

1 State of Arkansas As Engrossed: H3/5/19 H3/18/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1562

4

5 By: Representative S. Meeks

6 By: Senators Irvin, B. Davis, J. Sturch

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For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING PAYMENT DURING AN
10 ASSESSMENT APPEAL PROCESS; AND FOR OTHER PURPOSES.

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Subtitle

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TO AMEND THE LAW CONCERNING PAYMENT

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DURING AN ASSESSMENT APPEAL PROCESS.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code § 26-35-802 is amended to read as follows:

21 26-35-802. Payment ~~not required~~ pending assessment appeal.

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(a) Real or personal property shall not be returned as delinquent for nonpayment of taxes, nor shall any penalty or interest be added to taxes ~~due~~ in excess of the amount required to be paid before the delinquency date under this section, while there is pending in the circuit court, Court of Appeals, or the Supreme Court an appeal from an order of the county court fixing the assessed value of property.

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(b) If there has been no final disposition of an appeal ~~prior to~~ before the last day fixed by law for the payment of the taxes without penalty, the taxpayer shall have thirty (30) days after final disposition of the appeal within which to pay ~~the taxes~~ any taxes in excess of the amount required to be paid before the delinquency date under this section without penalty or interest.

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(c) ~~Upon appeal of~~ A property owner appealing a personal property tax assessment to the circuit court, ~~the taxpayer appealing the personal property tax assessment~~ shall pay:

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1 (1) To the county collector as otherwise provided by law the
2 amount the taxpayer claims is owed under the personal property tax
3 assessment; and

4 (2) Into the registry of the circuit court an amount equal to
5 the difference between the personal property tax assessment and the amount
6 the taxpayer claims is owed under the personal property tax assessment.

7 (d) A property owner appealing a real property tax assessment to the
8 circuit court shall pay to the county collector the least of:

9 (1) The amount of taxes due on the portion of the taxable value
10 of the real property that is not in dispute, subject to this section;

11 (2) The amount of taxes due on the real property under the court
12 order from which the appeal is taken; or

13 (3) The amount of taxes due on the real property based on the
14 previous year's assessment.

15 (e)(1) In the case of a property owner who elects to pay the amount of
16 taxes under subdivision (d)(1) of this section, the property owner shall
17 include in the complaint filed in the circuit court, or declare by subsequent
18 affidavit filed with the circuit court, not less than sixty (60) days before
19 the last day fixed by law for the payment of taxes without penalty, the taxes
20 due on the portion of the taxable value of the property that is not in
21 dispute or the lawful basis for any claim of exemption.

22 (2) On the motion of a party, the circuit court with
23 jurisdiction over the appeal shall hold a hearing to review and determine
24 compliance with this section, including verification of the amount of taxes
25 the taxpayer claims is owed under subdivision (d)(1) of this section.

26 (3) Upon conclusion of the hearing, the circuit court shall
27 order the property owner to pay to the county collector the amount that the
28 circuit court determines is the proper undisputed amount under subdivision
29 (d)(1) of this section.

30 (4)(A) If the circuit court determines that the property owner
31 has not substantially complied with this section, the circuit court shall
32 dismiss the pending action.

33 (B) If the circuit court determines that the property
34 owner has substantially but not fully complied with this section, the circuit
35 court shall dismiss the pending action unless the property owner fully
36 complies with the circuit court's determination within thirty (30) days of

1 the determination.

2 (f)(1) A property owner may include a request in the complaint on
3 appeal to the circuit court, or file a motion with the circuit court, to
4 waive payment of taxes due during the pendency of appeal if the payment would
5 constitute an unreasonable restraint on the party's right of access to the
6 courts.

7 (2) The request or motion to waive payment shall include a sworn
8 affidavit of inability to pay the taxes at issue.

9 (3) Upon the filing of a request or motion, the circuit court
10 shall hold a hearing to review the property owner's request and may set terms
11 and conditions on any grant of relief as may be reasonably required by the
12 circumstances.

13 (4) A property owner may be excused from the payment
14 requirements under this section if upon hearing the circuit court finds that
15 the payment would constitute an unreasonable restraint on the property
16 owner's right of access to the courts.

17 (g) Except as provided under subsection (f) of this section, a
18 property owner who appeals a property tax assessment to the circuit court
19 shall pay taxes on the property subject to the appeal in the amount required
20 by this section before the last day fixed by law for the payment of taxes
21 without penalty, or the property owner forfeits the right to proceed to a
22 final determination of appeal.

23 (h)(1) A property owner who pays to the county collector an amount of
24 taxes greater than the amount required by this section does not forfeit the
25 property owner's right to a final determination of the appeal by making the
26 payment.

27 (2) The property owner may pay an additional amount of taxes at
28 any time.

29 (3) If the property owner files a proper and timely appeal to
30 the circuit court, taxes paid on the property are considered under protest,
31 whether paid before or after the appeal is filed.

32 (i)(1) The pendency of an appeal of a property tax assessment does not
33 affect the delinquency date for the taxes on the property subject to appeal.

34 (2) However, the delinquency date applies only to the amount of
35 taxes required to be paid under this section.

36 (j)(1) In an appeal of an order of the county court to a circuit court

1 as to the sole claim or issue of whether property is exempt under Arkansas
2 Constitution, Article 16, § 5, the property owner shall not be required to
3 pay any portion of the taxes assessed on the real property at issue in the
4 appeal and shall not be found delinquent for nonpayment of real property
5 taxes during the pendency of the appeal to the circuit court, the Court of
6 Appeals, or the Arkansas Supreme Court.

7 (2)(A) Within sixty (60) days before the delinquency date, a
8 party may file a motion, based upon a good faith belief that the personal
9 property at issue in the appeal will be removed from the jurisdiction of the
10 county during the pendency of the appeal, requesting that the court order the
11 property owner to file with the circuit court an irrevocable letter of credit
12 or surety bond in the amount of the personal property taxes due.

13 (B) If a party elects not to file a motion, the property
14 owner shall not be required to pay any portion of the taxes assessed on the
15 personal property at issue in the appeal and shall not be found delinquent
16 for nonpayment of personal property taxes during the pendency of the appeal
17 to the circuit court, the Court of Appeals, or the Arkansas Supreme Court.

18 (3) The property owner may elect to pay any real or personal
19 property taxes due before the date of delinquency under subsection (c) or
20 subsection (d) of this section, and such payment shall not affect the
21 taxpayer's ability to appeal the exempt status of the property to the court
22 of proper jurisdiction.

23 (4) After final disposition of an appeal:

24 (A) The property owner shall be required to pay the amount
25 of taxes the court determines is owed, if any, within thirty (30) days of
26 final disposition; and

27 (B) Any award of a refund shall be made by the county upon
28 the order of a court of proper jurisdiction.

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30 /s/S. Meeks

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33 **APPROVED: 4/2/19**