Section 3127, is amended to read
22 as follows:

1 Section 3127. The county treasurer shall give notice of the resale of such real estate
2 by publication of said notice once a week for four (4) consecutive weeks preceding such
3 sale, in some newspaper, having been continuously published one hundred four (104)
4 consecutive weeks with admission to the United States mails as second-class mail
5 matter, with paid circulation and published in the county where delivered to the mails, to
6 be designated by the county treasurer; and if there be no paper published in the county,
7 or publication is refused, ~~he~~ the county treasurer shall give notice by written or printed
8 notice posted on the door of the courthouse. Such notice shall contain a description of the
9 real estate to be sold, the name of the owner of said real estate as shown by the last tax
10 rolls in the office of the county treasurer, the time and place of sale, a statement of the
11 date on which said real estate ~~was sold to the county for delinquent taxes~~ first became
12 due and payable as provided for in Section 2913 of this title, the year or years for which
13 taxes have been assessed but remain unpaid and a statement that the same has not been
14 redeemed ~~for the period of two (2) years from the date of sale~~, the total amount of all
15 delinquent taxes, costs, penalties and interest accrued, due and unpaid on the same, and
16 a statement that such real estate will be sold to the highest bidder for cash. It shall not
17 be necessary to set forth the amount of taxes, penalties, interest and costs accrued each
18 year separately, but it shall be sufficient to publish the total amount of all due and
19 unpaid taxes, penalties, interest and costs. The county treasurer shall, at least thirty
20 (30) days prior to such resale of real estate, give notice by certified mail, by mailing to the
21 owner of said real estate, as shown by the last tax rolls in ~~his~~ the county treasurer's
22 office, and to all mortgagees of record of said real estate a notice stating the time and

1 place of said resale and showing the legal description of the real property to be sold. If
2 the county treasurer does not know and cannot, by the exercise of reasonable diligence,
3 ascertain the address of any mortgagee of record, then the county treasurer shall cause
4 an affidavit to be filed with the county clerk, on a form approved by the State Auditor
5 and Inspector, stating such fact, which affidavit shall suffice, along with publication as
6 provided for by this section, to give any mortgagee of record notice of such resale.
7 Neither failure to send notice to any mortgagee of record of said real estate nor failure to
8 receive notice as provided for by this section shall invalidate the resale, but the resale tax
9 deed shall be ineffective to extinguish any mortgage on said real estate of a mortgagee to
10 whom no notice was sent. Beginning on the effective date of this act, no encumbrancer of
11 real property in this state shall be permitted to file any instrument purporting to
12 encumber real property in any county of the state with any county clerk unless the
13 instrument states on its face the mailing address of such encumbrancer.

14 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 3105.1 of Title 68, unless there is created a duplication in numbering,
16 reads as follows:

17 Any person holding a tax lien pursuant to Sections 3101 through 3125 of Title 68 of
18 the Oklahoma Statutes prior to the effective date of this act shall be authorized to
19 continue the tax lien or tax deed process under the laws in effect at the time such tax lien
20 or tax deed was obtained.

21 SECTION 8. REPEALER 68 O.S. 2001, Sections 3107, 3108, as last amended
22 by Section 22, Chapter 272, O.S.L. 2006, 3109, 3110, 3111, 3112, as last amended by

1 Section 6, Chapter 172, O.S.L. 2007, 3114, 3115, 3116, as amended by Section 2, Chapter
2 232, O.S.L. 2002, 3117, as amended by Section 7, Chapter 77, O.S.L. 2006, 3118, as
3 amended by Section 3, Chapter 232, O.S.L. 2002, 3120, 3121, as amended by Section 16,
4 Chapter 447, O.S.L. 2004, 3122, 3123 and 3124 (68 O.S. Supp. 2007, Sections 3108, 3112,
5 3116, 3117, 3118 and 3121), are hereby repealed.

6 SECTION 9. It being immediately necessary for the preservation of the public
7 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
8 this act shall take effect and be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
10 dated 04-09-08 - DO PASS, As Coauthored.

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