

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: H1/30/04
A Bill

Call Item 6

HOUSE BILL 1150

5 By: Representatives Childers, Ferguson, Agee, Anderson, Bledsoe, Borhauer, Dees, Elliott, Goss, Green,
6 Hardwick, King, Matayo, Mathis, Nichols, Petrus, Pickett, Rosenbaum, Schulte, Walters
7 By: Senators Salmon, Gullett, Whitaker
8
9

10 **For An Act To Be Entitled**

11 AN ACT TO PROVIDE FOR THE TRANSMISSION BY
12 CERTIFICATION OF DELINQUENT PERSONAL PROPERTY
13 TAXES TO THE DIRECTOR OF THE DEPARTMENT OF
14 FINANCE AND ADMINISTRATION, FOR COLLECTION; AND
15 FOR OTHER PURPOSES.
16

17 **Subtitle**

18 TO PROVIDE FOR THE TRANSMISSION BY
19 CERTIFICATION OF DELINQUENT PERSONAL
20 PROPERTY TAXES TO THE DIRECTOR OF THE
21 DEPARTMENT OF FINANCE AND
22 ADMINISTRATION.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

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

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

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

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

36 (4) If the newspaper regularly publishes a total market coverage



1 edition or supplement publication that has wider circulation within the
2 county or district, the newspaper may publish the list in that edition or
3 publication.

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

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

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

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

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

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

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

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

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

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

1 personal property of the person and a penalty of twenty-five percent (25%)
2 thereon, which shall be collected by the collector and paid into the county
3 school fund, and the costs that may accrue, and shall immediately proceed to
4 advertise it in three (3) public places in the county, stating the time when
5 and the place where the property shall be sold.

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

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

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

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

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

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

29 26-26-213. Certification of delinquent taxes to the Department of
30 Finance and Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (D) The notice shall include that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (iii) The amount remaining shall be paid to the

1 county collector.

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

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

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

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

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

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

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

25
26 /s/ Childers, et al
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