

1 ENGROSSED HOUSE
2 BILL NO. 1362

By: Peters and Grau of the
House

3 and

4 Brown of the Senate
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8 An Act relating to revenue and taxation; amending 68
9 O.S. 2001, Section 2844, as last amended by Section
10 19, Chapter 272, O.S.L. 2006 (68 O.S. Supp. 2010,
11 Section 2844), which relates to omitted property;
12 specifying penalties applicable to certain omitted
13 property; amending 68 O.S. 2001, Sections 2871, as
14 last amended by Section 2, Chapter 140, O.S.L. 2008
15 and 2877, as amended by Section 7, Chapter 518,
16 O.S.L. 2004 (68 O.S. Supp. 2010, Sections 2871 and
17 2877), which relate to the Ad Valorem Tax Code;
18 authorizing board of tax roll corrections to examine
19 evidence; providing for appeal; authorizing board of
20 tax roll corrections to compel attendance by
21 witnesses and production of certain information;
22 prohibiting certain communications; providing
23 exception; providing for methods of appearance by
24 taxpayers; prohibiting certain communications;
providing exception; amending 68 O.S. 2001, Section
2945, as amended by Section 2, Chapter 250, O.S.L.
2007 (68 O.S. Supp. 2010, Section 2945), which
relates to prohibiting certain acts dealing with ad
valorem taxation; allowing certain appeals;
specifying application of certain rules; providing an
effective date; and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
24

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2844, as
2 last amended by Section 19, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
3 2010, Section 2844), is amended to read as follows:

4 Section 2844. A. If any real, personal, railroad, air carrier
5 or public service corporation property is omitted in the assessment
6 of any prior year or years, and the property thereby escapes just
7 and proper taxation, at any time and as soon as such omission is
8 discovered, the county assessor or the county board of equalization,
9 or the State Board of Equalization in the case of public service
10 corporation property or railroad and air carrier property, whose
11 duty it is to assess the class of property which has been omitted,
12 shall at any time cause such property to be entered on the
13 assessment rolls and tax rolls for the year or years omitted, not to
14 exceed the last fifteen (15) years as to real property and the last
15 three (3) years as to personal property, and shall, after reasonable
16 notice to the parties affected, in order that they be heard, assess
17 such omitted property for said periods and cause to be extended
18 against the same on the tax rolls for the current year all arrearage
19 of taxes properly accruing against it, including therein interest
20 thereon at the rate of twelve percent (12%) per annum from the time
21 such tax should have become delinquent.

22 B. If any tax on property subject to taxation is prevented from
23 being collected for any year or years by reason of any erroneous
24 proceedings, or failure to give notice, or otherwise, the amount of

1 such tax which such property should have paid or should have been
2 paid thereon shall be added to the tax on such property for the
3 current year, and if for want of sufficient time or for any cause
4 such assessment cannot be entered, and the tax thereon extended on
5 the tax rolls for the current year, the same shall be done the
6 following year.

7 C. Property which is omitted from assessment in any prior year
8 or years, and assessed and entered on the assessment rolls and tax
9 rolls as provided in subsection A of this section, shall be subject
10 to interest as provided in subsection A of this section, but shall
11 not be subject to the penalties required pursuant to subsection C of
12 Section 2836 of this title.

13 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2871, as
14 last amended by Section 2, Chapter 140, O.S.L. 2008 (68 O.S. Supp.
15 2010, Section 2871), is amended to read as follows:

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

22 B. A board of tax roll corrections is hereby created and shall
23 consist of the chair of the board of county commissioners as chair
24 or, in the chair's absence, the vice-chair of the board of county

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

1 a complaint is filed on a tax account which has been delinquent for
2 more than one (1) year, and upon showing that the tax is delinquent,
3 the complaint shall be dismissed, with prejudice. The board of tax
4 roll corrections is hereby authorized and empowered to take evidence
5 and to compel the attendance of witnesses and the production of
6 books, records and papers by subpoena for the purpose of the
7 hearing. The ruling of the board of tax roll corrections on any
8 objection to a subpoena may be appealed to district court.

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

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

1 and entered an adjustment to assessments previously made and
2 entered;

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

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

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

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

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

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

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

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

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

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

22 17. Any personal property assessment and personal tax charge
23 has been entered upon the assessment and tax rolls except upon
24 proper return of assessment by the taxpayer or increase thereof with

1 due notice, or as a delinquent assessment made by the county
2 assessor or deputies in detail either on view or reliable
3 information; then, in the event any of the grounds stated in this
4 subsection are present, it shall be the duty of the board of tax
5 roll corrections to make and the secretary to enter its findings of
6 fact and to correct such error, if such exists, by issuing its
7 order, in words and figures, to accomplish such:

8 a. if such error increases the amount of tax charged, the
9 county clerk shall issue a certificate of error to the
10 county assessor ordering the assessor to certify such
11 correction or increase to the county treasurer for
12 entry on the tax rolls, and

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

22 D. If, prior to such hearing by the board, as provided by this
23 section, the tax has been paid, no certificate shall issue; but if
24 less than one (1) year shall have elapsed after the payment of the

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

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

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

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

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

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

10 J. Communications between the board of tax roll corrections and
11 the county assessor are limited as follows:

12 1. A member of the board of tax roll corrections shall not
13 directly or indirectly communicate with the county assessor or any
14 deputy assessor or designated agent on any matter relating to the
15 appraisal of property by the county assessor, except in:

16 a. an open meeting of the board of tax roll corrections
17 or another public forum, or

18 b. a closed meeting of the board of tax roll corrections
19 held to consult with the attorney of the board about
20 pending litigation, at which the presence of the
21 county assessor is necessary for full communication
22 between the board and the attorney of the board;

23 2. A county assessor, deputy assessor or designated agent shall
24 not directly or indirectly communicate with a member of the board of

1 tax roll corrections on any matter relating to the appraisal of
2 property by the county assessor, except in:

3 a. an open meeting of the board of tax roll corrections
4 or another public forum, or

5 b. a closed meeting of the board of tax roll corrections
6 held to consult with the attorney of the board about
7 pending litigation, at which the presence of the
8 county assessor is necessary for full communication
9 between the board and the attorney of the board; and

10 3. Paragraphs 1 and 2 of this subsection do not apply to a
11 routine communication between the county assessor and the board of
12 tax roll corrections that relates to the administration of an
13 appraisal roll, including a communication made in connection with
14 the certification, correction, or collection of an account.

15 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2877, as
16 amended by Section 7, Chapter 518, O.S.L. 2004 (68 O.S. Supp. 2010,
17 Section 2877), is amended to read as follows:

18 Section 2877. A. Upon receipt of an appeal from action by the
19 county assessor on the form prescribed by the Oklahoma Tax
20 Commission, the secretary of the county board of equalization shall
21 fix a date of hearing, at which time said board shall be authorized
22 and empowered to take evidence pertinent to said appeal; and for
23 that purpose, is authorized to compel the attendance of witnesses
24 and the production of books, records, and papers by subpoena, ~~and~~.

1 The ruling by the board of equalization on any objection to a
2 subpoena may be appealed to district court. The Board shall also be
3 empowered to confirm, correct, or adjust the valuation of real or
4 personal property or to cancel an assessment of personal property
5 added by the assessor not listed by the taxpayer if the personal
6 property is not subject to taxation or if the taxpayer is not
7 responsible for payment of ad valorem taxes upon such property. The
8 secretary of the board shall fix the dates of the hearings provided
9 for in this section in such a manner as to ensure that the board is
10 able to hear all complaints within the time provided for by law.
11 The county board of equalization shall be required to follow the
12 procedures prescribed by the Ad Valorem Tax Code or administrative
13 rules and regulations promulgated pursuant to such Code governing
14 the valuation of real and personal property. The county board of
15 equalization shall not modify a valuation of real or personal
16 property as established by the county assessor unless such
17 modification is explained in writing upon a form prescribed by the
18 Oklahoma Tax Commission. Each decision of the county board of
19 equalization shall be explained in writing upon a form prescribed by
20 the Oklahoma Tax Commission. The county board of equalization shall
21 make a record of each proceeding involving an appeal from action by
22 the county assessor either in transcribed or tape recorded form.

23 B. In all cases where the county assessor has, without giving
24 the notice required by law, increased the valuation of property as

1 listed by the taxpayer, and the taxpayer has knowledge of such
2 adjustment or addition, the taxpayer may at any time prior to the
3 adjournment of the board, file an appeal in the form and manner
4 provided for in Section 2876 of this title. Thereafter, the board
5 shall fix a date of hearing, notify the taxpayer, and conduct the
6 hearing as required by this section.

7 C. The taxpayer or agent may appear at the scheduled hearing
8 either in person, by telephone or other electronic means, or by
9 affidavit.

10 D. If the taxpayer or agent fails to appear in a manner
11 permitted under this section before the county board of equalization
12 at the scheduled hearing, unless advance notification is given for
13 the reason of absence, ~~the county shall be authorized to assess~~
14 ~~against the taxpayer the costs incurred by the county in preparation~~
15 ~~for the scheduled hearing~~ an order of dismissal will be entered. If
16 ~~such costs are assessed, payment of the costs shall be a~~
17 ~~prerequisite to the filing of~~ An order of dismissal will preclude an
18 appeal to the district court. ~~A~~ for failure to exhaust its
19 administrative remedies; however, a taxpayer that gives advance
20 notification of their absence shall be given the opportunity to
21 reschedule the hearing date.

22 E. Communications between the board of equalization and the
23 county assessor are limited as follows:
24

1 1. A member of the board of equalization shall not directly or
2 indirectly communicate with the county assessor or any deputy
3 assessor or designated agent on any matter relating to the appraisal
4 of property by the county assessor, except in:

5 a. an open meeting of the board of equalization or
6 another public forum, or

7 b. a closed meeting of the board of equalization held to
8 consult with the attorney of the board about pending
9 litigation, at which the presence of the county
10 assessor is necessary for full communication between
11 the board and the attorney of the board;

12 2. A county assessor, deputy assessor or designated agent shall
13 not directly or indirectly communicate with a member of the board of
14 equalization on any matter relating to the appraisal of property by
15 the county assessor, except in:

16 a. an open meeting of the board of equalization or
17 another public forum, or

18 b. a closed meeting of the board of equalization held to
19 consult with the attorney of the board about pending
20 litigation, at which the presence of the county
21 assessor is necessary for full communication between
22 the board and the attorney of the board; and

23 3. Paragraphs 1 and 2 of this subsection do not apply to a
24 routine communication between the county assessor and the board of

1 equalization that relates to the administration of an appraisal
2 roll, including a communication made in connection with the
3 certification, correction, or collection of an account.

4 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2945, as
5 amended by Section 2, Chapter 250, O.S.L. 2007 (68 O.S. Supp. 2010,
6 Section 2945), is amended to read as follows:

7 Section 2945. A. If any person shall knowingly and willfully
8 make or give under oath or affirmation a false and fraudulent list
9 of taxable personal property, or a false and fraudulent list of any
10 taxable personal property under the control of the person or
11 required to be listed by the person, or shall knowingly and
12 willfully make false answer to any question which may be put under
13 oath by any person, board or commission authorized to examine
14 persons under oath in relation to the value or amount of any taxable
15 personal property, the person shall be deemed guilty of the felony
16 of perjury, and upon conviction shall be punished as is provided by
17 law for the punishment of the felony of perjury.

18 B. If any taxpayer, or any official, employee, or agent of the
19 taxpayer, shall fail or refuse, upon proper request, to permit the
20 inspection of any property or the examination of any books, records
21 and papers by any person authorized by the Ad Valorem Tax Code to do
22 so, or shall fail or refuse to comply with any subpoena duces tecum
23 legally issued under authority of this Code, the taxpayer shall be
24 stopped from questioning or contesting the amount or validity of any

1 assessment placed upon the property of the taxpayer to the board of
2 equalization. Nothing in this section shall impair or impede the
3 right of the taxpayer to appeal any order of the board of
4 equalization to the district court as provided for in Section 2880.1
5 of this title, and such right of appeal shall include but not be
6 limited to rulings regarding objections to and compliance with
7 subpoenas, and issues of valuation. In reviewing rulings regarding
8 subpoenas, the district court shall apply the same rules it would
9 apply to subpoenas in a civil action.

10 SECTION 5. This act shall become effective July 1, 2011.

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

15 Passed the House of Representatives the 15th day of March, 2011.

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18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2011.

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23 _____
24 Presiding Officer of the Senate