

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2740

By: Wallace and Hilbert of the
House

and

Thompson and Rader of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 3102, 3103, 3104, 3105 and 3106, as amended by Section 1, Chapter 39, O.S.L. 2017 (68 O.S. Supp. 2019, Section 3106), which relate to procedures for the collection of delinquent taxes; providing exceptions to certain procedural requirements under certain conditions; amending 68 O.S. 2011, Section 3148, which relates to official duties connected with delinquent tax sales and tax resales; requiring postponement of required delinquent tax sales, notices and publications under certain conditions; requiring designation of postponement length by certain official; limiting postponement length; requiring advertisement under certain standard for postponement details periodically for certain period; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2011, Section 3102, is
2 amended to read as follows:

3 Section 3102. ~~Within~~ Except for periods governed by the
4 provisions of subsection C of Section 3148 of this title, within
5 sixty (60) days after taxes on personal property shall become
6 delinquent as of April 1, the county treasurer shall mail notice to
7 the last-known address of such delinquent taxpayer and cause a
8 general notice to be published one time in some newspaper of general
9 circulation, published in the county, giving the name of each person
10 owing delinquent personal property taxes, stating the amount thereof
11 due, and stating that such delinquent personal property taxes,
12 within thirty (30) days from date of this publication, shall be
13 placed on a personal property tax lien docket in the office of the
14 county treasurer and the homestead exemption of such taxpayer shall
15 be canceled pursuant to Section 2892 of this title. Such liens are
16 superior to all other liens, conveyances or encumbrances filed
17 subsequent thereto, on real or personal property. The tax lien
18 shall be a lien on all real and personal property of the taxpayer in
19 the county for a period of seven (7) years, except as otherwise
20 provided in subsection B of Section 3103 of this title. From and
21 after the entry of the tax upon the tax lien docket, any person
22 claiming any interest in any land or personal property can sue the
23 county treasurer and board of county commissioners in the district
24 court to determine the validity or priority of the lien.

1 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3103, is
2 amended to read as follows:

3 Section 3103. A. ~~Within~~ Except for periods governed by the
4 provisions of subsection C of Section 3148 of this title, within
5 thirty (30) days after publication of the general notice required in
6 the provisions of Section 3102 of this title, the county treasurer
7 shall cause a personal property tax lien record to be made in a
8 docket for such purpose, showing the names and addresses of all
9 persons, firms, and corporations owing delinquent personal property
10 taxes, setting forth the delinquent years and amounts due and
11 unpaid, together with penalty and costs as provided for by Section
12 2913 of this title. The liens are superior to all other liens,
13 conveyances or encumbrances filed subsequent thereto, on real or
14 personal property. The tax lien shall be a lien on all personal and
15 real property of the person, firm, or corporation owing the
16 delinquent tax for a period of seven (7) years from the date of the
17 tax lien, except as otherwise provided in subsection B of this
18 section. If such a lien is not collected within seven (7) years
19 from the date upon which such tax became due and payable, the unpaid
20 personal property taxes shall cease to be a lien upon any real or
21 personal property of the person, firm, or corporation owing the tax.
22 The provisions of this section shall not apply to taxes which became
23 due or payable prior to January 1, 1971.

1 B. A tax lien on real property of a business arising from
2 delinquent personal property taxes of the business may be released
3 for purposes of a sale of such real property upon application to and
4 approval of the county treasurer. No lien shall be released unless
5 all excess proceeds of the sale are paid to the county treasurer in
6 payment of the personal property taxes which are the subject of the
7 lien. If a county treasurer determines that such a lien should be
8 released, the county treasurer shall make an entry in the county
9 treasurer's tax records indicating that the lien has been removed
10 from the real property to be sold. The tax lien shall remain valid
11 as to all other property of the taxpayer. As used in this
12 subsection, "excess proceeds" means all proceeds over those needed
13 to satisfy any liens on the property which have priority over the
14 personal property tax lien of the county.

15 C. It shall be the duty of the county treasurer to collect all
16 delinquent personal taxes due and unpaid, together with penalties
17 and costs, as provided for by Section 2913 of this title, and costs
18 and lien fee in the amount of Five Dollars (\$5.00), and, upon
19 receiving the same, shall release the lien on the personal property
20 tax lien docket.

21 D. The county treasurer shall keep a personal property tax lien
22 docket in the form prescribed by the State Auditor and Inspector and
23 shall enter on the docket the names and addresses of delinquent
24

1 taxpayers along with the other information required by the
2 provisions of this section.

3 E. Upon compliance with the provisions of this section and
4 Section 3102 of this title, the county treasurer may enter in the
5 personal property tax lien docket the following statement:

6 "All unpaid items contained in this tax roll have been
7 transferred to the personal property tax lien docket for this year."
8 No further entries are required and the personal property tax roll
9 for that year may be closed. The provisions of this section apply
10 to all personal property tax rolls after 1970. Except as otherwise
11 provided by subsection B of this section, all unpaid personal
12 property taxes shall become a lien on any real estate owned by the
13 taxpayer.

14 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3104, is
15 amended to read as follows:

16 Section 3104. A. Except for periods governed by the provisions
17 of subsection C of Section 3148 of this title:

18 1. The county treasurer shall issue tax warrants for the
19 collection of delinquent personal taxes upon demand of any person,
20 or whenever the treasurer shall deem it advisable, on a form
21 prescribed by the State Auditor and Inspector, to the sheriff of the
22 county in which the real or personal property is located for the
23 collection of such delinquent personal taxes.
24

1 2. The tax warrant shall be issued or directed against any
2 person or legal entity who had possession, control or an interest in
3 personal property at the time the taxes were assessed.

4 3. The tax warrant shall command the sheriff to collect the
5 amount due for unpaid taxes, penalties and interest thereon, cost of
6 advertising, sheriff's collection fees and any other lawful fees on
7 personal property belonging to the person to whom such taxes were
8 assessed, and if no personal property is found, then upon any real
9 property such person owns or in which such person has an interest.

10 B. Except for periods governed by the provisions of subsection
11 C of Section 3148 of this title:

12 1. The sheriff, upon receiving a tax warrant, shall levy said
13 warrant and sell the property of the taxpayer in the manner and form
14 as provided for the sale of personal and/or real property on
15 execution.

16 2. The sheriff shall pay the total amount received from the
17 sale of personal and/or real property to the county treasurer.

18 3. The tax warrant shall be returned by the sheriff within
19 sixty (60) days after its issuance.

20 4. Failure to collect or return the tax warrant as provided in
21 this section, shall subject the sheriff to the same penalties as
22 provided by law for the failure to collect or return execution.

23 5. The sheriff shall be entitled to the same fees as are
24 provided by law for like sales on execution.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 3105, is amended to read as follows:

Section 3105. A. The county treasurer shall in all cases, except those provided for in subsection B of this section and except for periods governed by the provisions of subsection C of Section 3148 of this title, where taxes are a lien upon real property and have been unpaid for a period of three (3) years or more as of the date such taxes first became due and payable, advertise and sell such real estate for such taxes and all other delinquent taxes, special assessments and costs at the tax resale provided for in Section 3125 of this title, which shall be held on the second Monday of June each year in each county. The county treasurer shall not be bound before so doing to proceed to collect by sale all personal taxes on personal property which are by law made a lien on realty, but shall include such personal tax with that due on the realty, and shall sell the realty for all of the taxes and special assessments.

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

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

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

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

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

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

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

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

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

16 F. Every notice of tax resale shall contain language approved
17 by the Office of the State Auditor and Inspector informing the
18 taxpayer of the provisions of this section.

19 SECTION 5. AMENDATORY 68 O.S. 2011, Section 3106, as
20 amended by Section 1, Chapter 39, O.S.L. 2017 (68 O.S. Supp. 2019,
21 Section 3106), is amended to read as follows:

22 Section 3106. A. ~~The~~ Except for periods governed by the
23 provisions of subsection C of Section 3148 of this title, the county
24 treasurer, according to the law, shall give notice of delinquent

1 taxes and special assessments by publication once a week for two (2)
2 consecutive weeks at any time after April 1, but prior to the end of
3 September following the year the taxes were first due and payable,
4 in some newspaper in the county to be designated by the county
5 treasurer. Such notice shall contain a notification that all lands
6 on which the taxes are delinquent and remain due and unpaid will be
7 sold in accordance with Section 3105 of this title, a list of the
8 lands to be sold, the name or names of the last record owner or
9 owners as of the preceding December 31 or later as reflected by the
10 records in the office of the county assessor, which records shall be
11 updated based on real property conveyed after October 1 each year
12 and the amount of taxes due and delinquent. If the sale involves
13 property upon which is located a manufactured home the notice shall
14 contain the following language: "The sale hereby advertised
15 involves a manufactured home which may be subject to the right of a
16 secured party to repossess. A holder of a perfected security
17 interest in such manufactured home may be able to pay ad valorem
18 taxes based upon the value of the manufactured home apart from the
19 value of real property." In addition to said published notice, the
20 county treasurer shall give notice by mailing to the record owner of
21 said real property as of the preceding December 31 or later as
22 reflected by the records in the office of the county assessor, which
23 records shall be updated based on real property conveyed after
24 October 1 each year, a notice stating the amount of delinquent taxes

1 owed and informing the owner that the subject real property will be
2 sold as provided for in Section 3105 of this title if the delinquent
3 taxes are not paid and showing the legal description of the property
4 of the owner being sold. Failure to receive said notice shall not
5 invalidate said sale. The county treasurer shall charge and collect
6 in cash, cashier's check or money order, in addition to the taxes,
7 interest and penalty, the publication fees as provided by the
8 provisions of Section 121 of Title 28 of the Oklahoma Statutes, and
9 Five Dollars (\$5.00) plus postage for mailing the notice, which
10 shall be paid into the county treasury or whatever fund the
11 publication and mailing fee expenses came from, and the county shall
12 pay the cost of the publication of such notice. But in no case
13 shall the county be liable for more than the amount charged to the
14 delinquent lands for advertising and the cost of mailing.

15 B. If personal property taxes become delinquent on a
16 manufactured home which is located on property not owned by the
17 owner of the manufactured home and the county treasurer provides
18 notice pursuant to Sections 3102 and 3103 of this title, such notice
19 shall also be sent to the last-known address of the owner of the
20 real property on which the manufactured home is located.

21 SECTION 6. AMENDATORY 68 O.S. 2011, Section 3148, is
22 amended to read as follows:

23 Section 3148. ~~(a)~~ A. Any county official charged with any duty
24 in connection with the holding of delinquent tax sales and tax

1 resales who fails to perform such duty, shall be guilty of
2 malfeasance in office and upon conviction thereof shall be removed
3 from office. In addition, any official who fails to perform such
4 duty shall forfeit all salary or compensation for his or her
5 services for a period of three (3) months after such failure might,
6 with due diligence, have been discovered; and any official who
7 approves, or votes to approve, a claim for salary or compensation,
8 or issues, registers or pays a warrant for salary or compensation,
9 in violation of the foregoing, shall be liable upon his or her
10 official bond for the payment of such salary or compensation.

11 ~~(b)~~ B. The provisions of this section relate to the duty of the
12 board of county commissioners and the county excise board to provide
13 funds for preparing and advertising delinquent tax sales and tax
14 resales, and to the duty of the county treasurer to prepare,
15 advertise and hold such delinquent tax sales and tax resales.
16 However, no county official shall be held responsible for failure to
17 hold a tax resale when prevented from doing so by prior failure to
18 hold a delinquent tax sale, or for failure to provide more than a
19 substantial portion of the funds necessary to pay the cost of
20 advertising a tax resale.

21 C. In the event the Governor declares a Catastrophic Health
22 Emergency pursuant to the Catastrophic Health Emergency Powers Act,
23 the board of county commissioners, upon the written request of the
24 county treasurer, shall postpone delinquent tax sales and related

1 delinquent tax notices and publications. The county treasurer shall
2 designate the period of postponement up to but not more than one (1)
3 year. Upon postponement action by the board of county
4 commissioners, the county treasurer shall advertise the details of
5 the postponement in the same manner as other delinquent tax legal
6 publications once per week for four (4) consecutive weeks.

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

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