

SB 1770

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THE STATE SENATE
Thursday, February 14, 2008

Senate Bill No. 1770
As Amended

SENATE BILL NO. 1770 - By: LERBLANCE and COATES of the Senate and BANZ 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
2 last amended by Section 4, Chapter 172, O.S.L. 2007 (68 O.S. Supp.
3 2007, Section 3105), is amended to read as follows:

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

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

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

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

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

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

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

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

1 to receive disability benefits pursuant to a total disability under
2 the Federal Social Security Act shall constitute proof of disability
3 for purposes of this section.

4 D. It shall be the duty of the individual owning property
5 subject to the provisions of subsection B of this section to make
6 application to the county treasurer for an exemption from a tax sale
7 prior to the property being sold. It shall also be the duty of the
8 individual to provide evidence to the county treasurer that the
9 individual meets the financial requirements outlined in paragraph 4
10 of subsection B and all other requirements of this section to
11 qualify for the exemption. Any individual claiming the exemption
12 provided in this section shall establish eligibility for the
13 exemption each year the exemption is claimed.

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

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

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

4 Section 3106. The county treasurer shall give notice of ~~the~~
5 ~~sale of real property for~~ delinquent taxes and special assessments
6 by publication ~~of said sale~~ once a week for the two (2) consecutive
7 weeks immediately prior to the third Friday in September ~~preceding~~
8 ~~the sale~~ following the year the taxes were first due and payable, in
9 some newspaper in the county to be designated by the county
10 treasurer. Such notice shall contain a notification that all lands
11 on which the taxes are delinquent and remain due and unpaid will be
12 ~~sold, the time and place of the sale~~ in accordance with Section 3105
13 of this title, a list of the lands to be sold, the name or names of
14 the last owner or owners as reflected by the records in the office
15 of the county treasurer, and the amount of taxes due and delinquent.
16 ~~Such notice shall also contain the following language: "The sale~~
17 ~~hereby advertised is conditional and subject to a two-year right of~~
18 ~~redemption by the record owner as provided in Section 3118 of Title~~
19 ~~68 of the Oklahoma Statutes."~~ If the sale involves property upon
20 which is located a manufactured home the notice shall ~~also~~ contain
21 the following language: "The sale hereby advertised involves a
22 manufactured home which may be subject to the right of a secured
23 party to repossess. A holder of a perfected security interest in

1 such manufactured home may be able to pay ad valorem taxes based
2 upon the value of the manufactured home apart from the value of real
3 property. ~~If a secured party exercises this right, the holder of~~
4 ~~the tax sale certificate will be refunded the amount of taxes paid~~
5 ~~upon the value of the manufactured home."~~ In addition to said
6 published notice, the county treasurer shall give notice by
7 certified mail by mailing to the owner of said real property, as
8 shown by the last tax rolls in ~~his~~ the county treasurer's office, a
9 ~~notice of said sale stating the time and place of said sale~~ stating
10 the amount of delinquent taxes owed and informing the owner that the
11 subject real property will be sold as provided for in Section 3105
12 of this title if the delinquent taxes are not paid and showing the
13 legal description of the property of the owner being sold. Failure
14 to receive said notice shall not invalidate said sale. The county
15 treasurer shall charge and collect in cash, cashier's check or money
16 order, in addition to the taxes, interest and penalty, the
17 publication fees as provided by the provisions of Section 121 of
18 Title 28 of the Oklahoma Statutes, and Five Dollars (\$5.00) plus
19 postage for mailing the notice by certified mail, which shall be
20 paid into the county treasury or whatever fund the publication and
21 mailing fee expenses came from, and the county shall pay the cost of
22 the publication of such notice. But in no case shall the county be

1 liable for more than the amount charged to the delinquent lands for
2 advertising and the cost of mailing.

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

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

1 title and such additional costs as may have accrued; provided, that
2 minors or incapacitated or partially incapacitated persons may
3 redeem from taxes any real property belonging to them within one (1)
4 year after the expiration of such disability, with interest and
5 penalty at not more than ten percent (10%) per annum. ~~Upon such~~
6 ~~redemption, the county treasurer shall enter the same upon the sales~~
7 ~~record, giving a receipt therefor to the person redeeming, file the~~
8 ~~duplicate with the county clerk, and retain the triplicate in the~~
9 ~~county treasurer's office.~~

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

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

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

21 Section 3125. If any real estate ~~purchased by the county at~~
22 ~~delinquent tax sale~~ shall remain unredeemed for a ~~period of two (2)~~
23 ~~years from date of sale~~ the period provided for in Section 3105, the

1 county treasurer shall proceed to sell such real estate at resale,
2 which shall be held on the second Monday of June each year in each
3 county.

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

6 Section 3127. The county treasurer shall give notice of the
7 resale of such real estate by publication of said notice once a week
8 for four (4) consecutive weeks preceding such sale, in some
9 newspaper, having been continuously published one hundred four (104)
10 consecutive weeks with admission to the United States mails as
11 second-class mail matter, with paid circulation and published in the
12 county where delivered to the mails, to be designated by the county
13 treasurer; and if there be no paper published in the county, or
14 publication is refused, ~~he~~ the county treasurer shall give notice by
15 written or printed notice posted on the door of the courthouse.
16 Such notice shall contain a description of the real estate to be
17 sold, the name of the owner of said real estate as shown by the last
18 tax rolls in the office of the county treasurer, the time and place
19 of sale, a statement of the date on which said real estate ~~was sold~~
20 ~~to the county for delinquent taxes~~ first became due and payable as
21 provided for in Section 2913 of this title, the year or years for
22 which taxes have been assessed but remain unpaid and a statement
23 that the same has not been redeemed ~~for the period of two (2) years~~

1 ~~from the date of sale~~, the total amount of all delinquent taxes,
2 costs, penalties and interest accrued, due and unpaid on the same,
3 and a statement that such real estate will be sold to the highest
4 bidder for cash. It shall not be necessary to set forth the amount
5 of taxes, penalties, interest and costs accrued each year
6 separately, but it shall be sufficient to publish the total amount
7 of all due and unpaid taxes, penalties, interest and costs. The
8 county treasurer shall, at least thirty (30) days prior to such
9 resale of real estate, give notice by certified mail, by mailing to
10 the owner of said real estate, as shown by the last tax rolls in ~~his~~
11 the county treasurer's office, and to all mortgagees of record of
12 said real estate a notice stating the time and place of said resale
13 and showing the legal description of the real property to be sold.
14 If the county treasurer does not know and cannot, by the exercise of
15 reasonable diligence, ascertain the address of any mortgagee of
16 record, then the county treasurer shall cause an affidavit to be
17 filed with the county clerk, on a form approved by the State Auditor
18 and Inspector, stating such fact, which affidavit shall suffice,
19 along with publication as provided for by this section, to give any
20 mortgagee of record notice of such resale. Neither failure to send
21 notice to any mortgagee of record of said real estate nor failure to
22 receive notice as provided for by this section shall invalidate the
23 resale, but the resale tax deed shall be ineffective to extinguish

1 any mortgage on said real estate of a mortgagee to whom no notice
2 was sent. Beginning on the effective date of this act, no
3 encumbrancer of real property in this state shall be permitted to
4 file any instrument purporting to encumber real property in any
5 county of the state with any county clerk unless the instrument
6 states on its face the mailing address of such encumbrancer.

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

10 Any person holding a tax lien pursuant to Sections 3101 through
11 3125 of Title 68 of the Oklahoma Statutes prior to the effective
12 date of this act shall be authorized to continue the tax lien or tax
13 deed process under the laws in effect at the time such tax lien or
14 tax deed was obtained.

15 SECTION 8. REPEALER 68 O.S. 2001, Sections **3107**, 3108,
16 as last amended by Section 22, Chapter 272, O.S.L. 2006, 3109, 3110,
17 3111, 3112, as last amended by Section 6, Chapter 172, O.S.L. 2007,
18 3114, 3115, 3116, as amended by Section 2, Chapter 232, O.S.L. 2002,
19 3117, as amended by Section 7, Chapter 77, O.S.L. 2006, 3118, as
20 amended by Section 3, Chapter 232, O.S.L. 2002, 3120, 3121, as
21 amended by Section 16, Chapter 447, O.S.L. 2004, 3122, 3123 and 3124
22 (68 O.S. Supp. 2007. Sections 3108, 3112, 3116, 3117, 3118 and
23 3121), are hereby repealed.

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

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-12-08 - DO
6 PASS, As Amended and Coauthored.