

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2742

By: Duel

7 COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2021, Sections 3105 and 3106, which relate to
10 sale procedures for property based on delinquent ad
11 valorem taxes; providing for effect of notice;
12 authorizing service of notice by county sheriff;
13 providing for right of recovery of expenses related
14 to sale process by certain prospective purchasers;
15 and providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3105, is
18 amended to read as follows:

19 Section 3105. A. The county treasurer shall in all cases,
20 except those provided for in subsection B of this section and except
21 for periods governed by the provisions of subsection C of Section
22 3148 of this title, where taxes are a lien upon real property and
23 have been unpaid for a period of three (3) years or more as of the
24 date such taxes first became due and payable, advertise and sell
such real estate for such taxes and all other delinquent taxes,

1 special assessments and costs at the tax resale provided for in
2 Section 3125 of this title, which shall be held on the second Monday
3 of June each year in each county. The county treasurer shall not be
4 bound before so doing to proceed to collect by sale all personal
5 taxes on personal property which are by law made a lien on realty,
6 but shall include such personal tax with that due on the realty, and
7 shall sell the realty for all of the taxes and special assessments.

8 B. In counties with a population in excess of one hundred
9 thousand (100,000) persons according to the most recent Federal
10 Decennial Census, the county treasurer shall not conduct a tax sale
11 of such real estate where taxes are a lien upon real property if the
12 following conditions are met:

13 1. The real property contains a single-family residential
14 dwelling;

15 2. The individual residing on the property is sixty-five (65)
16 years of age or older or has been classified as totally disabled, as
17 defined in subsection C of this section, and such individual owes
18 the taxes due on the real property;

19 3. The real property is not currently being used as rental
20 property;

21 4. The individual living on the property has an annual income
22 that does not exceed the HHS Poverty Guidelines as established each
23 year by the United States Department of Health and Human Services
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1 that are published in the Federal Register and in effect at the time
2 that the proposed tax sale is to take place; and

3 5. The fair market value of the real property as reflected on
4 the tax rolls in the office of the county assessor does not exceed
5 One Hundred Twenty-five Thousand Dollars (\$125,000.00).

6 C. As used in this section, a person who is "totally disabled"
7 means a person who is unable to engage in any substantial gainful
8 activity by reason of a medically determined physical or mental
9 impairment which can be expected to last for a continuous period of
10 twelve (12) months or more. Proof of disability may be established
11 by certification by an agency of state government, an insurance
12 company, or as may be required by the county treasurer. Eligibility
13 to receive disability benefits pursuant to a total disability under
14 the Federal Social Security Act shall constitute proof of disability
15 for purposes of this section.

16 D. It shall be the duty of the individual owning property
17 subject to the provisions of subsection B of this section to make
18 application to the county treasurer for an exemption from a tax sale
19 prior to the property being sold. It shall also be the duty of the
20 individual to provide evidence to the county treasurer that the
21 individual meets the financial requirements outlined in paragraph 4
22 of subsection B of this section and all other requirements of this
23 section to qualify for the exemption. Any individual claiming the
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1 exemption provided in this section shall establish eligibility for
2 the exemption each year the exemption is claimed.

3 E. Taxes, interest and penalties will continue to accrue while
4 the exemption is claimed. The exemption from sale of property
5 described in this section shall no longer be applicable and the
6 county treasurer shall proceed with the sale of such real estate if
7 any of the conditions prescribed in this section are no longer met.

8 F. Every notice of tax resale shall contain language approved
9 by the Office of the State Auditor and Inspector informing the
10 taxpayer of the provisions of this section.

11 G. In any proceeding pursuant to the provisions of this
12 section, the county treasurer may request the county sheriff to
13 serve notice upon the owner of the property described in a notice of
14 sale and the sheriff shall undertake to personally serve any
15 individual property owner.

16 H. The publication of notice pursuant to the provisions of this
17 section, the mailing of the notice of sale to the last-known or best
18 known address of the property owner, and attempted service by the
19 county sheriff pursuant to subsection G of this section shall be
20 sufficient notice to the owner for purposes of this section.

21 I. If a sale conducted pursuant to the requirements of this
22 section is judicially declared to be void, any purchaser of the
23 property at sale shall have a right of action against the property
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1 owner for recovery of the purchaser's costs, fees, and expenses
2 incurred in preparing for and bidding on the property at the sale.

3 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3106, is
4 amended to read as follows:

5 Section 3106. A. Except for periods governed by the provisions
6 of subsection C of Section 3148 of this title, the county treasurer,
7 according to the law, shall give notice of delinquent taxes and
8 special assessments by publication once a week for two (2)
9 consecutive weeks at any time after April 1, but prior to the end of
10 September following the year the taxes were first due and payable,
11 in some newspaper in the county to be designated by the county
12 treasurer. Such notice shall contain a notification that all lands
13 on which the taxes are delinquent and remain due and unpaid will be
14 sold in accordance with Section 3105 of this title, a list of the
15 lands to be sold, the name or names of the last record owner or
16 owners as of the preceding December 31 or later as reflected by the
17 records in the office of the county assessor, which records shall be
18 updated based on real property conveyed after October 1 each year
19 and the amount of taxes due and delinquent. If the sale involves
20 property upon which is located a manufactured home the notice shall
21 contain the following language: "The sale hereby advertised
22 involves a manufactured home which may be subject to the right of a
23 secured party to repossess. A holder of a perfected security
24 interest in such manufactured home may be able to pay ad valorem

1 taxes based upon the value of the manufactured home apart from the
2 value of real property." In addition to said published notice, the
3 county treasurer shall give notice by mailing to the record owner of
4 said real property as of the preceding December 31 or later as
5 reflected by the records in the office of the county assessor, which
6 records shall be updated based on real property conveyed after
7 October 1 each year, a notice stating the amount of delinquent taxes
8 owed and informing the owner that the subject real property will be
9 sold as provided for in Section 3105 of this title if the delinquent
10 taxes are not paid and showing the legal description of the property
11 of the owner being sold. Failure to receive said notice shall not
12 invalidate said sale. The county treasurer shall charge and collect
13 in cash, cashier's check or money order, in addition to the taxes,
14 interest and penalty, the publication fees as provided by the
15 provisions of Section 121 of Title 28 of the Oklahoma Statutes, and
16 Five Dollars (\$5.00) plus postage for mailing the notice, which
17 shall be paid into the county treasury or whatever fund the
18 publication and mailing fee expenses came from, and the county shall
19 pay the cost of the publication of such notice. But in no case
20 shall the county be liable for more than the amount charged to the
21 delinquent lands for advertising and the cost of mailing.

22 B. If personal property taxes become delinquent on a
23 manufactured home which is located on property not owned by the
24 owner of the manufactured home and the county treasurer provides

1 notice pursuant to Sections 3102 and 3103 of this title, such notice
2 shall also be sent to the last-known address of the owner of the
3 real property on which the manufactured home is located.

4 C. In any proceeding pursuant to the provisions of this
5 section, the county treasurer may request the county sheriff to
6 serve notice upon the owner of the property described in a notice of
7 sale and the sheriff shall undertake to personally serve any
8 individual property owner.

9 D. The publication of notice pursuant to the provisions of this
10 section, the mailing of the notice of sale to the last-known or best
11 known address of the property owner, and attempted service by the
12 county sheriff pursuant to subsection C of this section shall be
13 sufficient notice to the owner for purposes of this section.

14 E. If a sale conducted pursuant to the requirements of this
15 section is judicially declared to be void, any purchaser of the
16 property at sale shall have a right of action against the property
17 owner for recovery of the purchaser's costs, fees, and expenses
18 incurred in preparing for and bidding on the property at the sale.

19 SECTION 3. This act shall become effective November 1, 2023.

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