

1 State of Arkansas
2 85th General Assembly
3 First Extraordinary Session, 2006
4

Call Items 5, 14

A Bill

HOUSE BILL 1025

5 By: Representative Mahony
6 By: Senator J. Jeffress
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For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF THE
ARKANSAS CODE RELATED TO PUBLIC SCHOOL FINANCE;
TO ADDRESS THE NINETY-EIGHT PERCENT (98%)
COLLECTION RATE FOR PROPERTY TAXES DISCUSSED IN
THE RECENT LAKEVIEW OPINION; TO REQUIRE TEN
PERCENT (10%) INTEREST ON THE PAYMENT OF
DELINQUENT PERSONAL PROPERTY TAXES; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND VARIOUS PROVISIONS OF THE
ARKANSAS CODE RELATED TO PUBLIC SCHOOL
FINANCE BY REQUIRING TEN PERCENT (10%)
INTEREST ON THE PAYMENT OF DELINQUENT
PERSONAL PROPERTY TAXES.

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

SECTION 1. Arkansas Code § 26-34-101(b), pertaining to the preference of tax liens, is amended to read as follows:

(b) All taxes assessed shall be a lien upon and bind the property assessed from the first Monday of January of the year in which the assessment shall be made and shall continue until the taxes, with any penalty and interest which may accrue thereon, shall be paid. However, as between grantor and grantee, the lien shall not attach until the last date fixed by law for the county clerk to deliver the tax books to the county collector in



1 each year after the tax lien attaches.

2
 3 SECTION 2. Arkansas Code § 26-35-501(c), pertaining to the time to pay
 4 ad valorem taxes on real and personal property, is amended to read as
 5 follows:

6 (c)(1)(A) It shall be the duty of the county collectors of the
 7 respective counties to assess a penalty of ten percent (10%) against all
 8 unpaid tax balances remaining after October 10 for every taxpayer other than
 9 a utility or carrier or after the prescribed dates listed in subsection (b)
 10 of this section for utilities and carriers.

11 (B) For ad valorem taxes assessed on personal property on
 12 or after January 1, 2005, each county collector shall add interest at the
 13 rate of ten percent (10%) per annum against both the tax balance remaining
 14 after October 10 and the penalty assessed in subdivision (c)(1)(A) of this
 15 section for every taxpayer other than a utility or carrier.

16 (2)(A) No taxpayer paying in installments under subdivision
 17 (a)(2) of this section shall be assessed a penalty or interest until such
 18 taxes become due and remain unpaid after October 10.

19 (B) However, if the last day for the payment of taxes on
 20 any installment is a Saturday, Sunday, or postal holiday, the last day to pay
 21 taxes without a ~~penalty~~ the assessment of penalty or interest is the
 22 following business day.

23
 24 SECTION 3. Arkansas Code § 26-36-201(b), pertaining to the dates that
 25 taxes on real estate and personal property are due and payable, is amended to
 26 read as follows:

27 (b)(1) It is the duty of the county collector to extend a penalty of
 28 ten percent (10%) against all delinquent taxpayers that have not paid their
 29 taxes within the time limit specified, and the county collector shall collect
 30 this penalty.

31 (2) No penalty shall be assessed against any taxpayer who is a
 32 member of the United States armed forces, reserve component of the armed
 33 forces, or the National Guard during the taxpayer's deployment plus one (1)
 34 tax year after the deployment ends.

35 (3) For ad valorem taxes assessed on personal property on or
 36 after January 1, 2005, each county collector shall charge any delinquent

1 taxpayer that has not paid his or her taxes within the time limit specified
2 interest at the rate of ten percent (10%) per annum on both the tax balance
3 remaining after October 10 and the penalty assessed in subdivision (b)(1) of
4 this section, and the county collector shall collect this interest.

5
6 SECTION 4. Arkansas Code § 26-36-202(b), pertaining to the payment of
7 delinquent taxes, is amended to read as follows:

8 (b)(1) It shall be the duty of the county ~~clerk~~ collector to add a
9 penalty of ten percent (10%) upon all taxes returned delinquent, which shall
10 be collected in the manner provided for the collection of delinquent taxes.

11 (2) For ad valorem taxes assessed on personal property on or
12 after January 1, 2005, the county collector shall add interest at the rate of
13 ten percent (10%) per annum against both the delinquent tax and the penalty
14 assessed in subdivision (b)(1) of this section, which shall be collected in
15 the manner provided for in the collection of delinquent taxes.

16
17 SECTION 5. Arkansas Code § 26-36-203(b), pertaining to the publication
18 of delinquent personal property tax lists, is amended to read as follows:

19 (b) The publication shall show, besides the name of the taxpayer, the
20 taxpayer's school district and the total amount of taxes delinquent,
21 including penalties and interest. The publication shall be in substance as
22 follows:

23 "DELINQUENT PERSONAL TAX LIST

24 The personal Tax Books of County reflect the following
25 list of personal property to be delinquent for nonpayment of taxes for the
26 year.....

Name	School District No.	Amount Due
.....
.....
.....
(ACRON, R. J	C-11	\$21.35)
(B & B MFG. CO.....	S-1	\$167.06)
.....

34 STATE OF ARKANSAS
35 COUNTY OF
36 I,, Collector of Revenue within and for County in the State

1 of Arkansas, do hereby certify that the personal tax books of County
2 reflect the foregoing list of personal property to be delinquent for
3 nonpayment of taxes for the year Witness my hand this day of
4, 20....

5 COLLECTOR FOR
6 County, Arkansas
7 "

8
9 SECTION 6. Arkansas Code § 26-36-206 is amended to read as follows:
10 26-36-206. Distraint of goods to pay delinquent personal property
11 taxes.

12 (a) At any time after October 10 in each year, after taxes may be due,
13 the county collector shall distraint sufficient goods and chattels belonging
14 to the person charged with taxes levied upon the personal property, to pay
15 the taxes, penalty, and interest due upon the personal property of the person
16 and a an additional penalty of twenty-five percent (25%) thereon, which shall
17 be collected by the county collector and paid into the county school fund,
18 and the costs that may accrue, and shall immediately proceed to advertise it
19 in three (3) public places in the county, stating the time when and the place
20 where the property shall be sold.

21 (b)(1) If the taxes, penalty, and interest for which property is
22 distrained, and costs which shall accrue thereon are not paid before the day
23 appointed for sale, which shall not be less than ten (10) days after taking
24 the property, the county collector shall proceed to sell the ~~same~~ property at
25 public ~~venue~~ venue, or so much ~~thereof~~ of the property as will be sufficient
26 to pay the taxes, penalty, interest, and ~~the~~ costs of the distress and sale.

27 (2) ~~He~~ The county collector shall not distraint any goods and
28 chattels for taxes levied on real property, except as provided in § 26-3-204.

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

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

36 (d) The county collector shall be allowed the same fees for making

1 distress and sale of goods and chattels for the payment of taxes, penalty,
 2 and interest which are allowed by law to sheriffs for making levy and sale of
 3 property on execution for traveling fees to be computed at fifty cents (50¢)
 4 for each delinquent visited, without regard to the distance traveled.

5
 6 SECTION 7. Arkansas Code § 26-36-207 is amended to read as follows:

7 26-36-207. Garnishment proceedings authorized.

8 (a)(1) If the tax upon personal property, moneys, credits, investments
 9 in bonds, stocks, joint-stock companies, or otherwise of any person,
 10 association, or corporation shall remain unpaid after October 10 in any year
 11 and the county collector is unable to find any personal property of the
 12 person, association, or corporation whereon to levy to make the taxes then
 13 due, then the county collector shall present the account for taxes to any
 14 person who may be indebted to the person, association, or corporation, and
 15 demand the payment thereof.

16 (2) The person to whom it shall be presented shall pay over to
 17 the county collector the amount of the taxes, penalty, and interest that he
 18 or she owes and take the county collector's receipt therefor.

19 (3) The receipt shall be deemed and taken in all courts of this
 20 state as payment on his or her indebtedness to the full amount expressed on
 21 the county collector's receipt.

22 (b) If the person should fail or refuse, on demand, to pay over the
 23 amount of the tax, penalty, and interest that he or she owes to the county
 24 collector, the county collector shall file a statement of the amount of the
 25 tax, penalty, and interest with the person so refusing, which shall operate
 26 as a garnishment upon the person so served. The county collector shall
 27 proceed to collect the taxes, penalty, and interest in the manner fixed by
 28 law in cases of garnishment.

29 (c) No person shall be compelled to pay any debt before it may be due
 30 nor a greater amount than he or she may be owing the person, corporation, or
 31 association.

32 (d) The cost of garnishment shall be paid by the party refusing to pay
 33 the taxes, penalty, and interest when so requested.

34
 35 SECTION 8. Arkansas Code § 26-36-208(b), pertaining to a delinquent
 36 taxpayer relocating to another county, is amended to read as follows:

1 (b)(1) The county clerk shall immediately forward to the clerk of any
 2 county of this state, which any delinquent taxpayer has removed to or resides
 3 within, a certified statement or account of the taxes so assessed and not
 4 paid.

5 (2) The certified statement shall specify the value of the
 6 property on which the taxes were levied and the amount of the taxes levied
 7 thereon, with the penalty, interest, and cost.

8 (3) The county collector shall proceed to collect the delinquent
 9 taxes in the same manner, and with like authority, as prescribed in this
 10 subchapter for collecting delinquent taxes upon personal property and shall
 11 make return thereof to the county collector of the proper county.

12
 13 SECTION 9. Arkansas Code § 26-36-209 is amended to read as follows:
 14 26-36-209. Time and manner – Returns.

15 (a) The county collector may collect, at any time, all delinquent
 16 personal property tax, along with assessed penalty and accrued interest, in
 17 his or her county, or any that may be sent from another county, by the sale
 18 of property or otherwise, and the county collector shall make returns of the
 19 amount so collected to the proper counties and officers.

20 (b)(1) The county collector shall pay over to the county treasurer on
 21 the first of each month or within five (5) working days after the first of
 22 each month all amounts collected for his or her county under this section.

23 (2) However, upon a certificate of distribution of the amounts
 24 collected under this section being prepared by the county clerk or county
 25 collector, which certificate shall be issued on or before the thirtieth of
 26 each month, the county treasurer will transfer to the various funds the
 27 amount due each fund.

28 (c)(1) All costs associated with such delinquent personal property
 29 taxes shall be prorated to the original taxing entities.

30 (2) All penalties and interest shall be divided fifty percent
 31 (50%) to the county general fund and fifty percent (50%) to the county common
 32 school fund if that county's common school fund was getting fifty percent
 33 (50%) at the time of the enactment of this subsection.

34 (d) For purposes of this section, the costs, interest, and penalties
 35 associated with delinquent personal property taxes shall not be considered a
 36 portion of the county collector's revenue in calculating excess commissions.

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SECTION 10. Arkansas Code § 26-36-210 is amended to read as follows:
26-36-210. Counties under tax ledger system.

The tax collector in any county of this state utilizing the unit tax ledger system for the collection of taxes, pursuant to § 26-28-201 et seq., may appoint a delinquent tax collector for the purpose of collecting the delinquent taxes, penalty, and interest in ~~his~~ the collector's county.

SECTION 11. Arkansas Code § 26-36-211 is amended to read as follows:
26-36-211. Liability of collector for property improperly sold.

Any collector of any county, city, or town in this state who returns to any person, personal property, or real estate delinquent, by whom or upon which taxes have been paid or advertises for sale, offers to sell, or sells any real or personal property upon which the taxes have been paid for the year for which they shall be returned delinquent, advertised, offered for sale, or sold shall forfeit and pay to the owner of the property, or any other person interested therein or who may be injured thereby, a sum equal to double the taxes, penalty, interest, and costs charged on the personal property or land together with the actual damages as may have been sustained. For any sum so recovered, the ~~officer~~ collector and ~~his~~ the collector's sureties shall be liable on ~~his~~ the tax collector's official bond.