

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4   HOUSE BILL 1560

                                  By: Jordan and Pittman

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7                                   AS INTRODUCED

8           An Act relating to revenue and taxation; amending 68  
9           O.S. 2001, Section 3137, as amended by Section 18,  
10          Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2010, Section  
11          3137), which relates to the resale property fund;  
12          requiring county treasurer to make financial  
                statement regarding fund available within prescribed  
13          period of time; requiring financial statement be  
14          accessible through certain sources; and providing an  
15          effective date.

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

17           SECTION 1.           AMENDATORY           68 O.S. 2001, Section 3137, as  
18           amended by Section 18, Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2010,  
19           Section 3137), is amended to read as follows:

20           Section 3137.   A.   All penalties, interest and forfeitures which  
21           may accrue on delinquent ad valorem taxes, whether real or personal,  
22           tangible or intangible, on any properties, persons, firms or  
23           corporations within any county, city, town or school district within  
24           a county; the proceeds of sale of property acquired by the county at

1 resale, the proceeds of leases, rentals and other royalties arising  
2 from the management, control and operation by the county  
3 commissioners of property acquired by the county at resale, when  
4 collected shall be credited to and accounted for in a special cash  
5 fund to be styled the "resale property fund" of such county, except  
6 the proceeds of sale of such property located in any special  
7 improvement district and by the resale of which any special  
8 improvement taxes were canceled, in which event the proceeds of sale  
9 thereof after having been acquired by the county shall be divided  
10 ratably between the resale property fund and the special  
11 improvement-tax account (paving, etc.) of the special improvement  
12 district in which such property is located, in the same ratio as the  
13 ad valorem tax bears to the special improvement taxes in the total  
14 amount of such taxes published as due at the time of the resale  
15 whereby the county acquired title to such property. That portion so  
16 accruing to such special improvement-tax account shall, in keeping  
17 with the statutes relating thereto, be applied to the fund provided  
18 for retirement of bonds and interest coupons of such improvement  
19 district.

20 B. The resale property fund herein created for each county is  
21 hereby declared to be a continuous fund, not subject to fiscal year  
22 limitations, and is hereby dedicated, insofar as may be necessary,  
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1 to the enforcement of the tax laws of the state, and is authorized  
2 to be expended for the following purposes:

3 1. For the purchase of necessary records, printing, supplies  
4 and equipment, and the employment of necessary clerical personnel,  
5 either on whole or part-time basis, in connection with delinquent  
6 personal tax lists and personal tax warrants, delinquent real estate  
7 tax lists and lists of unredeemed delinquent real estate subject to  
8 tax sale or resale, such costs to be limited to those incurred by  
9 the county treasurer;

10 2. For payment of the cost of advertising or publication, or  
11 posting if publication cannot be had, of any such lists;

12 3. For the reimbursement of the purchaser at resale or at  
13 commissioners' sale of any lot, tract, or parcel of real estate,  
14 sold at resale, against which no tax was due, or where the inclusion  
15 of such lot, tract, or parcel in the publication and offer for  
16 resale has been held invalid by a court of competent jurisdiction,  
17 or where the title thereto is vested in the Commissioners of the  
18 Land Office of the State of Oklahoma, or where such Commissioners of  
19 the Land Office have instituted or successfully terminated mortgage  
20 foreclosure proceedings in relation thereto prior to issuance of  
21 either a resale tax deed or a county commissioners' deed, or where  
22 such tract or parcel was nontaxable at the time of the assessment  
23 thereof for taxes, or where the sale thereof to such purchaser was

1 illegal for any other reason; and such purchaser has no adequate  
2 recourse against the property thus sold; such reimbursement shall be  
3 made in the order of the claims filed with the county treasurer  
4 therefore, when properly supported by evidence satisfactory to said  
5 treasurer that the claimant is entitled to reimbursement hereunder.  
6 Provided, however, that no claim for refund not filed, as herein  
7 provided, within a period of three (3) years from the date of such  
8 sale shall be allowed or paid from said fund; and

9 4. For all rebates allowed under authority of statute by the  
10 board of county commissioners or the tax roll correction board of  
11 the county upon taxes found to have been illegally or erroneously  
12 collected, or on sale of certificate or issue of tax deed on lands  
13 or lots on which no tax was due or as to which the sale thereof is  
14 or was illegal for any reason. Provided, however, before the owner  
15 of such invalid deed may be reimbursed as aforesaid, he shall first  
16 be required to divest himself of purported title by attaching a  
17 quitclaim deed or other disclaimer to his claim for refund, setting  
18 out the reason for invalidity of the tax deed. The same procedure  
19 for refund shall apply whether the tax deed be from the county  
20 treasurer or the chairman of the board of county commissioners. The  
21 determination of whether such property has been erroneously sold for  
22 taxes to such purchaser, shall be made by the board of county  
23 commissioners; and in event title under an invalid resale tax deed

1 remains with the county commissioners, the board of county  
2 commissioners so finding same invalid shall execute its resolution  
3 or order of disclaimer which shall be filed in the deed records of  
4 the county clerk without fee. No fee shall be charged for recording  
5 any quitclaim deed or disclaimer from the purchaser under the  
6 provisions of this section.

7 C. The expenditures so made shall be made only upon sworn  
8 itemized claims approved by the county treasurer and filed with the  
9 county clerk and paid by cash voucher drawn by the county clerk  
10 payable from said fund. Claims for cost of publication shall take  
11 precedence over all other claims on said fund, otherwise said  
12 approved claims shall be paid in the order filed as funds accrue  
13 from sale of county property as hereinbefore provided. If any such  
14 claim has not been paid within three (3) years, the same shall cease  
15 to be an obligation of the resale property fund of such county; but  
16 nothing in this article shall operate to prevent the payment for  
17 such services from an appropriation for such purpose in the general  
18 fund of the county in the manner and under the restrictions provided  
19 by law.

20 D. Any residue of cash actually on hand in said fund at any  
21 time, after providing for the expense of delinquent tax publication,  
22 and for the mandatory holding of sales and resales, made or about to  
23 be made, the purchase of necessary records, printing and supplies

1 and the payment of clerical hire, such expenditures, or reserve  
2 therefor, to be limited to the necessary expenses incurred by virtue  
3 of the authorization herein granted, may be expended by the county  
4 commissioners, without further appropriation, in the upkeep, repair  
5 and maintenance of unsold properties acquired by the county at  
6 resale, by the issuance of cash warrants on such fund in payment of  
7 sworn itemized claims therefor; limited in amount to the sum  
8 certified to by the county treasurer as being actually on hand in  
9 excess of the amount reserved for the purposes hereinbefore stated.

10 E. On or before the 30th of June of each year the county  
11 treasurer shall file a financial statement of the resale property  
12 fund with the county clerk for the approval of the board of county  
13 commissioners, setting forth the necessary reserves for expenditures  
14 either made or anticipated, to cover:

15 1. The cost of preparing and making delinquent tax  
16 publications, as hereinbefore set out;

17 2. The purchase of necessary records, printing and supplies and  
18 the payment of clerical hire, such reserves therefor, to be limited  
19 to the necessary expenses incurred by virtue of the authorization  
20 herein granted;

21 3. To pay claims and encumbrances for the upkeep, repair and  
22 maintenance of unsold properties;

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1 4. To pay all rebates allowed under authority of statute by the  
2 board of county commissioners or the board of tax roll corrections  
3 upon taxes found to have been illegally or erroneously collected;  
4 and

5 5. To pay for tax sale certificates or issue of deeds on lands  
6 or lots on which no tax was due or as to which the sale thereof was  
7 illegal for any reason.

8 The financial statement required by this subsection shall be  
9 made available to the public not later than ten (10) business days  
10 after the report is complete. If the county maintains or utilizes a  
11 website, the financial statement shall be made accessible through  
12 the website. If the county does not maintain or utilize a website,  
13 the financial statement shall be made available upon request at the  
14 office of the county treasurer or the county clerk or both such  
15 offices.

16 F. Any balance remaining on hand over and above the necessary  
17 reserves for the above mentioned items shall be apportioned  
18 forthwith by the county treasurer in the following manner:

19 1. In each county having a net assessed valuation in excess of  
20 Eight Million Dollars (\$8,000,000.00):

21 a. one-third (1/3) of such surplus residue to such county  
22 to be applied first to the payment of delinquent  
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1 warrants of such county, thereafter to its current  
2 general fund,

3 b. one-third (1/3) to the cities and towns of such  
4 county, in the ratio that the last certified assessed  
5 valuation of each bears to the total such assessed  
6 valuation of all such cities and towns in such county,  
7 to be by each of them applied in the payment of any  
8 delinquent warrants of such city or town, thereafter  
9 to its current general fund, and

10 c. one-third (1/3) to the various school districts of the  
11 county on a scholastic enumeration basis, to be  
12 applied by each of them to the payment of any  
13 delinquent warrants of such district and thereafter to  
14 its current general fund.

15 2. In each county having a net assessed valuation of Eight  
16 Million Dollars (\$8,000,000.00) or less:

17 a. In the ratio that the county, city or town and school  
18 district levy bears to the fifteen-mill levy as  
19 allocated by the county excise board.

20 b. Such surplus to the cities and towns of such county in  
21 the ratio that the last certified assessed valuation  
22 of each bears to the total assessed valuation of all  
23 such cities or towns in such county.

1 c. Such surplus to the school districts of the county on  
2 a scholastic enumeration basis.

3 d. The amounts apportioned to each county, city or town  
4 and school district shall be applied by each of them  
5 to the payment of any delinquent warrants of such  
6 municipality and thereafter to its current general  
7 fund.

8 G. Nothing in this section shall be construed to repeal, amend,  
9 alter or modify any of the provisions of Sections 2479 or 2480 of  
10 this article, but shall be construed to be cumulative thereto.

11 SECTION 2. This act shall become effective November 1, 2011.

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13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
14 03-03-2011 - DO PASS, As Coauthored.