

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4  
5 By: Representatives Childers, Ferguson  
6 By: Senator Salmon  
7  
8

Call Item 6

# A Bill

HOUSE BILL 1150

## For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE TRANSMISSION BY  
CERTIFICATION OF DELINQUENT PERSONAL PROPERTY  
TAXES TO THE DIRECTOR OF THE DEPARTMENT OF  
FINANCE AND ADMINISTRATION, FOR COLLECTION; AND  
FOR OTHER PURPOSES.

### Subtitle

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

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

SECTION 1. Arkansas Code § 26-36-203(a), concerning the publication of delinquent personal property tax list, is amended to read as follows:

(a)(1) No later than December 1 in each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper of the county.

(2) Within seven (7) days thereafter, the newspaper shall publish the list.

(3) The newspaper shall publish the list in at least seven-point type.

(4) If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the



1 county or district, the newspaper may publish the list in that edition or  
 2 publication.

3 (5) If there is no newspaper in the county or district, the  
 4 publication shall be in the nearest newspaper having a general circulation in  
 5 the county or district for which the list is being published.

6 (6) The publication of the delinquent personal property taxes  
 7 shall include a notice that personal property taxes delinquent for over one  
 8 (1) year shall be transmitted by certification to the Director of the  
 9 Department of Finance and Administration for collection.

10  
 11 SECTION 2. Arkansas Code § 26-36-204 is amended to read as follows:

12 26-36-204. ~~Striking of names on list~~ Delivery of delinquent list to  
 13 successor collector.

14 (a) The delinquent list, together with the fees allowed to any  
 15 collector, shall be delivered to his successor, and it shall be returned to  
 16 the county clerk by the outgoing collector for that purpose, ~~and so on until~~  
 17 ~~the whole shall be collected.~~

18 (b) ~~After the list has been returned two (2) years, the county court~~  
 19 ~~shall have power to strike all names of persons who, in the opinion of the~~  
 20 ~~court, own no property out of which the taxes due on the list can be made by~~  
 21 ~~sale or otherwise.~~

22 (c) ~~The county court shall have the authority to strike off the~~  
 23 ~~delinquent and assessment list at any time the names of persons who own~~  
 24 ~~mobile homes which are assessed as real property, improvement only, who, in~~  
 25 ~~the opinion of the court, have vacated the jurisdiction or own no property~~  
 26 ~~out of which the taxes due can be made by sale or otherwise.~~

27  
 28 SECTION 3. Arkansas Code § 26-36-206 is amended to read as follows:

29 26-36-206. ~~Distrain~~ Seizure of goods to pay delinquent personal  
 30 property taxes.

31 (a) At any time after October 10 in each year, after taxes may be due,  
 32 and before delinquent personal property taxes are certified to the Director  
 33 of the Department of Finance and Administration, the collector shall ~~distrain~~  
 34 seize and hold sufficient goods and chattels belonging to the person charged  
 35 with taxes levied upon the personal property, to pay the taxes due upon the  
 36 personal property of the person and a penalty of twenty-five percent (25%)

1 thereon, which shall be collected by the collector and paid into the county  
 2 school fund, and the costs that may accrue, and shall immediately proceed to  
 3 advertise it in three (3) public places in the county, stating the time when  
 4 and the place where the property shall be sold.

5 (b)(1) If the taxes for which property is ~~distrained~~ seized and held,  
 6 and costs which shall accrue thereon are not paid before the day appointed  
 7 for sale, which shall not be less than ten (10) days after taking the  
 8 property, the collector shall proceed to sell the same at public vendue, or  
 9 so much thereof as will be sufficient to pay the taxes and the costs of the  
 10 distress and sale.

11 (2) He shall not ~~distrain~~ seize and hold any goods and chattels  
 12 for taxes levied on real property, except as provided in § 26-3-204.

13 (c)(1) The collector is authorized and empowered to levy on and sell  
 14 the goods and chattels of the person liable for taxes provided, in the same  
 15 manner and under the same restrictions as goods and chattels are required to  
 16 be levied and sold under execution on judgment at law, when not inconsistent  
 17 with the provisions of this subchapter.

18 (2) No goods and chattels of any person shall be exempt from  
 19 levy and sale.

20 (d) The collector shall be allowed the same fees for making distress  
 21 and sale of goods and chattels for the payment of taxes which are allowed by  
 22 law to sheriffs for making levy and sale of property on execution for  
 23 traveling fees to be computed at fifty cents (50¢) for each delinquent  
 24 visited, without regard to the distance traveled.

25  
 26 SECTION 4. (a)(1) No later than December 1 of each year, all taxes  
 27 levied on personal property which have been delinquent for over one (1) year  
 28 following the date the taxes were due shall be transmitted by certification  
 29 to the Director of the Department of Finance and Administration for  
 30 collection.

31 (2) No delinquent personal property taxes shall be collected at  
 32 the county level once they have been delinquent for one (1) year and  
 33 transmitted by certification to the director for collection.

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

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

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

6                     (B) Not be an officer or employee of the county; and

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

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

15                    (3)(A)(i) As compensation, the independent contractor shall  
 16 collect a fee from the taxpayer based upon the amount of the delinquent  
 17 account.

18                             (ii) The independent contractor shall also collect a  
 19 fee from the taxpayer to reimburse the collection expenses of the Department  
 20 of Finance and Administration.

21                             (B) The fees shall not exceed an amount equal to thirty  
 22 percent (30%) of the total dollar amount of the delinquent account collected  
 23 as provided under the negotiated contract.

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

27                             (D)(i) Any amounts collected under the contract with the  
 28 independent contractor and due to the State of Arkansas shall be remitted in  
 29 full to the director within thirty (30) days of receipt.

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

34                                     (iii) The amounts collected and remitted shall also  
 35 include a fee for expenses of the department in an amount equal to five  
 36 percent (5%) of the total dollar amount of the delinquent account collected.

1                   (iv) Any fees earned under the collection contract,  
 2 which shall not exceed an amount equal to twenty-five (25%) of the total  
 3 dollar amount of the delinquent account collected, shall be disclosed to the  
 4 director and retained by the independent contractor.

5                   (d)(1) If an independent contractor is selected to collect personal  
 6 property taxes, the contractor shall register with the Secretary of State and  
 7 shall file with the Secretary of State a surety bond or certificate of  
 8 deposit guaranteeing compliance with the terms of the contract and all  
 9 applicable laws.

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

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

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

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

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

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

29                   (D) The notice shall include that:

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

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

36                   (2)(A) Upon expiration of the thirty (30) days provided for in

1 the notice, the accounts remaining delinquent shall be turned over to the  
2 independent contractor for collection.

3 (B) The director shall provide all available documentation  
4 necessary for the independent contractor to perform all his or her  
5 obligations under the collection contract.

6 (C)(i) Nothing in this subsection (e) shall preclude a  
7 taxpayer from making payments directly to the director.

8 (ii) Once notice has been provided and the thirty-  
9 day time period has expired, if payments are made directly to the director,  
10 the director shall collect the independent contractor fee.

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

15 (iv) The department shall retain the fee collected  
16 for its expenses.

17 (f)(1) The independent contractor may collect partial payments of  
18 delinquent accounts under an agreed installment payment plan.

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

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

24 (4) The independent contractor shall retain a fee only on the  
25 amount actually collected and shall remit the remaining taxes, penalties and  
26 fees to the department within thirty (30) days of receipt of the installment  
27 payment.

28 (5)(A) Partial payment of delinquent accounts received by the  
29 director shall be applied first to offset the fee for the expenses of the  
30 department, then to pay any penalties owed by the delinquent taxpayer, and  
31 lastly to reduce the tax bill owed.

32 (B) After the fee for the expenses of the department has  
33 been entirely offset, the penalties and taxes received shall be remitted to  
34 the appropriate county collector under subdivision (g)(3) of this section.

35 (g)(1)(A) As soon as administratively feasible after receipt by the  
36 department of amounts collected under subsections (c) or (e) of this section,

1 the department shall notify the applicable county that the taxes have been  
2 paid.

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

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

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

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

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

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

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