

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 1127

By: Senator J. Bookout

For An Act To Be Entitled

AN ACT TO REQUIRE TEN PERCENT (10%) INTEREST ON
THE DELINQUENT PAYMENT OF PERSONAL PROPERTY TAXES
BEGINNING WITH TAX YEAR 2004; AND FOR OTHER
PURPOSES.

Subtitle

TO REQUIRE TEN PERCENT (10%) INTEREST ON
THE DELINQUENT PAYMENT OF 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 collector in each
year after the tax lien attaches.

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

(c)(1)(A) It shall be the duty of the collectors of the respective
counties to assess a penalty of ten percent (10%) against all unpaid tax



1 balances remaining after October 10 for every taxpayer other than a utility
2 or carrier or after the prescribed dates listed in subsection (b) of this
3 section for utilities and carriers.

4 (B) For ad valorem taxes assessed on personal property on
5 or after January 1, 2004, each collector shall add interest at the rate of
6 ten percent (10%) per annum against both the tax balance remaining after
7 October 10 and the penalty assessed in subdivision (c)(1)(A) of this section
8 for every taxpayer other than a utility or carrier.

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

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

16
17 SECTION 3. Arkansas Code § 26-36-201(b), pertaining to the dates that
18 taxes on real estate and personal property are due and payable, is amended to
19 read as follows:

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

24 (2) No penalty shall be assessed against any taxpayer who is a
25 member of the United States Armed Forces, armed forces reserves, or the
26 Arkansas National Guard during the taxpayer's deployment plus one (1) tax
27 year after the deployment ends.

28 (3) For ad valorem taxes assessed on personal property on or
29 after January 1, 2004, each collector shall charge all delinquent taxpayers
30 that have not paid their taxes within the time limit specified, interest at
31 the rate of ten percent (10%) per annum on both the tax balance remaining
32 after October 10 and the penalty assessed in subdivision (b)(1) of this
33 section, and the collector shall collect this interest.

34
35 SECTION 4. Arkansas Code § 26-36-202(b), pertaining to the payment of
36 delinquent taxes, is amended to read as follows:

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

(2) For ad valorem taxes assessed on personal property on or after January 1, 2004, the preparer of the tax books shall add interest at the rate of ten percent (10%) per annum against both the delinquent tax and the penalty assessed in subdivision (b)(1) of this section, which shall be collected in the manner provided for the collection of delinquent taxes.

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

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

"DELINQUENT PERSONAL TAX LIST

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

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

STATE OF ARKANSAS

COUNTY OF

I,....., Collector of Revenue within and for..... County in the State of Arkansas, do hereby certify that the personal tax books of..... County reflect the foregoing list of personal property to be delinquent for nonpayment of taxes for the year..... Witness my hand this.....day of, 20....

COLLECTOR FOR

..... County, Arkansas

..... "

SECTION 6. Arkansas Code § 26-36-206 is amended to read as follows:

26-36-206. Distraint of goods to pay delinquent personal property taxes.

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

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

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

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

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

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

1
2 SECTION 7. Arkansas Code § 26-36-207 is amended to read as follows:

3 26-36-207. Garnishment proceedings authorized.

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

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

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

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

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

28 (d) The cost of garnishment shall be paid by the party refusing to pay
29 the taxes, penalty, and interest when so requested.
30

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

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

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

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

8
9 SECTION 9. Arkansas Code § 26-36-209 is amended to read as follows:

10 26-36-209. Time and manner – Returns.

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

16 (b) The county collector shall pay over to the county treasurer on the
17 first of each month or within five (5) working days thereafter all amounts
18 collected for ~~his~~ the collector's county under this section. However, upon a
19 certificate of distribution of the amounts collected under this section being
20 prepared by the county clerk or collector, which certificate shall be issued
21 on or before the thirtieth of each month, the county treasurer will transfer
22 to the various funds the amount due each fund.

23 (c) All costs associated with such delinquent personal property taxes
24 shall be prorated to the original taxing entities. All penalties and interest
25 shall be divided fifty percent (50%) to the county general fund and fifty
26 percent (50%) to the county common school fund if that county's common school
27 fund was getting fifty percent (50%) at the time of the enactment of this
28 subsection.

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

32
33 SECTION 10. Arkansas Code § 26-36-210 is amended to read as follows:

34 26-36-210. Counties under tax ledger system.

35 The tax collector in any county of this state utilizing the unit tax
36 ledger system for the collection of taxes, pursuant to § 26-28-201 et seq.,

1 may appoint a delinquent tax collector for the purpose of collecting the
2 delinquent taxes, penalty, and interest in ~~his~~ the collector's county.

3
4 SECTION 11. Arkansas Code § 26-36-211 is amended to read as follows:

5 26-36-211. Liability of collector for property improperly sold.

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