

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/29/05

# A Bill

HOUSE BILL 2741

5 By: Representative Pace  
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7

## For An Act To Be Entitled

9 AN ACT TO REVISE THE AUTHORITY OF COUNTY  
10 GOVERNMENTS TO CONTRACT WITH INDEPENDENT  
11 CONTRACTORS FOR THE COLLECTION OF DELINQUENT  
12 TAXES AND FINES; AND FOR OTHER PURPOSES.  
13

## Subtitle

15 AN ACT TO REVISE THE AUTHORITY OF COUNTY  
16 GOVERNMENTS TO CONTRACT WITH INDEPENDENT  
17 CONTRACTORS FOR THE COLLECTION OF  
18 DELINQUENT TAXES AND FINES.  
19  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 14-20-113 is amended to read as follows:  
24 14-20-113. Collection of delinquent taxes.

25 (a) The quorum court in each county shall provide for the collection  
26 of delinquent taxes within the county and shall, by ordinance, place the  
27 responsibility ~~therefor~~ for collection in the office of the county collector  
28 or the combined office of sheriff and collector, ~~or~~. The quorum court in  
29 each county may provide for the collection of delinquent taxes by a person  
30 designated by a board composed of the county judge, an appropriate  
31 representative of the public schools in the county, and the mayor of the  
32 county seat or of each county seat in the case of those counties having two  
33 (2) county seats and may provide for the collection of delinquent taxes by an  
34 independent contractor as provided under this section.

35 (b)(1)(A) Collection of delinquent taxes by an independent contractor  
36 may be authorized by ordinance after accounts have become delinquent by one



1 (1) year or more and the county collector or sheriff collector determines  
2 that the resources available are insufficient to collect the delinquent  
3 accounts. The county judge and the county collector or sheriff collector, as  
4 applicable, shall jointly select and contract with an independent contractor  
5 to collect delinquent personal property taxes and any other delinquent  
6 amounts that the county collector or sheriff collector is charged with  
7 collecting, except real property taxes.

8 (B) The independent contractor shall:

9 (i) Be selected in the manner provided by  
10 §§ 19-11-801 – 19-11-806;

11 (ii) Not be an officer or employee of the county;  
12 and

13 (iii) Be ineligible to provide collection services  
14 if the independent contractor or any partner or employee of the independent  
15 contractor has pleaded guilty or nolo contendere to or has been found guilty  
16 of a felony.

17 (2) The independent contractor shall be overseen by and directly  
18 accountable to the county collector or sheriff collector.

19 (3)(A) As compensation, the independent contractor shall collect  
20 a fee from the taxpayer based upon the amount of the delinquent account.

21 (B) The fee shall not exceed an amount equal to twenty-  
22 five percent (25%) of the total dollar amount of the delinquent account  
23 collected as provided under the negotiated contract.

24 (C)(i) The fee specified under subdivision (b)(3) of this  
25 section shall be collected in the same manner as taxes from the taxpayer.

26 (ii) The fee amount shall not be considered a  
27 portion of the county collector's or sheriff collector's revenue in  
28 calculating excess revenue.

29 (4)(A) Any amounts collected under the contract with the  
30 independent contractor and due to the county shall be remitted in full to the  
31 county collector or sheriff collector within thirty (30) days of receipt.

32 (B) Any fees earned under the collection contract shall be  
33 accounted for and disclosed to the county collector or sheriff collector and  
34 retained by the independent contractor.

35 (C) All collection files and fees collected by the  
36 independent contractor under the collection contract shall be subject to

1 disclosure and audit by the Legislative Auditor.

2 (c)(1) If an independent contractor is selected to collect delinquent  
3 accounts, the independent contractor shall register with the Secretary of  
4 State and shall file with the Secretary of State a surety bond or certificate  
5 of deposit guaranteeing compliance with the terms of the contract and all  
6 applicable laws.

7 (2) The amount of the surety bond or certificate of deposit  
8 shall be no less than fifty thousand dollars (\$50,000).

9 (3) The county or any person suffering damage by reason of the  
10 acts or omissions of the independent contractor may bring a cause of action  
11 against the independent contractor and upon the bond for compensatory  
12 damages. No cause of action shall exist against the county or its officials  
13 or employees for the acts or omissions of the independent contractor.

14 (d)(1) No less than thirty (30) days before the county collector or  
15 sheriff collector turns the delinquent account collection over to the  
16 independent contractor, the county collector or sheriff collector shall give  
17 notice to the delinquent taxpayers at their last known address.

18 (1) The notice shall include that:

19 (A) The account is being referred for independent  
20 collection; and

21 (B) An amount not to exceed twenty-five percent (25%) of  
22 the delinquent account will be added as a cost of collection if the account  
23 is not paid in full within thirty (30) days from the date the notice was  
24 postmarked.

25 (e)(1) Upon expiration of the thirty (30) days provided for in the  
26 notice, the accounts remaining delinquent shall be turned over to the  
27 independent contractor for collection.

28 (2) The county collector or sheriff collector shall provide all  
29 available documentation necessary for the independent contractor to perform  
30 all his or her obligations under the collection contract.

31 (3)(A) Nothing in section (e) of this section shall preclude a  
32 taxpayer from making payments directly to the county collector or sheriff  
33 collector.

34 (B) Once notice has been provided and the thirty-day time  
35 period has expired, if payments are made directly to the county collector or  
36 sheriff collector, the county collector or sheriff collector, as applicable,

1 shall collect the independent contractor fee.

2 (C) Notice of the direct payment shall be provided to the  
3 independent contractor as soon as practicable and the fee shall be remitted  
4 in full within thirty (30) days of receipt.

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

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

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

12 (4) The independent contractor shall retain a fee only on the  
13 amount actually collected.

14 (5) Partial payment of delinquent accounts received by the  
15 county collector or sheriff collector shall be applied first to offset any  
16 penalties owed by the delinquent taxpayer then to reduce the tax bill owed.

17 (g) This section shall apply to both current and future delinquent  
18 personal property taxes and any other delinquent amounts to be collected by  
19 the county, except real property taxes.

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21 */s/ Pace*  
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