

Hall of the House of Representatives
92nd General Assembly - Regular Session, 2019
Amendment Form

Subtitle of House Bill No. 1562

TO AMEND THE LAW CONCERNING PAYMENT DURING AN ASSESSMENT APPEAL PROCESS.

Amendment No. 3 to House Bill 1562

Amend House Bill No. 1562 as engrossed, H3/5/19 (version: 03/05/2019 9:37:03 AM)

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 26-35-802 is amended to read as follows:
26-35-802. Payment ~~not required~~ pending assessment appeal.

(a) Real or personal property shall not be returned as delinquent for nonpayment of taxes, nor shall any penalty or interest be added to taxes due in excess of the amount required to be paid before the delinquency date under this section, while there is pending in the circuit court, Court of Appeals, or the Supreme Court an appeal from an order of the county court fixing the assessed value of property.

(b) If there has been no final disposition of an appeal ~~prior to~~ before the last day fixed by law for the payment of the taxes without penalty, the taxpayer shall have thirty (30) days after final disposition of the appeal within which to pay the taxes any taxes in excess of the amount required to be paid before the delinquency date under this section without penalty or interest.

(c) ~~Upon appeal of A property owner appealing~~ a personal property tax assessment to the circuit court, ~~the taxpayer appealing the personal property tax assessment~~ shall pay:

(1) To the county collector as otherwise provided by law the amount the taxpayer claims is owed under the personal property tax assessment; and

(2) Into the registry of the circuit court an amount equal to the difference between the personal property tax assessment and the amount



the taxpayer claims is owed under the personal property tax assessment.

(d) A property owner appealing a real property tax assessment to the circuit court shall pay to the county collector the least of:

(1) The amount of taxes due on the portion of the taxable value of the real property that is not in dispute, subject to this section;

(2) The amount of taxes due on the real property under the court order from which the appeal is taken; or

(3) The amount of taxes due on the real property based on the previous year's assessment.

(e)(1) In the case of a property owner who elects to pay the amount of taxes under subdivision (d)(1) of this section, the property owner shall include in the complaint filed in the circuit court, or declare by subsequent affidavit filed with the circuit court, not less than sixty (60) days before the last day fixed by law for the payment of taxes without penalty, the taxes due on the portion of the taxable value of the property that is not in dispute or the lawful basis for any claim of exemption.

(2) On the motion of a party, the circuit court with jurisdiction over the appeal shall hold a hearing to review and determine compliance with this section, including verification of the amount of taxes the taxpayer claims is owed under subdivision (d)(1) of this section.

(3) Upon conclusion of the hearing, the circuit court shall order the property owner to pay to the county collector the amount that the circuit court determines is the proper undisputed amount under subdivision (d)(1) of this section.

(4)(A) If the circuit court determines that the property owner has not substantially complied with this section, the circuit court shall dismiss the pending action.

(B) If the circuit court determines that the property owner has substantially but not fully complied with this section, the circuit court shall dismiss the pending action unless the property owner fully complies with the circuit court's determination within thirty (30) days of the determination.

(f)(1) A property owner may include a request in the complaint on appeal to the circuit court, or file a motion with the circuit court, to waive payment of taxes due during the pendency of appeal if the payment would constitute an unreasonable restraint on the party's right of access to the

courts.

(2) The request or motion to waive payment shall include a sworn affidavit of inability to pay the taxes at issue.

(3) Upon the filing of a request or motion, the circuit court shall hold a hearing to review the property owner's request and may set terms and conditions on any grant of relief as may be reasonably required by the circumstances.

(4) A property owner may be excused from the payment requirements under this section if upon hearing the circuit court finds that the payment would constitute an unreasonable restraint on the property owner's right of access to the courts.

(g) Except as provided under subsection (f) of this section, a property owner who appeals a property tax assessment to the circuit court shall pay taxes on the property subject to the appeal in the amount required by this section before the last day fixed by law for the payment of taxes without penalty, or the property owner forfeits the right to proceed to a final determination of appeal.

(h)(1) A property owner who pays to the county collector an amount of taxes greater than the amount required by this section does not forfeit the property owner's right to a final determination of the appeal by making the payment.

(2) The property owner may pay an additional amount of taxes at any time.

(3) If the property owner files a proper and timely appeal to the circuit court, taxes paid on the property are considered under protest, whether paid before or after the appeal is filed.

(i)(1) The pendency of an appeal of a property tax assessment does not affect the delinquency date for the taxes on the property subject to appeal.

(2) However, the delinquency date applies only to the amount of taxes required to be paid under this section.

(j)(1) In an appeal of an order of the county court to a circuit court as to the sole claim or issue of whether property is exempt under Arkansas Constitution, Article 16, § 5, the property owner shall not be required to pay any portion of the taxes assessed on the real property at issue in the appeal and shall not be found delinquent for nonpayment of real property taxes during the pendency of the appeal to the circuit court, the Court of

Appeals, or the Arkansas Supreme Court.

(2)(A) Within sixty (60) days before the delinquency date, a party may file a motion, based upon a good faith belief that the personal property at issue in the appeal will be removed from the jurisdiction of the county during the pendency of the appeal, requesting that the court order the property owner to file with the circuit court an irrevocable letter of credit or surety bond in the amount of the personal property taxes due.

(B) If a party elects not to file a motion, the property owner shall not be required to pay any portion of the taxes assessed on the personal property at issue in the appeal and shall not be found delinquent for nonpayment of personal property taxes during the pendency of the appeal to the circuit court, the Court of Appeals, or the Arkansas Supreme Court.

(3) The property owner may elect to pay any real or personal property taxes due before the date of delinquency under subsection (c) or subsection (d) of this section, and such payment shall not affect the taxpayer's ability to appeal the exempt status of the property to the court of proper jurisdiction.

(4) After final disposition of an appeal:

(A) The property owner shall be required to pay the amount of taxes the court determines is owed, if any, within thirty (30) days of final disposition; and

(B) Any award of a refund shall be made by the county upon the order of a court of proper jurisdiction."

The Amendment was read

By: Representative S. Meeks

KLC/KLC - 03-18-2019 12:15:40

KLC344

Chief Clerk