

Hall of the House of Representatives
84th General Assembly - Second Extraordinary Session, 2003
Amendment Form

Subtitle of House Bill No. 1150

"TO PROVIDE FOR THE TRANSMISSION BY CERTIFICATION OF DELINQUENT
PERSONAL PROPERTY TAXES TO THE DIRECTOR OF THE DEPARTMENT OF
FINANCE AND ADMINISTRATION."

Amendment No. 1 to House Bill No. 1150.

Amend House Bill No. 1150 as originally introduced:

Add Representatives Agee, Anderson, Bledsoe, Borhauer, Dees, Elliott, Goss, Green, Hardwick, King, Matayo, Mathis, Nichols, Petrus, Pickett, Rosenbaum, Schulte, and Walters as House sponsors.

AND

Add Senators Gullett and Whitaker as Senate sponsors.

AND

Page 3, delete lines 26 through 36 and substitute the following:

"SECTION 4. Arkansas Code Title 26, Chapter 26, Subchapter 2 is amended to add a new section to read as follows:

26-26-213. Certification of delinquent taxes to the Department of Finance and Administration.

(a)(1) No later than December 1 of each year, all personal property taxes that have been delinquent for over one (1) year following the date the taxes were due shall be transmitted by certification to the Director of the Department of Finance and Administration for collection.

(2) No delinquent personal property taxes shall be collected at the county level after transmittal to the director for collection.

(b) Upon receipt of the certification, the sole authority to collect the delinquent personal property taxes shall be vested in the State of Arkansas by and through the director.

(c)(1) The director may select, contract with, and oversee an independent contractor under a professional services contract to collect delinquent personal property taxes. The independent contractor shall:

(A) Be selected subject to the laws governing professional services contracts under § 19-11-801, et seq.;

(B) Not be an officer or employee of an Arkansas county;



(C) Be ineligible to provide collection services if the independent contractor or any partner or employee of the contractor has plead guilty to, nolo contendere to, or has been found guilty of a felony; and

(D) Be subject to audit whenever requested by the director.

(2) For the purpose of collecting the taxes, penalties and fees for the director, the independent contractor shall have all powers vested in county collectors or sheriff collectors, except for the seizure of goods provided for under § 26-36-206, for the purpose of collecting delinquent personal property taxes.

(3)(A) As compensation, the independent contractor shall be paid a fee based upon the amount of the delinquent account certified to the director, but not to exceed twenty-five percent (25%) of the total amount of the delinquent account collected.

(B) The director shall be paid a fee by the taxpayer equal to five percent (5%) of the total amount of the delinquent account collected in order to reimburse the department for collection expenses.

(C) The total fees paid by the taxpayer under this subdivision (c)(3) shall not exceed an amount equal to thirty percent (30%) of the total amount of the delinquent account collected under the professional services contract described in subdivision (c)(1) of this section.

(D) The fees specified under this subdivision (c)(3) shall be collected in the same manner as the delinquent personal property taxes from the taxpayer.

(D) The independent contractor shall instruct taxpayers that all payments from taxpayers must be made directly to the director.

(E)(i) In the event that a taxpayer makes payments to the independent contractor instead of the director, all amounts collected by the independent contractor under the personal services contract shall be remitted in full to the director within thirty (30) days of receipt.

(ii) With respect to any amounts collected from the taxpayer and remitted to the director, the independent contractor must identify the taxpayer from whom the taxes were collected, the applicable personal property account number, and the applicable county code.

(iii) The independent contractor shall not retain any funds collected from taxpayers, including any fees for compensation under the personal services contract.

(d)(1) An independent contractor selected to collect personal property taxes shall register with the Secretary of State and shall file with the Secretary of State a surety bond or certificate of deposit guaranteeing compliance with the terms of the contract and all applicable laws.

(2) The amount of the surety bond or certificate of deposit shall be fifty thousand dollars (\$50,000).

(3)(i) Any person suffering damage by reason of the acts or omissions of the independent contractor may bring a cause of action on the bond for damages.

(ii) If damages are awarded to any person, within fourteen (14) days of payment of the award from the bond or certificate of deposit, the independent contractor must renew the surety bond or certificate of deposit so that the amount of fifty thousand dollars (\$50,000) will be available to cover any additional claims for damages.

(e)(1)(A) No fewer than thirty (30) days before the director turns the delinquent account collection over to the independent contractor, notice shall be given to each taxpayer.

(B) All notices required to be given to a taxpayer shall be either served by personal service or sent by regular mail to the taxpayer's last address on record with the applicable county collector.

(C) Service of the notice by mail is presumptively complete upon mailing.

(D) The notice shall include that:

(i) The account is being referred for independent collection; and

(ii) An amount not to exceed thirty percent (30%) of the delinquent account will be added as a cost of collection if the account is not paid in full to the director within thirty (30) days from the date the notice was postmarked.

(2)(A) Upon expiration of the thirty (30) days provided for in the notice, the accounts remaining delinquent shall be turned over to the independent contractor for collection.

(B) The director shall provide all available documentation necessary for the independent contractor to perform all of his or her obligations under the personal services contract.

(C)(i) All payments by a taxpayer shall be made to the director.

(ii) Once notice has been provided and the thirty-day time period has expired, the director shall collect the independent contractor fee from the taxpayer.

(iii) Notice of the payment shall be provided to the independent contractor as soon as practicable and the fee shall be remitted to the independent contractor in full within thirty (30) days of receipt.

(iv) The director shall retain the fee collected for its expenses and remit the taxes and penalties to the appropriate county treasurer.

(f)(1) The independent contractor may agree to partial payments of delinquent accounts under an installment payment plan.

(2) An installment payment plan may be prorated over a period of time not to exceed one (1) year.

(3) Delinquent taxpayers paying under an installment payment plan shall continue to be assessed penalties on the remaining delinquent taxes due until all delinquent accounts are paid in full.

(4)(A) Each partial payment to the director of a delinquent account shall be applied as follows:

(i) Five percent (5%) of the partial payment shall be retained by the director as collection expenses of the department;

(ii) The director shall pay the independent contractor a portion of its collection fee equal to the percentage of its collection fee times the amount of the partial payment; and,

(iii) The amount remaining shall be paid to the county collector.

(g)(1)(A) As soon as administratively feasible after receipt by the department of amounts collected under subsections (c) or (e) of this section, the director shall notify the applicable county that the taxes have been paid.

(B) After notification of payment, the county shall update its system to reflect payment of the applicable account in order to permit vehicle registration by the taxpayer.

(2)(A) As soon as administratively feasible after receipt by the director of the final installment payment of amounts collected under subsection (f) of this section, the director shall notify the applicable county that the taxes have been paid.

(B) After notification of payment of a final installment payment, the county shall update its system to reflect payment of the applicable account in order to permit vehicle registration by the taxpayer.

(3)(A) On the fifteenth (15th) day of the month following receipt by the department of amounts collected under subsections (c), (e), or (f) of this section, the director shall remit the amounts collected to the appropriate county collector.

(B) If the fifteenth (15th) day of the month falls on a weekend or holiday, the director shall remit the amounts collected to the appropriate county collector on the next business day.

(h) This section shall apply to both current and future delinquent personal property taxes only."

AND

Page 4, delete lines 1 through 36

AND

Page 5, delete lines 1 through 36

AND

Page 6, delete lines 1 through 36

AND

Page 7, delete lines 1 through 21

The Amendment was read _____
By: Representative Childers
BBC/BBC - 01-29-2004 15:33
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Chief Clerk