

**EHB 1412**

**THE STATE SENATE**  
**Wednesday, April 4, 2007**

**ENGROSSED**

**House Bill No. 1412**

**As Amended**

ENGROSSED 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:~~

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

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

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

1 equalization member to successfully complete such course within  
2 eighteen (18) months of the date as of which the member was  
3 appointed shall result in forfeiture of the office and the vacancy  
4 shall be filled in the manner provided by law.

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

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

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

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

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

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

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

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

14           B. A board of tax roll corrections is hereby created and shall  
15 consist of the chair of the board of county commissioners as chair  
16 or, in the chair's absence, the vice-chair of the board of county  
17 commissioners, the chair of the county equalization board or, in the  
18 chair's absence, the vice-chair of the county equalization board as  
19 vice-chair, the county clerk as nonvoting member and secretary, and  
20 the county assessor, a majority of whom shall constitute a quorum.  
21 The board is hereby authorized to hear and determine allegations of  
22 error, mistake or difference as to any item or items so contained in  
23 the tax rolls, in any instances hereinafter enumerated, on

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

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

22 1. Any personal or real property has been assessed to any  
23 person, firm, or corporation not owning or claiming to own the same;

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

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

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

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

1 fact and to correct such error, if such exists, by issuing its  
2 order, in words and figures, to accomplish such:

3 a. if such error increases the amount of tax charged, the  
4 county clerk shall issue a certificate of error to the  
5 county assessor ordering the assessor to certify such  
6 correction or increase to the county treasurer for  
7 entry on the tax rolls, and

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

17 D. If, prior to such hearing by the board, as provided by this  
18 section, the tax has been paid, no certificate shall issue; but if  
19 less than one (1) year shall have elapsed after the payment of the  
20 tax and before the filing of such application for correction of  
21 error, and after such hearing the findings of fact disclose that  
22 less tax was due to have been paid than was paid, then the person  
23 who paid the tax, or such person's heirs, successors, or assigns,

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

20 E. If there be any error in the taxes collected from any  
21 person, the overpayment or duplicate payment of any such taxes  
22 collected in error may be recovered by the taxpayer, and the county  
23 treasurer may make such payment from the resale property fund of the

1 county if funds are not available as stated in subsection D of this  
2 section.

3 F. Beginning January 1, 1987, notwithstanding the one-year  
4 limitations period for filing a claim for refund as provided in  
5 subsection D of this section, if there be any error in taxes  
6 collected from any person on property constitutionally exempt under  
7 Section 6B of Article X of the Oklahoma Constitution, by the county  
8 treasurer in counties with a population in excess of five hundred  
9 thousand (500,000) persons, according to the latest Federal  
10 Decennial Census, to the extent that such county has been reimbursed  
11 from the Ad Valorem Reimbursement Fund provided by Section 193 of  
12 Title 62 of the Oklahoma Statutes, the overpayment or duplicate  
13 payment of any such taxes collected in error may be recovered by the  
14 taxpayer as provided by law.

15 G. Upon dismissal of a complaint or denial of relief to the  
16 taxpayer, the county clerk, as secretary of the board of tax roll  
17 corrections, shall prepare a letter order of dismissal or denial  
18 which shall be mailed to the taxpayer or person at the address found  
19 on the complaint.

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

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

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

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

13 B. It shall be unlawful for any member of the county excise  
14 board to sell or contract to sell, or to lease or contract to lease,  
15 or to represent any person, firm, corporation or association in the  
16 sale or the lease of any machinery, supplies, equipment, material,  
17 or other goods, wares, or merchandise to any county or city or town  
18 of the county. It shall also be unlawful for any member of the  
19 county excise board to serve as employee, official, or attorney for  
20 any county or city, or town of the county, or for any such member to  
21 represent any taxpayer before such board in any manner, or to use  
22 his or her position as a board member to further his or her own  
23 interests. It shall also be unlawful for any taxpayer or interested

1 party to employ any member of the county excise board in any matter  
2 coming before the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14           D. It shall be the duty of the individual owning property  
15 subject to the provisions of subsection B of this section to make  
16 application to the county treasurer for an exemption from a tax sale  
17 ~~no later than sixty (60) days prior to the date the property is~~  
18 ~~scheduled to be~~ being sold. It shall also be the duty of the  
19 individual to provide evidence to the county treasurer that the  
20 individual meets the financial requirements outlined in paragraph 4  
21 of subsection B and all other requirements of this section to  
22 qualify for the exemption. Any individual claiming the exemption

1 provided in this section shall establish eligibility for the  
2 exemption each year the exemption is claimed.

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

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

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

13 Section 3106. The county treasurer shall give notice of the  
14 sale of real property for delinquent taxes and special assessments  
15 by publication of said sale once a week for the two (2) consecutive  
16 weeks immediately prior to the third Friday in September preceding  
17 the sale, in some newspaper in the county to be designated by the  
18 county treasurer. Such notice shall contain a notification that all  
19 lands on which the taxes are delinquent and remain due and unpaid  
20 will be sold, the time and place of the sale, a list of the lands to  
21 be sold, the name or names of the last owner or owners as reflected  
22 by the records in the office of the county treasurer, and the amount  
23 of taxes due and delinquent. Such notice shall also contain the

1 following language: "The sale hereby advertised is conditional and  
2 subject to a two-year right of redemption by the record owner as  
3 provided in Section ~~24323~~ 3118 of Title 68 of the Oklahoma  
4 Statutes." If the sale involves property upon which is located a  
5 manufactured home the notice shall also contain the following  
6 language: "The sale hereby advertised involves a manufactured home  
7 which may be subject to the right of a secured party to repossess.  
8 A holder of a perfected security interest in such manufactured home  
9 may be able to pay ad valorem taxes based upon the value of the  
10 manufactured home apart from the value of real property. If a  
11 secured party exercises this right, the holder of the tax sale  
12 certificate will be refunded the amount of taxes paid upon the value  
13 of the manufactured home." In addition to said published notice, the  
14 county treasurer shall give notice by certified mail by mailing to  
15 the owner of said real property, as shown by the last tax rolls in  
16 his office, a notice of said sale stating the time and place of said  
17 sale and showing the legal description of the property of the owner  
18 being sold. Failure to receive said notice shall not invalidate  
19 said sale. The county treasurer shall charge and collect in cash,  
20 cashier's check or money order, in addition to the taxes, interest  
21 and penalty, the publication fees as provided by the provisions of  
22 Section 121 of Title 28 of the Oklahoma Statutes, and Five Dollars  
23 (\$5.00) plus postage for mailing the notice by certified mail, which

1 shall be paid into the county treasury, and the county shall pay the  
2 cost of the publication of such notice. But in no case shall the  
3 county be liable for more than the amount charged to the delinquent  
4 lands for advertising and the cost of mailing. No person or entity  
5 that has delinquent ad valorem taxes shall be eligible to bid on  
6 property offered at a tax lien sale, a tax resale or at the sale of  
7 a treasurer as provided for in Section 3135 of this title.

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 4-2-07 -  
24 DO PASS, As Amended.