

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

Call Item 6

A Bill

SENATE BILL 90

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

For An Act To Be Entitled

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

Subtitle

16 TO PROVIDE FOR THE CERTIFICATION OF
17 DELINQUENT PERSONAL PROPERTY TAXES TO
18 THE DEPARTMENT OF FINANCE AND
19 ADMINISTRATION.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

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

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

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

34 (4) If the newspaper regularly publishes a total market coverage
35 edition or supplement publication that has wider circulation within the
36 county or district, the newspaper may publish the list in that edition or



1 publication.

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

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

9
10 SECTION 2. Arkansas Code § 26-36-204 is amended to read as follows:

11 26-36-204. ~~Striking of names on list~~ Delivery of delinquent list to
12 successor collector.

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

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

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

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

28 26-36-206. ~~Distraint~~ Seizure of goods to pay delinquent personal
29 property taxes.

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

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

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

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

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

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

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

24
 25 SECTION 4. Arkansas Code Title 26, Chapter 26, Subchapter 2 is amended
 26 to add a new section to read as follows:

27 26-26-213. Certification of delinquent taxes to the Department of
 28 Finance and Administration.

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

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

35 (b) Upon receipt of the certification, the sole authority to collect
 36 the delinquent personal property taxes shall be vested in the State of

1 Arkansas by and through the director.

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

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

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

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

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

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

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

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

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

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

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

35 (F)(i) If the taxpayer makes payments to the independent
36 contractor instead of the director, all amounts collected by the independent

1 contractor under the personal services contract shall be remitted in full to
2 the director within thirty (30) days of receipt.

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

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

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

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

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

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

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

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

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

32 (D) The notice shall state that:

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

35 (ii) An amount not to exceed thirty percent (30%) of
36 the delinquent account will be added as a cost of collection if the account

1 is not paid in full to the director within thirty (30) days from the date the
2 notice was postmarked.

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

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

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

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

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

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

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

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

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

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

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

31 (B) The director shall pay the independent contractor a
32 collection fee equal to the percentage of its collection fee times the amount
33 of the partial payment; and

34 (C) The amount remaining shall be paid to the county
35 collector.

36 (g)(1)(A) As soon as administratively feasible after receipt by the

1 director of amounts collected under subsections (c) or (e) of this section,
2 the director shall notify the applicable county that the taxes have been
3 paid.

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

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

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

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

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

21 (h) This section shall apply to both current and future delinquent
22 personal property taxes, and not to real property taxes.

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