

# ARKANSAS TAX COLLECTORS 2022 PROCEDURES MANUAL



**Association of Arkansas Counties**

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## FOREWORD

This County Collector's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2021 legislative session and includes a description of the duties, responsibilities, and procedures of the Collector's office. It is not to be construed as legal advice. It presents the law for your information and guidance, but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

A handwritten signature in black ink that reads "Chris Villines". The signature is written in a cursive, flowing style.

Chris Villines  
Executive Director

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## Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government such as providing and managing a county road system, elections and financial management just to name a few things. Counties may provide for the establishment of any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent a district within the county.

The chief executive officer for county government in Arkansas is the county judge. As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto. (ACA 14-14-1101 - 1102).

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The county court of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.
2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.
3. Apprenticeship of Minors: Jurisdiction over juvenile matters is vested in the county courts of each county and shall be exclusive in all cases of delinquency, juveniles in need of supervision, and dependency-neglect.
4. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.
5. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors (ACA 14-14-1105).

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day inter-governmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The county sheriff is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The county clerk is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties].

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county. The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between

elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities (ACA 7-5-401 et seq.).

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The circuit clerk is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.).

The circuit clerk is also the ex-officio county recorder; and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq.). The circuit clerk maintains a record of many miscellaneous items and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and the third Monday in April, one-fourth being due between April and the third Monday in July, and

the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the required that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. (ACA 26-36-203) The collector shall, by the fourth Wednesday of October in each year, file with the clerk of the county court a list of taxes levied on real estate that the collector has been unable to collect.

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1101). Property taxes are payable to the county assessor each year between the first business day in March and October 15. A taxpayer may pay personal property taxes before the first business day in March if the county collector exercises his or her authorization under § 26-35-501(a)(1)(B) to open the tax books before the first business day in March. (ACA 26-26-1408). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various

taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The county coroner is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death. (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The county surveyor locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A constable is a constitutional township official not a county official as some might think. A constable is charged, by law,

to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.)

As provided by Amendment No. 55 of the Arkansas Constitution, county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch

offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court's powers include, but are not limited to, the power to: A) Levy taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities—provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

## Chapter Two - DUTIES OF THE OFFICE

The county collector is an elected official in county government. The Constitution of the State of Arkansas provides for the election of a sheriff, who shall be ex-officio collector of taxes, unless otherwise provided by law. In some counties, the office of collector has been combined with the office of treasurer. The collector, sheriff-collector, or treasurer-collector is elected for a four-year term of office with the requirements that he/she be a qualified elector and resident of the county. In the event of a vacancy in office, the quorum court fills the vacancy by appointment, the appointee serving until the next general election, when a successor is elected and qualified. Before beginning his/her duties, the collector must enter into an official bond, to guarantee his/her proper performance of duties. This may be accomplished either through the state Fidelity Bond Program, which covers all employees on the payroll, or a Fidelity Bond purchased for the officer. The county collector must also take the constitutional oath of office. Before entering their duties, the county collector shall take, before some person authorized by law to administer oaths, the following oath:

"I, \_\_\_\_\_, do swear that I will perform the duties of an election official of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, and that I will not disclose how any voter shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election" (ACA 7-4-110).

The county collector is entitled to that salary fixed for his/her office by applicable law and quorum court appropriation, but he/she cannot keep the various fees or commissions collected in the performance of his/her duties as collector, as in that respect, he/she is only an agent or trustee for the county treasury.

To assist the county collector in the performance of his/her duties, the county collector may appoint such number of deputies as the quorum court may approve. The collector generally supervises the deputies and may discharge them, supervise and manage their employment, within the policies established by the quorum court under Arkansas Code 14-14-805.

The office of the county collector is to be operated according to the office budget that is established annually by the quorum court of the county.

In general, the county collector collects taxes for the county, and he/she collects municipal, county, school, library and improvement district taxes and turns them over to the county treasurer. Under provisions of the Arkansas Code, he/she is responsible for collecting all property taxes during the established installment periods after the taxes are assessed. At least monthly, the county collector shall turn over all tax revenue to the treasurer.

The county collector shall perform the duties of delinquent tax collection involving the preparation of delinquent tax lists, the tax collection, the sale of distrained goods, and the settlement with the county clerk.

The records of the county collector's office are the evidence of their official duties and, therefore, it is necessary that they be accurately recorded and well maintained. The revenue collected serves as a significant source of income for every county government, as well as each city and school district located within the county.

The County Treasurer's Continuing Education Board is charged with designing and administering a continuing education program for the collectors of the several counties. It shall be composed of the following members: Eight (8) members of the Arkansas County Treasurers' Association, designated by the Arkansas County Treasurers' Association; one (1) member designated by the Association of Arkansas Counties; and the Auditor of State or a person designated by the Auditor of State. The funds in the County Treasurers' Continuing Education Fund shall be used exclusively for: establishing and operating a continuing education program for county treasurers; Paying the meals, lodging, registration fees, and mileage at the rate prescribed in state travel rules of county treasurers who attend the continuing education program; Acquiring educational materials; and Paying presenter fees and expenses. (ACA 14-15-811).

The County Collector's Continuing Education Board is charged with establishing a continuing education program for county collectors and sheriff-collectors of the various counties in the state. It shall be composed of the following members: Eight (8) members of the Arkansas County Tax Collectors Association, designated by the Arkansas County Tax Collectors Association; one (1) member designated by the Association of Arkansas Counties; and the Auditor of State or a person designated by the Auditor of State. (14-15-1001).

## Chapter Three – TIMETABLE

This section was included to assist newly elected county collectors by outlining the most pertinent activities of the office and placing them in a calendar format. This allows the county collector or a member of his/her staff to review the entire tax collection system.

The various activities are listed in the month in which they should take place and the Arkansas Code Annotated reference is listed for each. Also, these references are reprinted after the timetable for your review and convenience.

### **JANUARY:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the collector with the preparer's warrant attached, under his or her hand and the seal of his or her office, authorizing the collector to collect the taxes. The collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county. An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section. (ACA 26-28-108).

The county collector may collect, at any time, all delinquent personal property tax in his or her county, or any that may be sent from another county, by the sale of property or otherwise, and the county collector shall make returns of the amount so collected to the proper counties and officers. (b)(1) The county collector shall pay over to the county treasurer on the first day of each month or within ten (10) days after the first day of each month all amounts collected for his or her county under this section. (2) However, upon a certificate of distribution of the amounts collected under this section being prepared by the county clerk, county collector, or other county officer designated pursuant to § 26-28-102(a), which certificate shall be issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds the amount due each fund. (c)(1) All costs associated with such delinquent personal property taxes shall be prorated to the original taxing entities. (2) All penalties shall be deposited as county revenues into the county general fund. (d) For purposes of this section, the costs and penalties associated with delinquent personal property taxes shall not be considered a portion of the county collector's revenue in calculating excess commissions. (ACA 26-36-209).

Transmit to the county treasurer all taxes on timberland by 20th day following the end of quarter (ACA 26-61-107, 26-61-108, and 26-61-110).

Submit quarterly report of privilege taxes collected, and pay these into the treasury within twenty (20) days after license is granted for taxes paid (ACA 26-76-105).

### **ACA 26-35-501. Time to pay – Installments.**

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, all ad valorem taxes levied on real and personal property by the several county courts of the state when assembled for the purpose of levying taxes, except taxes on the property of utilities and carriers and all ad valorem taxes on real property held in escrow, are due and payable between the first business day in March and October 15 inclusive in the year succeeding the year in which the levy is made. (B) A county collector may open the tax books for payment of ad valorem taxes before the first business day in March if: (i) The tax books have been delivered; and (ii) The real and personal property taxes have been certified for collection.

(2)(A) Except as provided in § 26-35-601, every taxpayer other than a utility or carrier has the option to pay the current taxes on real property and personal property of the taxpayer in installments:

(B)(i) A county collector may authorize the county's taxpayers other than a utility or carrier to pay current real property taxes and personal property taxes in **installments in any amount between the first business day in March and October 15 inclusive.**

(ii) Except as provided in § 26-35-601, a county collector shall not accept payment of delinquent real property taxes from a taxpayer unless the delinquent personal property taxes of the taxpayer are paid in full.

(b) All ad valorem taxes levied on the real and personal property of **utilities and carriers** shall be due and payable as follows:

(1) One-fourth ( $\frac{1}{4}$ ) between the first business day in March and the third Monday in April inclusive;

(2) One-fourth ( $\frac{1}{4}$ ) between the third Monday in April and the second Monday in June inclusive; and

(3) One-half ( $\frac{1}{2}$ ) between the second Monday in June and October 15 inclusive, in the year succeeding the year in which the levy is made.

(c)(1) A county collector shall assess a penalty of ten percent (10%) against all unpaid tax balances remaining after October 15 for every taxpayer other than a utility or carrier or after the prescribed dates listed in subsection (b) of this section for utilities and carriers.

(2)(A) A taxpayer paying in installments under subdivision (a)(2) of this section shall not be assessed a penalty until the taxes become due and remain unpaid after October 15.

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

(3)(A) A property tax balance payment is timely received under this subsection if mailed through the United States Postal Service and postmarked by October 15.

(B) If October 15 is a Saturday, Sunday, or postal holiday, a property tax balance payment is timely received if mailed and postmarked through the United States Postal Service the following business day.

**FEBRUARY:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the collector with the preparer's warrant attached, under his or her hand and the seal of his or her office, authorizing the collector to collect the taxes. The collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county. An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section (ACA 26-28-108).

**MARCH:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

All taxes levied on real estate and personal property are due and payable at the collector's office between the first business day of March and October 15 inclusive (ACA 26-36-201).

**APRIL:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

Transmit to the county treasurer all taxes on timberland by 20th day following the end of quarter (ACA 26-61-107, 26-61-108 and 26-61-110).

Submit quarterly report of privilege taxes collected, and pay these into the treasury within twenty (20) days after license is granted for taxes paid (ACA 26-76-105).

**MAY:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

**JUNE:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

**JULY:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

No later than July 1 of each year, the county sheriff or county collector shall be required to mail statements of taxes due by a taxpayer to the address provided by the taxpayer. No later than July 1 of each year, the county sheriff or county collector may in his or her discretion establish an electronic registry allowing each taxpayer to voluntarily register the taxpayer's information authorizing statements of taxes due by the taxpayer to be sent electronically using the information provided by the taxpayer. The county sheriff or county collector in his or her discretion may provide electronically to the taxpayer subsequent statements or notices for property taxes due or delinquent by using the information provided by the taxpayer. In the event the taxpayer's information changes and the electronic attempt to notify is returned undelivered, it shall be the taxpayer's obligation to furnish the correct information, or the tax statements will be sent to the mailing address of the taxpayer (ACA 26-35-705).

Transmit to the county treasurer all taxes on timberland by 20th day following the end of quarter (ACA 26-61-107, 26-61-108 and 26-61-110).

Submit quarterly report of privilege taxes collected, and pay these into the treasury within twenty (20) days after license is granted for taxes paid (ACA 26-76-105).

**AUGUST:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

**SEPTEMBER:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

**OCTOBER:**

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

Final installment of taxes due and payable no later than October 15 (ACA 26-35-501).

The third installment of one-half (1/2) shall be payable by October 15 on all real property taxes (ACA 26-35-501). The third installment of one-half (1/2) of all ad valorem taxes levied on the real and personal property of utilities and carriers shall be due and payable on October 15 in the year succeeding the year in which the levy is made (ACA 26-35-501).

It shall be the duty of the county collectors of the respective counties to assess a penalty of ten percent (10%) against all unpaid tax balances remaining after October 15 for every taxpayer other than a utility or carrier (ACA 26-35-501).

Except as provided in subdivision (a)(1)(B) of this section, all taxes levied on real estate and personal property are due and payable between the first business day of March and October 15. All taxes unpaid after October 15 are delinquent. (In cases where October 15 falls on a Saturday, Sunday, or a holiday observed by the U.S. Postal Services, the taxes shall become due and payable the following business day that is not a holiday observed by the U. S. Postal Service.) (ACA 26-36-201)

Transmit to the county treasurer all taxes on timberland by 20th day following the end of quarter (ACA 26-61-107, 26-61-108 and 26-61-110).

Submit quarterly report of privilege taxes collected, and pay these into the treasury within twenty (20) days after license is granted for taxes paid (ACA 26-76-105).

**NOVEMBER:**

Transmit to the county treasurer all taxes on timberland by 20th day following the end of quarter (ACA 26-61-107, 26-61-108 and 26-61-110).

Submit quarterly report of privilege taxes collected, and pay these into the treasury within twenty (20) days after license is granted for taxes paid (ACA 26-76-105).

Collector shall file with the county clerk a list of all uncollected Levee taxes (ACA 14-123-507).

**DECEMBER:**

No later than December 1 in each year, the county collector shall prepare a list of delinquent personal & real estate property taxes and deliver a copy of such list to a legal newspaper of the county for publication (ACA 26-36-203).

Before initiating collection proceedings under 26-36-213, the collector shall, by December 1, prepare a list of the delinquent taxes on mineral interests in his or her county and present the list, along with specified information, to the

Association of Arkansas Counties. The Association will publish the list to a website with seven (7) days of receiving the list. The county collector shall also publish the notice in a newspaper of the county, with a link to the above website. The collector will also publish the notice at the courthouse and provide notice through the county website (ACA 26-36-213).

If a taxpayer fails to pay property tax due on mineral interests by October 15, the county collector, after December 1, may present a certified statement demanding payment from anyone who has funds derived from the delinquent property and due to the delinquent taxpayer. The collector may also demand payment of the delinquent taxes plus penalties (10%) and interest (ACA 26-36-213).

Pay over all funds to county treasurer on first of each month or within ten (10) working days thereafter (ACA 26-39-201).

Prorate the interest and costs associated with delinquent personal property taxes (ACA 26-36-209).

Settlement made with board of levee Directors on or before December 15 (ACA 14-123-506).

Settlements filed with county court on or before the fourth Monday of December (ACA 26-39-401).

After the settlement made with the county collector by the county clerk has been examined and acted upon by the county court, the county collector shall make settlement with the county and its various subdivisions on or before December 30 of each year (ACA 26-39-404).

**CODE REFERENCES**

**ACA 14-90-904. Municipal improvement districts collection of assessment – Moneys paid over less fees.**

The collector shall collect that part of the assessment extended against each lot, block or parcel of land as specified in the certified copy of assessment of benefits filed with him. Within thirty (30) days after the expiration of the time for paying the first annual assessment the collector shall pay to the county treasurer for the credit of the district all moneys received by him in the payment of the said first annual special assessment, less the fees allowed him by the provisions of ACA 14-90-913. The county treasurer shall immediately pay all funds so paid to him by the collector to the board of improvement or other persons authorized to receive the same, less the fees allowed by the provisions of ACA 14-90-913.

**ACA 14-90-905. Municipal improvement districts – Certification of list of delinquencies.**

Within 30 days after the expiration of the period allowed for the payment of the first annual special assessment, the collector shall certify to the clerk of the chancery court of the county in which the district lies a list of the lands which have become delinquent by reason of the non-payment of the said first annual special assessment within the time specified under ACA 14-90-903. On such list the collector shall show

the name of the supposed owner as it appears on the tax books, describe the delinquent lot, block or parcel of land and indicate after each description the amount of the delinquent installment and the year in which such installment became due.

**ACA 14-123-505. Water drainage and Levee districts taxes – Remittance by tax collector in districts having land in four or more counties.**

During the period permitted for the collection of levee taxes in levee districts embracing lands in four (4) or more counties within the State, each county collector shall make remittance of all collections to the treasurer of the Board of Directors every ten (10) days or more often if required by said Board of Directors to do so.

**ACA 14-123-506. Water drainage and Levee districts taxes – Report of tax collectors – Final settlement – Penalty for failure to make.**

When the time for payment of levee taxes as now provided by law shall have expired, the several collectors of taxes shall cease to collect such taxes and shall at once make up a report to the Board of Directors of said district of all taxes collected for the current year. This report together with the tax books shall be delivered by the collector to said board on or before December 15, and at the time of delivery of said report and tax books the county collector shall make final settlement with said board for all taxes collected during the current year. If any such collector shall fail to make final settlement within the time herein fixed, he shall be chargeable with a penalty for each day that he may be delinquent with such settlement, in a sum equal to five percent (5%) of the amount of compensation to which he would otherwise be entitled.

**ACA 14-123-507. Water drainage and Levee districts tax reports – List of uncollected taxes.**

The collector shall also file with the clerk of the chancery court of the county for which he is collector of levee taxes, at the time as is now required by law, a list of all uncollected levee taxes, showing thereon the name of the supposed owner, the description of the delinquent property, the amount of the uncollected tax, and all penalties. Said list shall have affixed thereto an affidavit of the county collector verifying its correctness. The county collector shall also deliver a copy of such list to the Secretary of the Levee District.

**ACA 14-120-226. Tax levy by board.**

(a) The board of directors of any levee district, drainage district, or levee and drainage district is authorized and empowered, and it is made their duty, to assess and levy annually a tax upon the increased value, or betterment, estimated to accrue, and which will accrue, to lands, town lots, blocks, railroads, and tramroads, telegraph and telephone lines, and electric power lines, and all other real property lying within the boundaries of any such district, by reason of the construction and perpetual maintenance and

operation of the flood control and drainage works provided for in any projects heretofore adopted and authorized or any projects which may be hereafter adopted and authorized, for the purpose of enabling the district to comply with the provisions of any contract or agreement that it may make with the United States of America, the Secretary of the Army, the Chief of Engineers of the United States Army, or any other federal agency under which it may obligate itself:

(1) To provide, without cost to the United States, all lands, easements, and rights-of-way necessary for the construction of any adopted and authorized project;

(2) To hold and save the United States free from damages due to the construction of such flood control and drainage works; and

(3) To maintain and operate such flood control and drainage works, after completion, in accordance with regulations prescribed by the Secretary of the Army; and

(4) To perform any and all other requirements which may be imposed on it with respect to the construction of such flood control and drainage works and the perpetual maintenance and operation of those works.

(b) The tax to be so annually levied on the increased value, or betterment, shall not exceed five percent (5%) of the increased value, or betterment, as determined and fixed under §§ 14-120-223 and 14-120-224 not to exceed two dollars and fifty cents (\$2.50) per acre on rural lands.

**ACA 14-124-115. Tax levy – Rate Limitation.**

(a) The board of directors or commissioners shall annually, at a regular meeting or at a special meeting called for that purpose, levy a tax on the benefits as assessed and equalized by the board of assessment and equalization.

(b) The rate of the tax shall be subject to the limitation, for the equal protection of all classes of property, that the tax on rural lands according to the rate shall not exceed two dollars and fifty cents (\$2.50) per acre.

**ACA 26-61-107, 26-61-108, 26-61-110. Timberland taxation and license – Classification as timberland collection.**

The Assessment Coordination Department shall establish standards for the classification of lands in this State which are deemed as timberlands, and shall certify such standards to the respective assessors of the various counties in this State. It shall be the duty of the several tax assessors in the respective counties of this State to identify upon the assessment records of all taxable real property in their respective counties the number of acres of property which are classified as timberlands. Such information shall be extended on the assessment records submitted to the respective county clerks and the same shall be extended on the tax books at the rate of tax per acre of timberlands as provided herein, as separate item of taxes to be collected by the respective county tax collectors at the same time that real property taxes are paid. The county clerk shall be entitled to a fee of two percent (2%) of the taxes collected here under to defray the costs incurred by the clerk in performing his duties in connection with the taxes herein levied. The special taxes levied under the provisions of (ACA 26-61-101 et al) shall be paid by the respective owners of timberlands at the time real property taxes are paid, but in no

event later than October 15 of the year next following the year in which such taxes were extended on the tax records. The county treasurer shall, on or before the twentieth (20th) day following the end of each calendar quarter, transmit to the Arkansas Forestry Commission all taxes collected under the provisions of this act during the preceding calendar quarter. The county collector shall be allowed a fee of two percent (2%) as fee of his/her office to defray the cost of collection and the county treasurer shall be allowed a two percent (2%) commission in accordance with ACA 21-6-302, and the Arkansas Forestry Commission shall, upon receipt thereof, deposit the same with the Treasurer of State, who shall deposit the moneys as special revenues in the State Forestry Fund Account, as provided in ACA 26-61-103.

**ACA 26-28-108. Tax books and records – Delivery of tax books to collector.**

On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the collector with the preparer's warrant attached, under his or her hand and the seal of his or her office, authorizing the collector to collect the taxes. The collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county. An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section.

**ACA 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 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 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 any taxes in excess of the amount required to be paid before the delinquency date under this section without penalty or interest.

(c) A property owner appealing a personal property tax assessment to the circuit court 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 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 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.

**ACA 26-36-203. Delinquent taxes – Publication of list of delinquent personal property tax – Cost of advertisement.**

No later than December 1 in each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper of the county. Within seven (7) days thereafter, the newspaper shall publish the list. The newspaper shall publish the list in at least seven (7) point size type. If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having general circulation in the county or district for which the list is being published.

The publication shall show, besides the name of the taxpayer, his school district and the total amount of taxes delinquent, including penalties. 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
A & 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 non-payment of taxes for the year \_\_\_\_\_.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

COLLECTOR FOR \_\_\_\_\_  
County, Arkansas

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ County Clerk."

(SEAL) \_\_\_\_\_

The newspaper publishing this list shall receive as publication cost the sum of one dollar and twenty-five cents (1.25) per name, per insertion, which sum together with fifty cents (50¢) per name for the collector preparing and furnishing the list, shall be charged to the delinquent taxpayer, and shall be paid by the county collector from any moneys in his possession derived from payment of personal property taxes. The receipt for the payment, verified by the certificate of the county clerk as to its correctness, shall entitle the county collector to a credit for the amount so paid.

This section shall be cumulative to all existing laws relative to the collection of personal property taxes.

**ACA 26-37-107. Publication of delinquent list.**

(a)(1)(A) The county collectors of this state shall cause the list of the delinquent lands in their respective counties to be prepared and a copy of the list to be delivered to a legal newspaper of the county by no later than December 1 of each year.

(B)(i) Within seven (7) days thereafter, the newspaper shall publish the list.

(ii) The newspaper shall publish the list in at least seven-point type.

(C) If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication.

(2) If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a

general circulation in the county or district for which the list is being published.

(3) The list of delinquent lands shall contain at least the name of the owner and the legal description of the property as was recorded on the tax book.

(b) The publication shall be in substance as follows:

**"DELINQUENT REAL ESTATE TAX LIST**

The Real Estate Tax Books of \_\_\_\_\_ County reflect the following list of real property to be delinquent for nonpayment of taxes for the year \_\_\_\_\_ (The amount included in the "Tax, Penalty and Cost" column may not include all penalties and costs and will not include interest and special improvement assessments that may be due at the time of payment.)

**NAME OF OWNER LEGAL DESCRIPTION BASE DELINQUENCY**

Brown, Bill	pt. W ½ NE SW Sect 6 Twp 17 Rn	
5 5 Acs .....		\$44.25
Doe, John Lot	3 Blk 5 Plainview Add.....	\$31.25
Jones, John	W ½ Lot 8 Blk 54 Meriweather	
Trust .....		\$42.24
Roe, Richard	SW ¼ SE frac14; Sec 12 Twp	
18E Rn 6E 40 Acs .....		\$37.25

NOTICE IS HEREBY GIVEN THAT said several tracts, lots or parts of lots, will be held as delinquent for a one-year period from this date and then certified to the State of Arkansas, Commissioner of State Lands, for collection or to be sold, unless the delinquent taxes, penalties, and costs are paid before the end of the one-year period.

(Date of Notice) \_\_\_\_\_ Collector \_\_\_\_\_  
County."

(c)(1) The legal fee for each required publication of delinquent real property tax lists shall be one dollar and fifty cents (\$1.50) per tract per insertion.

(2) The fee shall be added as costs of forfeiture and shall be paid by the county collector from any moneys in the county collector's possession derived from the payment of real property taxes.

(3) The receipts for the payment, verified by the certificate of the county clerk as to its correctness, shall entitle the county collector to a credit for the amount so paid.

(d) The requirements of this section do not apply to delinquent taxes on mineral interests, which shall comply with the requirements stated in § 26-36-213.

**STEPS NECESSARY TO TRANSMIT TAX DELINQUENT REAL ESTATE TO THE STATE**

**STEP 1.** All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 15, shall be forfeited to the state and transmitted by certification to the Commissioner of State Lands for collection or sale. The Commissioner of State Lands may accept an

electronic certification of tax delinquent parcels from a county (ACA 26-37-101).

**STEP 2.** The County Collector shall hold all tax delinquent lands in the county for one (1) year after the date of delinquency, and, if the land is not redeemed by the certification date, which shall be no later than July 1 of the following year, the collector shall transmit it to the state by certification, after notice as provided in this chapter, indicating all taxes, penalties, interest, and costs due and the name and last known address of the owner of record of the tax-delinquent lands. Upon receipt of the certification, title to the tax delinquent lands shall vest in the State of Arkansas in care of the Commissioner of State Lands (ACA 26-37-101).

**STEP 3.** The county collectors of the counties of this state shall cause the list of the delinquent lands in their respective counties to be prepared and a copy of the list to be delivered to a legal newspaper of the county by no later than December 1 of each year.

Within seven (7) days thereafter, the newspaper shall publish the list. The newspaper shall publish the list in at least seven (7) point size type. If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication.

If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published.

The list of delinquent lands shall contain, at least, the name of the owner and the legal description of the property as was recorded on the tax book.

The publication shall be in substance as follows:

**"DELINQUENT REAL ESTATE TAX LIST**

The Real Estate Tax Books of ..... County reflect the following list of real property to be delinquent for nonpayment of taxes for the year ..... (the amount included in the "Tax, Penalty and Cost" column may not include all penalties and costs and will not include interest and special improvement assessments that may be due at the time of payment.)

**NAME OF OWNER LEGAL DESCRIPTION BASE DELINQUENCY**

Brown, Bill	pt. W 1/2 NE SW Sect 6 Twp 17 Rn 5 Acs	\$44.25
Doe, John Lot	3 Blk 5 Plainview Add.	\$31.25
Jones, John W	1/2 Lot 8 Blks 54 Meriweather Trust	\$42.24
Roe, Richard	SW 1/4 SE 1/4 Sec 12 Twp 18E Rn 6E 40 Acs	\$37.25

NOTICE IS HEREBY GIVEN THAT said several tracts, lots or parts of lots, will be held as delinquent for a one-year period from this date and then certified to the State of Arkansas, Commissioner of State Lands, for collection or to be sold, unless the delinquent taxes, penalties, and costs are paid before the end of the one-year period.

(Date of notice).....Collector.....County."

The legal fee for each required publication of delinquent real property tax lists shall be one dollar and fifty cents (\$1.50) per tract per insertion.

The fee shall be added as costs of forfeiture and shall be paid by the collector from any moneys in his lands derived from the payment of real property taxes.

The receipts for such payment, verified by the certificate of the county clerk as to its correctness, shall entitle the collector to a credit for the amount so paid. The requirements of this section do not apply to delinquent taxes on mineral interests, which shall comply with the requirements stated in § 26-36-213 (ACA 26-37-107).

#### **MINIMUM BID**

- (b) The notice shall:
- (1) Contain the assessed value of the land;
  - (2) Contain the amount of taxes, interest, penalties, and other costs due on the land;
  - (3)(A) Contain the name of the owner, the legal description, and parcel number of the land.  
(B) A part or abbreviated legal description shall be sufficient in the notice if the name of the owner and parcel number are listed;
  - (4) Contain a list of all interested parties; and
  - (5) Indicate that the land will be sold to the highest successful bidder if the bid is equal to at least the amount of delinquent taxes, penalties, interest, and the costs of the sale. (ACA 26-37-201).

#### **TIME PERIOD FOR REDEMPTION**

- (1) After a sale of the land by the Commissioner of State Lands, regardless of whether the sale occurred at a tax-delinquent property auction, an unsold-property auction, or a negotiated-price sale, the Commissioner of State Lands shall notify the owner and all interested parties of the right to redeem the land within ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the date of the sale by paying all taxes, penalties, interest, and costs due, including the cost of the notice.
- (2) The notice under subdivision (e)(1) of this section shall be sent by regular mail to the last known address of the owner and all interested parties.
- (3) If the land is not redeemed, a limited warranty deed shall be issued by the Commissioner of State Lands to the purchaser (ACA 26-37-202 (e)).

#### **CONTEST OF SALE**

- (a) If the tax-delinquent land is sold, the Commissioner of State Lands shall convey the tax-delinquent land by issuing a limited warranty deed to the land (ACA 26-37-203 (a)).

#### **ACA 26-39-201. Monthly settlement – Money paid into treasury – Time for payment.**

A county clerk, probate clerk, circuit clerk, county sheriff, county collector, or any other county official shall pay over to the county treasurer on the first of each month, or within ten

(10) days thereafter, all funds in his or her possession belonging to the county or its subdivisions that are by law required to be paid into the county treasury, whether taxes, fines, or any moneys that are collected for any purpose by law and belonging to the county.

Inmate commissary trust account balances belonging to the inmate and held by the county sheriff are not deemed county funds and are not subject to this section.

This section does not mean that the county collector shall make a distribution of taxes to all funds but that he or she shall settle with the county treasurer in a lump sum, and the county treasurer shall credit it to the county collector's unapportioned account.

Upon the issuance of a certificate of the county clerk or other county officer designated pursuant to § 26-28-102(a) that is issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds ninety percent (90%) of the advance payments made by the county collector during the collecting period and, upon final settlement, the proper adjustments shall be made with the various accounts, and the balance remaining in the unapportioned account shall be distributed upon order of the county court approving the final settlement of the county collector.

#### **ACA 26-39-301, 26-39-401, 26-39-402. Annual report of settlement – Collector's settlements reviewed by county court – Failure of judge to act – Failure of collector to file delinquent tax list – Failure of clerk to show settlement – Penalties.**

Any county collector who shall fail to file with the county clerk a full and complete list of all delinquent personal taxes on the day required by law shall be guilty of a violation punishable by a fine of one hundred dollars (\$100) or removal from office.

Any county clerk or other county officer designated pursuant to § 26-28-102(a) who fails to set up the settlement of the county collector setting forth the amount due the various funds on or before the fourth Monday of December of each year upon conviction is guilty of a violation punishable by a fine of one hundred dollars (\$100) or removal from office.

All county collectors' settlements shall be made and filed with the county courts on or before the fourth Monday of December each year. It is the duty of the county courts to pass upon the settlements of the county collectors and to approve, reject, or restate them on or before December 31 of each year. Failure of the county judge to so approve, reject, or restate the settlements of the county collector within this period of time shall constitute a misfeasance in office and shall be a violation punishable by a fine of one hundred dollars (\$100) or removal from office.

**ACA 26-39-403. Settlement of Money Collected – Approval or Rejection.**

If the tax settlement shall be found to be correct, the county court shall order the tax settlement spread in full upon the records of the county court.

The county clerk or other county officer designated pursuant to § 26-28-102(a) shall certify to the Auditor of State, without delay, the action of the county court on the tax settlement, whether approved or rejected.

If rejected, the county clerk or other county officer designated pursuant to § 26-28-102(a) shall immediately proceed to restate the tax settlement and again submit it to the county court.

**ACA 26-39-404. Taxation and licenses – Officer's settlements for funds – Distribution – Collectors to make settlement with state and subdivisions.**

After the tax settlement made with the county collector by the county clerk or other county officer designated pursuant to § 26-28-102(a) has been examined and acted upon by the county court, as provided in § 26-39-402, the county collector shall make settlement with the county and its various subdivisions on or before December 30 of each year.

**ACA 26-76-105. Taxation and licenses – County privilege and license taxes – Report of taxes collected and licenses issued – Penalty for failure.**

The privilege taxes paid as provided in this act to the county collector shall be reported by him or her quarterly and paid into the county treasury within twenty (20) days after the granting of the license for which the privilege tax is paid.

Each county collector shall at the end of each quarter make to the clerk of the county a detailed report of the licenses issued by the county collector during the quarter, showing the number and date of the license; the name of the license; the privilege for which it was issued; and the amount collected for it.

If a county collector fails to make the report, the county collector shall be notified by the clerk of the county court and required to make the report.

Upon conviction, a county collector who fails to perform any of the duties required of the county collector under this act is guilty of a violation and shall be fined in any sum not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000).

**ACA 22-6-116. Certificates by collectors correcting or canceling original certificates.**

When any county collector determines that the original certification to the Commissioner of State Lands of any lands, or town or city lots, should be canceled, corrected, or in any way changed, said official shall issue a certificate to the Commissioner of State Lands. Such certificate shall contain

the legal description of the property, state the change and state the appropriate manner in which to make such change.

Upon receipt of any cancellation or correction certificate, the Commissioner of State Lands shall determine whether the certificate offers sufficient evidence to warrant cancellation or correction of the certification of real property. If the Commissioner determines that cancellation or correction is warranted, the Commissioner shall approve the cancellation or correction certificate, amend the records of the Commissioner of State Lands, forward the certificate to the county collector, and the certificate shall be filed with the recorder of the county and properly recorded in the deed records. A recorded copy of such certificate shall be transmitted to any other county officials upon whose records the parcel is recorded.

Whenever a cancellation or correction certificate has been recorded in the records of the Commissioner of State Lands, the Commissioner shall issue a cancellation or correction deed on property which has been redeemed, sold, or otherwise disposed of as tax-forfeited land. The Commissioner shall forward the deed to be filed in the county where the property is located.

No recording fee shall be charged by or against the recorder on any cancellation or correction certificate or on any cancellation or correction deed issued by the Commissioner of State lands.

When any county assessor shall determine that the information on tax-delinquent parcels is erroneous, whether by legal description, name of record owner, double assessment, or other cause, the assessor shall inform the county collector of such change, and the county collector shall forward a cancellation or correction certificate to the Commissioner of State Lands as specified above.

Should information contained in the records of the Commissioner of State Lands be found to be erroneous, whether by legal description, name of record owner, or other cause, the Commissioner may, at his/her discretion, waive all or part of penalties and interests applied thereon as a result of the inaccuracies.

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

At any time after October 15, the county collector shall distraint sufficient goods and chattels belonging to a person who owes taxes upon the person's personal property, to pay the taxes due upon the personal property and a penalty of twenty-five percent (25%) thereon on the taxes due. If the county collector distrains goods and chattels under subdivisions (a)(i) of this section, the county collector shall immediately proceed to advertise the sale of goods and chattels in three (3) public places in the county, stating the time and the place where the goods and chattels will be sold. The county collector shall collect taxes and penalties under this subsection and deposit the taxes and penalties under this subsection into the county school fund.

If the taxes 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 county collector shall proceed to sell the same at public vendue, or so much thereof as will be sufficient to pay the taxes and the costs of the distress and sale.

The county collector shall not distrain any goods and chattels for taxes levied on real property, except as provided in § 26-3-204.

The county 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. No goods and chattels of any person shall be exempt from levy and sale.

The county collector is allowed the same fees for making distress and sale of goods and chattels for the payment of taxes which are allowed by law to the county sheriff for making levy and sale of property on execution under § 21-6-307 for each delinquent taxpayer.

If a taxpayer operating a business in a county is delinquent in the payment of personal property taxes for personal property owned by or used in the business, then following the certification and publication of delinquency under § 26-36-203, the county collector may distrain goods or chattels of the taxpayer owned by or used in the business under subsection (a) of this section by publication of a Notice of Distraint and Tax Sale in three (3) public places in the county or in a newspaper of general circulation in the county.

The Notice of Distraint and Tax Sale shall contain:

- The location, date, and time of the sale;
- The name of the taxpayer and business under which the goods or chattels to be sold is assessed;
- The principal sum of personal property taxes owed with a certification of the principal sum by the county collector;

- The following specific information:
  - "The goods or chattels of the taxpayer listed above located within \_\_\_\_\_ County, Arkansas, is under distraint and shall be sold to satisfy the delinquency in the payment of personal property taxes under Arkansas Code § 26-36-206. Under Arkansas Code § 26-34-101, the taxes assessed on real and personal property shall constitute a lien entitled to preference over all other judgments, executions, or encumbrances, or liens whensoever created. Under Arkansas Code § 4-1-201, a buyer in ordinary course of business does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt."; and
- A statement that it is a Class B misdemeanor to remove, destroy, or deface the Notice of Distraint and Tax Sale or to interfere or obstruct the sale of or the access to the goods or chattels on the date of the sale by the county collector, the county sheriff, or their deputies.

The county collector shall provide a copy of the Notice of Distraint and Tax Sale to the taxpayer by regular mail or by posting a copy at the physical location where the goods or chattels are held. The Notice of Distraint and Tax Sale shall be posted conspicuously at the location of the sale.

In lieu of physically securing the goods or chattels or storing or transporting the goods or chattels to another location for sale, the sale may be held at any place of business, warehouse, storeroom, or facility owned or under the possession of the taxpayer, including without limitation the current location of the goods or chattels to be sold.

It is a Class B misdemeanor to knowingly remove, destroy, or deface a Notice of Distraint and Tax Sale posted under this section or to knowingly interfere or obstruct the sale or access of the county collector, the county sheriff, or their deputies to the goods or chattels on the date of the sale.

## Chapter Four - WORK PROCESS DESCRIPTIONS

This section of the manual is designed to assist county collectors, newly elected and experienced alike, with daily office operations. The processes enumerated were selected because they comprise the major functions of the county collectors' office.

In reading the work processes described on the following pages, it should be remembered that these are only examples of ways to perform the functions and not the only way to perform them. Processes may vary dependent upon software used.

### **PUBLICATION REQUIREMENTS**

#### **ACA 14-14-116. Publication statement– Newspaper**

(a) A required publication made by a county in a newspaper shall include the statement "This publication was paid for by" and shall:

- (1) Identify the county entity responsible for payment of the publication;
- (2) Identify the office within the county entity responsible for payment of the publication;
- (3) Disclose the amount paid for the publication.

(b) The statement and information required under subsection (a) of this section shall be:

- (1) Provided by the county; and
  - (2) Printed in the same font size as the required publication.
- (c) This section applies to notices required to be published under §§ 14-14-104, 14-14-105, 14-14-905, 14-14-917, 14-16-105, 14-16-106, 14-21-102, 14-22-101, 22-9-203, 26-36-203, 26-37-102, and 26-37-107.

#### **ACA 14-55-208. Publication statement–Newspaper**

(a) A required publication made by a municipality in a newspaper shall include the statement "This publication was paid for by" and shall:

- (1) Identify the municipal entity responsible for payment of the publication;
- (2) Identify the office within the municipal entity responsible for payment of the publication; and
- (3) Disclose the amount paid for the publication.

(b) The statement and information required under subsection (a) of this section shall be:

- (1) Provided by the municipality; and
  - (2) Printed in the same font size as the required publication.
- (c) This section applies to notices required to be published under §§ 14-55-206, 14-58-303, 14-59-116, and 22-9-203.

### **FILING TAX STATEMENTS**

On or before February 1 of each year, the preparer of tax books of each county shall print and deliver the tax books of his or her county to the collector with the preparer's warrant attached, under his or her hand and the seal of his or her office, authorizing the collector to collect the taxes. The collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the

county. An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section (ACA 26-28-108).

### **POSTAGE**

ACA 26-35-706 allows every county collector who mails tax statements to charge the taxpayer a postage fee not to exceed the cost of first class postage to defray the expense of processing and mailing tax statements. Due to the substantial savings in postage, paper, handling, and labor cost from delivery of statements and notices electronically using information provided by the taxpayer, the county sheriff or county collector sending the tax statement and notices may waive the costs for mail delivery from taxpayer property tax statements or may charge the reduced costs of electronic notification.

### **MAILING TAX STATEMENTS**

ACA 26-35-705 requires the sheriff or collector to mail tax statements no later than July 1 of each year. The sheriff or collector has the discretion to establish, no later than July 1 of each year, an electronic registry allowing each taxpayer to voluntarily register the taxpayer's personal information authorizing statements of taxes due by the taxpayer to be sent electronically using the information provided by the taxpayer. The sheriff or collector in his or her discretion may provide electronically to the taxpayer subsequent statements or notices for property taxes due or delinquent by using the information provided by the taxpayer. In the event the taxpayer's information changes and the electronic attempt to notify is returned undelivered, it shall be the taxpayer's obligation to furnish the correct information or the tax statement will be sent to the mailing address of the taxpayer.

**STEP 1:** County collector should receive a request list from the various mortgage companies that pay real estate property taxes in the county. This list should show the parcel numbers and names and addresses of the various taxpayers that the mortgage companies pay real estate taxes on.

**STEP 2:** Once these lists are received, the proper real estate statements should be mailed to the various mortgage companies. These taxpayers should not be mailed a statement since the mortgage company is responsible for paying their taxes.

**STEP 3:** The personal property statements should be combined with the real estate statements for those taxpayers who own both real estate and personal property. This combining of statements is very time-consuming, but results in a big saving in postage.

**STEP 4:** After the real estate and personal statements have been combined, the statements are then folded and mailed to the taxpayer, or provided electronically.

**STEP 5:** Statements are required to be mailed no later than July 1 of each year to the address provided by the taxpayer. In the event the address changes, the taxpayer has an obligation to furnish the correct address (ACA 26-35-705).

### **PAYMENT OF TAXES AND RECEIPTS ISSUED**

**STEP 1:** Taxpayer pays electronically, in office, or mails payment of taxes.

**STEP 2:** County Collector prints a receipt. If payment mailed in, then receipt is mailed back to the taxpayer (ACA 26-35-1004).

NOTE: Some Collectors require a SASE to return receipt in.

**STEP 3:** Receipts are filed in number order in which they are receipted (ACA 26-35-1004).

**STEP 4:** NOTE: Instead of hand posting, some Collectors print a permanent tax book at the end of the collection cycle that reflects the receipt number, date, amount paid, and valuations.

### **TOTALING PAYMENTS RECEIVED (BALANCING PROCEDURE)**

**NOTE:** The county collector balances the tax payments received in his office at various times (weekly or daily) depending on the amount and number of collections they have received in their office.

**STEP 1:** The county collector runs reports of all receipts issued.

**STEP 2:** This total receipted amounts should balance with the cash/checks collected. The receipt number is a control or reference number which relates back to each transaction.

**STEP 3:** Also, any delinquent improvement, delinquent personal, levee, and miscellaneous receipts should be listed on the balance check out sheet. Any overpayments, refunds or voids and cash drawer mistakes must need to be noted. The county collector's fee also needs to be listed.

**STEP 4:** The information on the balance checkout sheet can be placed in a binder to be available for monthly and final settlements.

**STEP 5:** The receipts may be placed in ring binders and kept for future reference to the time of the monthly or final settlement. (ACA 26-39-201 - 26-39-221)

### **MONTHLY SETTLEMENT WITH COUNTY TREASURER**

The monthly settlement with the county treasurer is required by ACA 26-39-201.

(a)(1) A county clerk, probate clerk, circuit clerk, county sheriff, county collector, or any other county official shall pay over to the county treasurer on the first of each month, or within ten (10) days thereafter, all funds in his or her possession belonging to the county or its subdivisions

that are by law required to be paid into the county treasury, whether taxes, fines, or any moneys that are collected for any purpose by law and belonging to the county.

(2) Inmate commissary trust accounts held by the county sheriff are not deemed county funds and are not subject to this section.

(b)(1) This section does not mean that the county collector shall make a distribution of taxes to all funds but that he or she shall settle with the county treasurer in a lump sum, and the county treasurer shall credit it to the county collector's unapportioned account.

(2) Upon the issuance of a certificate of the county clerk or other county officer designated pursuant to § 26-28-102(a) that is issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds ninety percent (90%) of the advance payments made by the county collector during the collecting period and, upon final settlement, the proper adjustments shall be made with the various accounts, and the balance remaining in the unapportioned account shall be distributed upon order of the county court approving the final settlement of the county collector.

### **FINAL TAX SETTLEMENT**

**NOTE:** The final tax settlement is a very important part of work of the county collector. The county collector, with the help of the county clerk and treasurer, makes the final settlement of taxes to all the taxing units in the county (ACA 26-39-402).

After the tax settlement made with the collector by the county clerk or other county officer designated pursuant to §26-28-102(a) has been examined and acted upon by the county court, as provided in § 26-39-402, the collector shall make settlement with the county and its various subdivisions on or before December 30 of each year (ACA 26-39-404).

The Division of Legislative Audit has published a booklet entitled Suggested Procedures for Preparation of the Final County Tax Settlement.

The Association of Arkansas Counties recommends that each county collector obtain a copy of this final settlement publication before making a final settlement. A copy can be obtained from:

Division of Legislative Audit  
Arkansas State Capitol, Room 172  
Little Rock, AR 72201

Telephone (501) 683-8600

### **ACA 14-121-426. Time for tax payment for IMPROVEMENT DISTRICTS**

(a) All taxes levied under the terms of this act shall be payable on or before October 1 of each year.

(b) If any taxes levied by the county court in pursuance to this act are not paid at maturity, the collector shall not embrace the taxes in the taxes for which he shall sell the lands, but he shall report the delinquents to the

board of commissioners of the district, who shall add to the amount of the tax a penalty of twenty-five percent (25%).

(c) The board of commissioners shall enforce the collection by chancery proceedings in a court of the county in which the lands are situated having chancery jurisdiction. The court shall give judgment against the lands, railroads, or tramroads for the amount of the taxes, and the penalty of twenty-five percent (25%) and interest thereon, from the end of the sixty (60) days allowed for the collection thereof, at the rate of six percent (6%) per annum, and all costs of the proceedings.

(d) The judgments shall provide for the sale of the delinquent lands for cash by a commissioner of the court, after advertisement as set out in § 14-121-430.

(e) Proceedings and judgment shall be in the nature of proceedings in rem.

(f) It shall be immaterial that the ownership of the lands be incorrectly alleged in the proceedings. Judgment shall be enforced wholly against the lands and not against any other property or estate of the defendant.

(g) All or any part of the delinquent lands, railroads, or tramroads for each of the counties may be included in one (1) suit for each county, instituted for the collection of the delinquent taxes, etc., as aforesaid.

#### **ACA 26-28-305. Collector – Duties.**

Under the system provided for in this subchapter, the county collector shall:

(1) Make changes to the tax books after the county assessor files the final abstract of the tax books as authorized by the county assessor by a two-part change form;

(2) Prepare the tax statements and tax receipts and collect the taxes; and

(3) Prepare and certify the monthly and final distributions of all current and delinquent taxes collected by the county collector.

#### **ACA 26-28-306. Final tax settlements.**

Under the system provided for in this subchapter:

(1) All county collectors' final tax settlements shall be made and filed with the county court on or before the fourth Monday of December each year;

(2)(A) It is the duty of the county court to pass upon the final tax settlement of the county collector and to approve, reject, or restate it on or before December 31 of each year.

(B) Failure of the county judge to so approve, reject, or restate the final tax settlement of the county collector within this period of time shall constitute a misfeasance in office and shall be a violation punishable by a fine of one hundred dollars (\$100) or removal from office;

(3)(A) If the final tax settlement shall be found to be correct, the county court shall order the final tax settlement spread in full upon the records of the county court.

(B)(i) The county clerk shall certify to the Auditor of State, without delay, the action of the county court on the final tax settlement, whether approved or rejected.

(ii) If rejected, the county collector shall at once proceed to restate the final tax settlement and again submit it to the county court; and

(4) On or before December 31 of each year, after the final tax settlement made by the county collector has been examined and acted upon by the county court as provided in this subchapter, the county collector shall make settlement with the county and its various subdivisions and with the Auditor of State for all state taxes collected.

## **Chapter Five – PAYMENT AND COLLECTION OF PERSONAL PROPERTY TAXES**

### **ACA 26-3-306. Disabled veterans, surviving spouses, & minor dependent children.**

(a)(1)(A)(i) A disabled veteran who has been awarded special monthly compensation by the Department of Veterans Affairs for the loss of, or the loss of use of, one (1) or more limbs, for total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability shall be exempt from payment of all state taxes on the homestead and personal property owned by the disabled veteran.

(ii)(a) If a disabled veteran sells his or her home, the exemption shall be prorated to the date of sale so that the disabled veteran owes no tax for the portion of the year he or she claimed the home as a homestead, and the purchaser is liable only for taxes relating to the balance of the year.

(b) If a disabled veteran purchases a home that qualifies as a homestead, the exemption shall be prorated to the date of sale so that the disabled veteran owes no tax for the portion of the year he or she claimed the home as a homestead, and the seller is liable only for the taxes relating to the balance of the year.

(c) Upon request by the disabled veteran, the county collector shall make such record entries as may be necessary to effect the proration.

(B)(i) Upon the death of the disabled veteran, the surviving spouse and minor dependent children of the disabled veteran shall be exempt from payment of all state taxes on the homestead and personal property owned by the surviving spouse and minor dependent children of the deceased disabled veteran.

(ii) The surviving spouse and minor dependent children of a member of the United States armed forces who was killed while within the scope of his or her military duties, who died while within the scope of his or her military duties, or who is missing in action, and the surviving spouse and minor dependent children of a veteran who died from service-connected causes, as certified by the department, shall also be exempt from payment of all state taxes on the homestead and personal property owned by the surviving spouse and minor dependent children.

(iii)(a) The surviving spouse shall be entitled to the exemption provided for in this section so long as the surviving spouse remains unmarried.

(b) The surviving spouse's exemptions provided for in this section are reinstated upon the termination of the surviving spouse's subsequent marriage.

(iv) A surviving spouse of a member of the United States armed forces who died while on active duty shall be eligible for reinstatement of the homestead and personal property tax exemption upon termination of a subsequent marriage and until the surviving spouse remarries.

(v) The exemption provided in this section for surviving minor dependent children shall be available to the surviving children during their minority.

(2) As used in this section, "personal property" means only those items of tangible personal property used for other than a commercial or business purpose.

(b)(1)(A) A disabled veteran eligible for the exemption provided for in this section and desiring to claim an exemption shall furnish to the county collector a letter from the department verifying the fact that the disabled veteran is in receipt of special monthly compensation for the loss of or the loss of use of one (1) or more limbs, total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability.

(B)(i) A surviving spouse or minor dependent child of a deceased disabled veteran desiring to claim the exemption provided in this section shall furnish the county collector a letter from the department verifying the fact that the deceased disabled veteran was at the time of death entitled to receive a special monthly compensation for the loss of or the loss of use of one (1) or more limbs, total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability.

(ii) In addition to the requirements in subdivision (b)(1)(B)(i) of this section, the surviving spouse or minor dependent child of the deceased disabled veteran shall furnish the county collector with an affidavit signed by the surviving spouse or minor dependent child stating that the surviving spouse or minor dependent child is a surviving spouse or minor dependent child of the named deceased disabled veteran.

(2)(A) The surviving spouse or minor dependent children of a member of the United States armed forces who was killed while within the scope of his or her military duties, who died while within the scope of his or her military duties, or who is missing in action, or a surviving spouse or minor dependent children of a veteran who died of service-connected causes, as certified by the department, desiring to claim the exemption provided in this section shall furnish the county collector a letter from the department certifying the fact that such a member of the United States armed forces is missing in action, was killed while within the scope of his or her military duties, or died while within the scope of his or her military duties or that the veteran died from service-connected causes and the surviving spouse is or would be entitled to department benefits in the form of death indemnity compensation if the surviving spouse were otherwise eligible to receive the department benefits.

(B) In addition, the surviving spouse or minor dependent child shall furnish the county collector with an affidavit signed by the surviving spouse or minor dependent child or the surviving spouse or minor dependent child's guardian stating that the surviving spouse or minor dependent child is a surviving spouse or minor dependent child of the member of the United States armed forces who is missing in action, who was killed while within the scope of his or her military duties, or who died while within the scope of his or her military duties or is the surviving spouse or minor dependent child of a veteran who died of service-connected causes as certified by the department.

(c) Only a disabled veteran and a surviving spouse and minor dependent child of a disabled veteran who are citizens and residents of the State of Arkansas shall be eligible for the exemption provided in this section.

(d) Any person evading or violating any provision of this section or attempting to secure benefits under this section to which he or she is not entitled shall be guilty of a violation and upon conviction shall be fined in any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(e) A person claiming the property tax exemption authorized by this section shall not be entitled to claim the property tax credit authorized in § 26-26-1118.

(f)(1) If a person has established eligibility for the property tax exemption created under this section, the person shall be exempt from the date the person's eligibility is established regardless of the date the lien for the property taxes attached.

(2) After a person has established eligibility for the property tax exemption created under this section, the person is exempt from property taxes on his or her homestead regardless of where the homestead is located in the state.

(3) Upon request by a county in which a person eligible for the property tax exemption created under this section is claiming an exemption for his or her homestead, a county collector shall provide the information or documentation necessary to demonstrate that the person established eligibility for the exemption created under this section in a county in which the person previously claimed a homestead.

#### **ACA 26-28-111. Correction of Errors.**

(a) When, after the tax books have been delivered to the county collector, it is ascertained that there is an error in the real or personal property tax books, the error shall be corrected in the following manner:

(1) (A) When the county assessor discovers an error in the real property tax books or any error is brought to the attention of the county assessor by any person, the county assessor shall cause the error to be corrected by completing the following prenumbered form in triplicate, indicating thereon the correction to be made: [ . . ]

(B) Upon completing and signing the above real property tax correction form, the county assessor shall transmit the form to the county collector. The county collector shall sign the form and shall transmit the form to the preparer of tax books, who shall sign and retain the form according to law.

(2) (A) When the county assessor discovers an error in the personal property tax books or any error is brought to the attention of the county assessor, he or she shall cause the error to be corrected by completing the following prenumbered form in triplicate, indicating thereon the correction to be made

(B) Upon completing and signing the above real property tax correction form, the county assessor shall transmit the form to the county collector. The county collector shall sign the form and shall transmit the form to the preparer of tax books, who shall sign and retain the form according to law.

(b) The real property tax correction forms and the personal property tax correction forms required by this section to be kept in the records of the preparer of the tax books may be destroyed upon the expiration of one (1) year after the date on which the Legislative Joint Auditing

Committee accepts and files the audit of the particular office performed by the Division of Legislative Audit.

(c) (1) This section applies only to the correction of extension errors, erroneous property descriptions, classifications, or listings.

(2)(A) A correction shall be made under this section regardless of whether the error was caused by the county assessor or the taxpayer or was the result of an erroneous record or report or other circumstance.

(B) However, a correction under this section shall not be utilized to make any change in the valuation of real or personal property as shown on the tax books and related records other than a change in valuation necessitated by the correction of factual errors as provided in this section.

(3) A reduction in the valuation of real or personal property shall not be made, except such as shall have been ordered by the county equalization board, the county court, the circuit court, or the Supreme Court, or be caused by the correction of actual and obvious errors as provided in this section.

(d) When the county assessor discovers or is informed of an error described in subsection (c) of this section in the real or personal property tax books before the tax books have been delivered to the county collector, the county assessor shall correct the error directly on the tax books and shall maintain a record of the correction in the county assessor's records.

(e) An electronic or facsimile signature of a county assessor, county collector, or county clerk is sufficient under this section.

#### **ACA 26-34-101. Preference of tax liens.**

(a) Taxes assessed upon real and personal property shall bind them and be entitled to preference over all judgments, executions, encumbrances, or liens whensoever created.

(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 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.

(c)(1) Failure to satisfy a personal property tax lien following a purchase of a business or a business's assets, goods, chattels, inventory, or equipment not in the ordinary course of business shall result in the assessment of an additional penalty under ACA 26-36-201(c) except with respect to a purchase of the following:

(A) A vehicle subject to registration; or

(B) A manufactured home or a mobile home.

(2) A purchase of a business or a business's assets, goods, chattels, inventory, or equipment not in the ordinary course of business does not include the deed of property in lieu of foreclosure or the acquisition of title to property following a foreclosure sale.

**ACA 14-54-904. Enforcement of lien for clearance by municipality.**

- (a) The liens provided for in § 14-54-903 may be enforced and collected at any time within ten (10) years after a lien has been filed in either one (1) of the following manners:
- (1) By an action for foreclosure in the circuit court by the city or town, or if the city or town has established a land bank, by a land bank that has been assigned the lien; or
- (2)(A) The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the governing body of the municipality to the tax collector of the county where the municipality is located and placed by him or her on the tax books as delinquent taxes and collected accordingly.
- (B) The amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.
- (b)(1)(A) In any situation in which a city of the first class or city of the second class issues an order for the removal, repair to return the structure to compliance with minimum building code standards, or razing of a building or house under the provisions of § 14-56-203 and such order is not complied with by the owner of the building or house and the city then removes, repairs, or razes the building or house, a lien is granted and given against the real property for the cost of the removal, repair, or razing.
- (B) If the city determines to repair the building or house to meet the minimum building code standards, the city shall comply with all necessary requirements under § 14-58-303 for competitive bidding for purchases of supplies and materials or for contracts for work or labor needed to complete the repairs on the building or house.
- (2) The lien granted by this subsection shall also be enforced pursuant to the lien enforcement procedures set forth in subsection (a) of this section.
- (c) In all suits brought to enforce the liens described in this section, the reimbursement of costs, including title search fees and reasonable attorney's fees, shall be awarded to the municipality.

**ACA 26-34-103. Liability of executor or administrator.**

The personal property of any deceased person shall be liable in the hands of any executor or administrator for any tax due on the same by any testator or intestate.

**ACA 26-35-201. Distraint when taxpayer about to move.**

- (a) If a county collector has reason to believe that a person charged with taxes, other than taxes upon real estate, is about to remove from the county without paying the person's taxes, at any time, the county collector may levy and collect the taxes with costs by distress and sale.
- (b) A county collector may levy and collect the charged taxes with costs by distress and sale if the delinquent taxes are not satisfied or paid in full following the sale of a business or the sale of the assets, goods, chattels, inventory, or equipment of a business not in the ordinary course of business.

**ACA 26-35-601. Personal property taxes to be collected with real estate taxes.**

- (a) Each county collector in this state shall be charged with the responsibility of collecting personal property taxes shown to be due by the taxpayer as reflected by the records in the county collector's office at the time the taxpayer pays the general taxes due on real estate.
- (b) Any county collector knowingly accepting payment of general real estate taxes without requiring the payment of personal property taxes due as reflected by the records in the county collector's office shall be deemed guilty of a violation and upon conviction shall be fined in a sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).
- (c)(1) Except as provided in subdivisions (c)(2)-(4) of this section, it is the intention of this section to require the collection of personal property taxes as reflected by the records in the office of the county collector and to prevent a taxpayer from paying and the county collector from receiving payment of general real estate taxes without payment of personal property taxes if any personal property taxes are shown to be due.
- (2) The provisions of this section shall not prevent any person, firm, partnership, or corporation from paying general real estate taxes on property securing the payment of indebtedness due the person, firm, partnership, or corporation seeking to pay the taxes.
- (3) Notwithstanding the other provisions of this section, a county collector shall accept payment of general real estate taxes on a parcel of property at the time the ownership of the property is being transferred if the taxpayer transferring title to the property has paid all delinquent personal property taxes.
- (4) Furthermore, a purchaser in a foreclosure sale shall not be responsible for the payment of the personal property taxes required to be paid by this section.

**ACA 26-36-201. Dates taxes due and payable.**

- (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, all taxes levied on real estate and personal property for the county courts of this state, when assembled for the purpose of levying taxes, are due and payable at the county collector's office between the first business day of March and October 15 inclusive.
- (B) A county collector may open the tax books for payment of taxes before the first business day in March if:
- (i) The tax books have been delivered; and
- (ii) The real and personal property taxes have been certified for collection.
- (2) All taxes unpaid after October 15 are delinquent.
- (b)(1) The county collector shall extend a penalty of ten percent (10%) against all delinquent taxpayers that have not paid their taxes within the time limit specified.
- (2) The county collector shall collect the penalty provided in subdivision (b)(1) of this section.
- (c) The county collector shall extend an additional penalty of ten percent (10%) upon all delinquent taxpayers if the taxpayers' delinquent personal property taxes are not satisfied or paid in full by October 15 following the purchase of a business or the assets, goods, chattels, inventory, or

equipment of a business not in the ordinary course of business.

(d) A penalty shall not be assessed against a taxpayer who is a member of the United States armed forces, reserve component of the armed forces, or the National Guard during the taxpayer's deployment plus one (1) tax year after the deployment ends.

(e) When October 15 falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, the taxes shall become due and payable the following business day that is not a holiday observed by the United States Postal Service.

**ACA 26-36-204. Striking of names on list.**

(a) The delinquent list, together with the fees allowed to any county collector, shall be delivered to his or her successor, and it shall be returned to the county clerk by the outgoing county collector for that purpose, and so on until the whole shall be collected.

(b) After the list has been returned two (2) years, the county court shall have power to strike all names of persons who, in the opinion of the county court, own no property out of which the taxes due on the list can be made by sale or otherwise.

(c) The county court shall have the authority to strike off the delinquent and assessment list at any time the names of persons who own mobile homes which are assessed as real property, improvement only, who, in the opinion of the county court, have vacated the jurisdiction or own no property out of which the taxes due can be made by sale or otherwise.

**ACA 26-36-208. Relocation of taxpayer.**

(a) Each county collector in making returns of the delinquent lists of personal property to the county clerk shall note on the margin of the returns the county in this state to which any delinquent taxpayer may have removed or resides in, with the date of his or her removal, if the county collector is able to ascertain that fact.

(b) The county clerk shall immediately forward to the county clerk of any county of this state, which any delinquent taxpayer has removed to or resides within, a certified statement or account of the taxes so assessed and not paid. The certified statement shall specify the value of the property on which the taxes were levied and the amount of the taxes levied thereon, with the penalty and cost. The county collector shall proceed to collect the delinquent taxes in the same manner, and with like authority, as prescribed in this subchapter for collecting delinquent taxes upon personal property and shall make return thereof to the county collector of the proper county.

**ACA 26-35-501. Time to pay – Installments.**

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, all ad valorem taxes levied on real and personal property by the several county courts of the state when assembled for the purpose of levying taxes, except taxes on the property of utilities and carriers and all ad valorem taxes on real property held in escrow, are due and payable between the first business day in March and October

15 inclusive in the year succeeding the year in which the levy is made.

(B) A county collector may open the tax books for payment of ad valorem taxes before the first business day in March if:

(i) The tax books have been delivered; and

(ii) The real and personal property taxes have been certified for collection.

(2)(A) Except as provided in § 26-35-601, every taxpayer other than a utility or carrier has the option to pay in installments.

(i) A county collector may authorize the county's taxpayers other than a utility or carrier to pay current real property taxes and personal property taxes in installments in any amount between the first business day in March or, if the county collector opens the tax books early under subdivision (a)(1)(B) of this section, the date the county collector opens the tax books, and October 15 inclusive.

(b) All ad valorem taxes levied on the real and personal property of utilities and carriers are due and payable as follows:

(1) One-fourth (1/4) between the first business day in March and the third Monday in April inclusive;

(2) One-fourth (1/4) between the third Monday in April and the second Monday in June inclusive; and

(3) One-half (1/2) between the second Monday in June and October 15 inclusive in the year succeeding the year in which the levy is made.

(c)(1) It is the duty of the county collectors of the respective counties to assess a penalty of ten percent (10%) against all unpaid tax balances remaining until October 15 for every taxpayer other than a utility or carrier or after the prescribed dates listed in subsection (b) of this section for utilities and carriers.

(2)(A) A taxpayer paying in installments under subdivision (a)(2) of this section shall not be assessed a penalty until such taxes become due and remain unpaid after October 15.

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

(3)(A) A property tax balance payment is timely received under this subsection if mailed through the United States Postal Service and postmarked by October 15.

(B) If October 15 is a Saturday, Sunday, or postal holiday, a property tax balance payment is timely received if mailed and postmarked through the United States Postal Service the following business day.

**ACA 26-35-506. Credit cards.**

(a) All county collectors may accept payment of county property taxes, penalties, and associated costs by an approved credit card or debit card.

(b)(1) As authorized by subsection (a) of this section, all county collectors may enter into contracts with credit card companies and may pay the fees normally charged by those companies for allowing the county collector to accept their cards as payment.

(2)(A) When a taxpayer pays his or her property taxes by an approved credit card, the county collector shall

assess a service fee equal to the amount charged to the county collector by the credit card issuer.

(B) This charge may be added to and become part of any underlying obligation.

**ACA 26-35-705. Mailing tax statements.**

(a) No later than July 1 of each year, the sheriff or collector shall be required to mail statements of taxes due by a taxpayer to the address provided by the taxpayer.

(b)(1) No later than July 1 of each year, the county sheriff or collector may in his or her discretion establish an electronic registry allowing each taxpayer to voluntarily register the taxpayer's personal information authorizing statements of taxes due by the taxpayer to be sent electronically using the information provided by the taxpayer.

(2) The county sheriff or county collector in his or her discretion may provide electronically to the taxpayer subsequent statements or notices for property taxes due or delinquent by using the information provided by the taxpayer.

(3) In the event the taxpayer's information changes and the electronic attempt to notify is returned undelivered, it shall be the taxpayer's obligation to furnish the correct information or the tax statements will be sent to the mailing address of the taxpayer.

(c) In the event that the mailing address or electronic address information of the taxpayer changes, the taxpayer has an obligation to furnish the correct mailing address or electronic information.

**ACA 26-35-706. Postage fee – Disposition.**

(a) Every county tax collector who mails tax statements may charge the taxpayers a postage fee not to exceed the cost of first-class postage to defray the expense of processing and mailing tax statements.

(b) The postage fee shall be noted on each tax statement and shall be paid at the same time or before the tax is paid.

(c) The taxpayer's receipt shall include the amount of postage fee paid.

(d)(1) Postage fees received shall be accounted for on the collector's final settlement.

(2) The collector may use the fees to purchase postage, and any amount of fees collected in any month which are not used for the purchase of postage that month shall be deposited into the county general fund.

(e) Due to the substantial savings in postage, paper, handling, and labor costs from delivery of statements and notices electronically using information provided by the taxpayer, the county sheriff or county collector sending the tax statement and notices may waive the costs for mail delivery from taxpayer property tax statements or may charge the reduced costs of electronic notification.

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

(a)(1) At any time after October 15, the county collector shall distraint sufficient goods and chattels belonging to a person who owes taxes upon the person's personal property, to pay the taxes due upon the personal

property and a penalty of twenty-five percent (25%) on the taxes due.

(2) If the county collector distrains goods and chattels under subsection (a)(1) of this section, the county collector shall immediately proceed to advertise the sale of the goods and chattels in three (3) public places in the county, stating the time when and the place where the goods and chattels shall be sold.

(3) The county collector shall collect taxes and penalties under this subsection and deposit the taxes and penalties under this subsection into the county school fund.

(b)(1) If the taxes 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 county collector shall proceed to sell the same at public venue, or so much thereof as will be sufficient to pay the taxes and the costs of the distress and sale.

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

(c)(1) The county 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 county collector is allowed the same fees for making distress and sale of goods and chattels for the payment of taxes which are allowed by law to the county sheriff for making levy and sale of property on execution under § 21-6-307 for each delinquent taxpayer.

(e)(1) If a taxpayer operating a business in a county is delinquent in the payment of personal property taxes for personal property owned by or used in the business, then following the certification and publication of delinquency under § 26-36-203, the county collector may distraint goods or chattels of the taxpayer owned by or used in the business under subsection (a) of this section by publication of a Notice of Distraint and Tax Sale in three (3) public places in the county or in a newspaper of general circulation in the county.

(2) The Notice of Distraint and Tax Sale shall contain:

(A) The location, date, and time of the sale;

(B) The name of the taxpayer and business under which the goods or chattels to be sold is assessed;

(C) The principal sum of personal property taxes owed with a certification of the principal sum by the county collector;

(D) The following specific information: "The goods or chattels of the taxpayer listed above located within \_\_\_\_\_ County, Arkansas, is under distraint and shall be sold to satisfy the delinquency in the payment of personal property taxes under Arkansas Code § 26-36-206. Under Arkansas Code § 26-34-101, the taxes assessed on real and personal property shall constitute a lien entitled to preference over all other judgments, executions, or encumbrances, or liens whensoever created. Under Arkansas Code § 4-1-201, a buyer in ordinary course of business does not include a person that acquires goods in a transfer in bulk

or as security for or in total or partial satisfaction of a money debt.”; and

(E) A statement that it is a Class B misdemeanor to remove, destroy, or deface the Notice of Distrainment and Tax Sale or to interfere or obstruct the sale of or the access to the goods or chattels on the date of the sale by the county collector, the county sheriff, or their deputies.

(3) The county collector shall provide a copy of the Notice of Distrainment and Tax Sale to the taxpayer by regular mail or by posting a copy at the physical location where the goods or chattels are held.

(4) The Notice of Distrainment and Tax Sale shall be posted conspicuously at the location of the sale.

(5) In lieu of physically securing the goods or chattels or storing or transporting the goods or chattels to another location for sale, the sale may be held at any place of business, warehouse, storeroom, or facility owned or under the possession of the taxpayer, including without limitation the current location of the goods or chattels to be sold.

(6) It is a Class B misdemeanor to knowingly remove, destroy, or deface a Notice of Distrainment and Tax Sale posted under this section or to knowingly interfere or obstruct the sale or access of the county collector, the county sheriff, or their deputies to the goods or chattels on the date of the sale.

#### **ACA 26-36-207. Garnishment proceedings authorized.**

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

(2) The person to whom the account for taxes is presented shall pay over to the county collector the amount of the taxes that the person owes up to the amount of the debt and take the collector's receipt for the payment. The receipt shall be taken in all courts of this state as payment on the taxpayer's indebtedness to the full amount expressed on the collector's receipt.

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

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

(d) The cost of garnishment shall be paid by the party refusing to pay the taxes when so requested.

#### **ACA 26-36-308. Procedure for setoff generally.**

(a)(1) A claimant agency seeking to attempt collection of a debt through setoff shall notify, in writing, the

division and supply the debtor's name, social security number, and any other information necessary to identify the debtor whose refund is sought to be set off.

(2) Notification to the division and the furnishing of identifying information must occur on or before December 1 in the year preceding the calendar year during which the refund would be paid. Additionally, subject to the notification deadline specified, the notification shall be effective only to initiate setoff for claims against refunds that would be made in the calendar year subsequent to the year in which notification is made to the division.

(b)(1) The division shall determine whether the debtor to the claimant agency is entitled to a refund.

(2) Upon determination by the division that a debtor specified by a claimant agency qualifies for such a refund and that a refund is pending, the division shall specify its sum and indicate the debtor's address as listed on the tax return.

(3) Each claimant agency must submit all claims for any year for collection under this subchapter to the division at one (1) time.

(4) Claims to be set off shall be submitted in a form compatible with the data processing equipment of the division, or the submitting agency shall pay the actual cost of converting their list of claims to a form which can be used by the division for effecting setoff.

(c) Unless stayed by court order, the division shall, upon certification as provided in this subchapter, set off the certified debt against the refund to which the debtor would otherwise be entitled.

#### **ACA 26-36-316. Collection assistance fee.**

(a) Upon effecting final setoff, the Revenue Division of the Department of Finance and Administration shall periodically write checks to the respective claimant agencies for the net proceeds collected on their behalf.

(b)(1) For purposes of this subchapter, five percent (5%) of the proceeds collected by the division through setoff shall represent the division's cost of effecting setoff, and these costs shall be charged to the respective claimant agency as a collection assistance fee.

(2) The collection assistance fees paid to the division shall be deposited into the State Treasury for credit to the Constitutional Officers Fund and the State Central Services Fund.

#### **ACA 26-39-220 Adjustment of errors.**

(a)(1) The county court has the duty to reconsider and adjust the settlement of any county officer made with the county court, including, but not limited to, the final tax settlement and distribution for any error discovered within three (3) years from the date of the settlement.

(2) Adjustment of an error shall be made within the year of discovery.

(b) Upon discovery of any error in the settlement after three (3) years, but within five (5) years from the date of the settlement, the county judge has the duty to petition the circuit court to obtain an order to correct the errors.

**ACA 26-37-205. Distribution of funds.**

(a) All moneys collected by the Commissioner of State Lands from the sale or redemption of tax-delinquent lands shall be distributed as follows:

(1)(A) First, to the Commissioner of State Lands, the penalties, the collection fees, the sale costs, and the other costs as prescribed by law.

(B) The sale costs, include without limitation fees for title work;

(2) Second, to each county an amount equal to the taxes due plus interest and costs to the county as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county within one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands;

(3)(A) Third, to each county an amount equal to the delinquent personal property taxes, plus penalty, of the owner or owners of the tax-delinquent land as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the personal property tax and penalty qualifies to be withheld from the tax-delinquent land sale proceeds; and

(ii) The amount of personal property tax and penalty that qualifies under this subdivision (a)(3) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the personal property taxes withheld under subdivision (a)(3)(A) of this section to a purchaser of tax-delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(3) of this section of the tax-delinquent land sale.

(D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(3).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of tax-delinquent land owes delinquent personal property taxes.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent personal property tax;

(4)(A) Fourth, to the Department of Finance and Administration an amount equal to the delinquent tax, penalty, and interest owed to the Department of Finance and Administration and for which certificates of indebtedness have been filed against the owner or owners of the tax-delinquent land as certified by the Department of Finance and Administration, which amount shall be held in an escrow fund administered by and remitted to the Department of Finance and Administration within one (1) calendar year after the receipt of the moneys by the Commissioner of State Lands.

(B) If the Commissioner of State Lands is required to make a refund of the taxes withheld under subdivision (a)(4)(A) of this section to a purchaser of tax-delinquent lands

for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the Department of Finance and Administration from the proceeds originally received under this subdivision (a)(4).

(C) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(4);

(5)(A) Fifth, to each county an amount equal to the delinquent solid waste assessments, plus penalty and interest, of the owner or owners of the tax-delinquent land as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the amount of delinquent solid waste assessment and penalty and interest qualifies to be withheld from the tax-delinquent land sale proceeds; and

(ii) The amount of delinquent solid waste assessment and penalty and interest that qualifies under this subdivision (a)(5) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the delinquent solid waste assessment withheld under subdivision (a)(5)(A) to a purchaser of tax-delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(5) of this section of the tax-delinquent land sale.

(D) The Commission of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(5).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of tax-delinquent land owes delinquent solid waste assessments.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent solid waste assessment; and

(6) Sixth, to be placed in another escrow fund administered by the Commissioner of State Lands, the remainder, if any.

(b) If no actions are brought within the time limits prescribed under this subchapter, the remaining funds, if any, shall be distributed by the Commissioner of State Lands as follows:

(1)(A) Ten percent (10%) of the remaining funds up to a maximum amount of five hundred dollars (\$500) shall be paid to the Commissioner of State Lands for the administration of the distribution of the funds.

(B) However, the amount paid to the Commissioner of State Lands under this subdivision (b)(1) shall not be a sum less than the amount necessary to pay filing fees required to record any deeds;

(2)(A) After payment is made to the Commissioner of State Lands pursuant to subdivision (b)(1) of this section, the amount left in the remaining funds shall be paid to the former owners of the tax-delinquent land.

(B)(i) "Former owner" means a person, partnership, corporation, or other legal entity capable of owning real property in the State of Arkansas and that holds record title

to the real property on the date of sale by the Commissioner of State Lands.

(ii) "Former owner" does not include heirs or relations beyond the first degree of consanguinity.

(C)(i) A former owner must file an application with the Commissioner of State Lands requesting the release of the funds.

(ii) The application shall be provided by the Commissioner of State Lands and shall require proof of ownership of the tax-delinquent land as well as proof of authority to act on behalf of the owner.

(iii) The application may require other information the Commissioner of State Lands deems necessary before the release of the funds.

(D)(i) The former owner shall release and relinquish all rights, title, and interests in and to the tax-delinquent land.

(ii) The Commissioner of State Lands shall provide a release deed to the former owner to execute.

(E) In the event of any dispute, claim, multiple claims of ownership, controversy regarding the release of the funds, or claim not expressly permitted under this section, the Commissioner of State Lands may require the party or parties to provide a court order to resolve the issues and to establish the party or parties entitled to the remaining funds.

(F) An agreement by a former owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of remaining funds, is enforceable only if the agreement:

(i) Is in writing;

(ii) Clearly sets forth the nature of the property and the services to be rendered;

(iii) Provides a fee of not more than ten percent (10%) of the recovery;

(iv) Is signed by the former owner; and

(v) States the value of the remaining funds before and after the fee or other compensation has been deducted.

(G)(i) An agreement covered by subdivision (b)(2)(F) of this section that provides for compensation that is unconscionable is unenforceable except by the former owner.

(ii) A former owner who has agreed to pay compensation that is unconscionable may maintain an action to reduce the compensation to a conscionable amount.

(iii) The court may award reasonable attorney's fees to a former owner that prevails in the action.

(H) Subdivision (b)(2)(G) of this section does not preclude a former owner from asserting that an agreement covered by subdivision (b)(2)(F) of this section is invalid on grounds other than unconscionable compensation.

(I)(i) The Commissioner of State Lands shall make all funds payable to the former owner.

(ii) No funds shall be made payable to any other person or entity other than the former owner without a court order directing the payment to the other person or entity.

(iii) No interest shall be paid to the former owner on the funds.

(J)(i) Anyone filing a claim or assisting with the filing of a claim that results in the erroneous payment of a claim is responsible for the repayment of all funds paid.

(ii) Any claim filed fraudulently is punishable as a Class D felony; and

(3)(A) Any funds placed in escrow prior to July 1, 2005, shall be held in escrow for five (5) years and at the end of the five-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.

(B) Any funds placed in escrow on and after July 1, 2005, but before July 1, 2018, shall be held for three (3) years, and at the end of the three-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.

(C) Any funds placed in escrow on and after July 1, 2018, shall be held for two (2) years, and at the end of the two-year period, if the funds have not been distributed, the escrow funds shall escheat by operation of law to the county in which the property is located.

(c) All funds distributed to each county by the Commissioner of State Lands from the redemption or sale of tax-delinquent lands, including any interest and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

(d) All funds received by a county from the redemption of tax-delinquent land at the county level, including any penalty, interest, and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

(e) This section shall be severable, and if any phrase, clause, sentence, or provision of this section is declared to be contrary to the laws of this state, the validity of the remainder of this section shall not be affected.

#### **ACA 27-14-612. Multiyear personal-use vehicle registration.**

(a) As used in this section, "personal-use vehicle" means:

(1) A pleasure vehicle, including a motor home, registered under § 27-14-601(a)(1);

(2) A Class One truck or van registered under § 27-14-601(a)(3)(A);

(3) A motorcycle registered under § 27-14-601(a)(4); or

(4) An autocycle registered under § 27-20-304.

(b) The Office of Motor Vehicle shall offer a multiyear personal-use vehicle registration as provided under this section.

(c) The owner of a personal-use vehicle, who has owned the vehicle for a twelve-month renewal period following initial registration by the owner, may request a multiyear personal-use vehicle registration for a period of two (2) or three (3) years by providing the following information to the office with the application:

(1) All information necessary for the registration and licensing of the vehicle under law to include:

(A) Proof of current insurance coverage on the vehicle to be registered as required under § 27-13-102;

(B) Proof of payment of personal property taxes; and

(C) Proof of listing the vehicle for assessment;

(2) Proof that property taxes on the vehicle to be registered have been timely paid by the applicant; and

(3) Payment of the fees for registration and licensing for :

(A) Two (2) years, if the registration is for a period of two (2) years; and

(B) Three (3) years, if the registration is for a period of three (3) years.

(d) The Office of Motor Vehicle may promulgate rules for the administration of this section.

## **Chapter Six – PAYMENT AND COLLECTION OF GENERAL REAL PROPERTY TAXES**

### **ACA 26-3-306. Disabled veterans, surviving spouses, & minor dependent children.**

(a)(1)(A)(i) A disabled veteran who has been awarded special monthly compensation by the Department of Veterans Affairs for the loss of, or the loss of use of, one (1) or more limbs, for total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability shall be exempt from payment of all state taxes on the homestead and personal property owned by the disabled veteran.

(ii)(a) If a disabled veteran sells his or her home, the exemption shall be prorated to the date of sale so that the disabled veteran owes no tax for the portion of the year he or she claimed the home as a homestead, and the purchaser is liable only for taxes relating to the balance of the year.

(b) If a disabled veteran purchases a home that qualifies as a homestead, the exemption shall be prorated to the date of sale so that the disabled veteran owes no tax for the portion of the year he or she claimed the home as a homestead, and the seller is liable only for the taxes relating to the balance of the year.

(c) Upon request by the disabled veteran, the county collector shall make such record entries as may be necessary to effect the proration.

(B)(i) Upon the death of the disabled veteran, the surviving spouse and minor dependent children of the disabled veteran shall be exempt from payment of all state taxes on the homestead and personal property owned by the surviving spouse and minor dependent children of the deceased disabled veteran.

(ii) The surviving spouse and minor dependent children of a member of the United States armed forces who was killed while within the scope of his or her military duties, who died while within the scope of his or her military duties, or who is missing in action, and the surviving spouse and minor dependent children of a veteran who died from service-connected causes, as certified by the department, shall also be exempt from payment of all state taxes on the homestead and personal property owned by the surviving spouse and minor dependent children.

(iii)(a) The surviving spouse shall be entitled to the exemption provided for in this section so long as the surviving spouse remains unmarried.

(b) The surviving spouse's exemptions provided for in this section are reinstated upon the termination of the surviving spouse's subsequent marriage.

(iv) A surviving spouse of a member of the United States armed forces who died while on active duty shall be eligible for reinstatement of the homestead and personal property tax exemption upon termination of a subsequent marriage and until the surviving spouse remarries.

(v) The exemption provided in this section for surviving minor dependent children shall be available to the surviving children during their minority.

(2) As used in this section, "personal property" means only those items of tangible personal property used for other than a commercial or business purpose.

(b)(1)(A) A disabled veteran eligible for the exemption provided for in this section and desiring to claim an exemption shall furnish to the county collector a letter from the department verifying the fact that the disabled veteran is in receipt of special monthly compensation for the loss of or the loss of use of one (1) or more limbs, total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability.

(B)(i) A surviving spouse or minor dependent child of a deceased disabled veteran desiring to claim the exemption provided in this section shall furnish the county collector a letter from the department verifying the fact that the deceased disabled veteran was at the time of death entitled to receive a special monthly compensation for the loss of or the loss of use of one (1) or more limbs, total blindness in one (1) or both eyes, or for service-connected one hundred percent (100%) total and permanent disability.

(ii) In addition to the requirements in subdivision (b)(1)(B)(i) of this section, the surviving spouse or minor dependent child of the deceased disabled veteran shall furnish the county collector with an affidavit signed by the surviving spouse or minor dependent child stating that the surviving spouse or minor dependent child is a surviving spouse or minor dependent child of the named deceased disabled veteran.

(2)(A) The surviving spouse or minor dependent children of a member of the United States armed forces who was killed while within the scope of his or her military duties, who died while within the scope of his or her military duties, or who is missing in action, or a surviving spouse or minor dependent children of a veteran who died of service-connected causes, as certified by the department, desiring to claim the exemption provided in this section shall furnish the county collector a letter from the department certifying the fact that such a member of the United States armed forces is missing in action, was killed while within the scope of his or her military duties, or died while within the scope of his or her military duties or that the veteran died from service-connected causes and the surviving spouse is or would be entitled to department benefits in the form of death indemnity compensation if the surviving spouse were otherwise eligible to receive the department benefits.

(B) In addition, the surviving spouse or minor dependent child shall furnish the county collector with an affidavit signed by the surviving spouse or minor dependent child or the surviving spouse or minor dependent child's guardian stating that the surviving spouse or minor dependent child is a surviving spouse or minor dependent child of the member of the United States armed forces who is missing in action, who was killed while within the scope of his or her military duties, or who died while within the scope of his or her military duties or is the surviving spouse or minor dependent child of a veteran who died of service-connected causes as certified by the department.

(c) Only a disabled veteran and a surviving spouse and minor dependent child of a disabled veteran who are citizens and residents of the State of Arkansas shall be eligible for the exemption provided in this section.

(d) Any person evading or violating any provision of this section or attempting to secure benefits under this section to which he or she is not entitled shall be guilty of a violation and upon conviction shall be fined in any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(e) A person claiming the property tax exemption authorized by this section shall not be entitled to claim the property tax credit authorized in § 26-26-1118.

(f)(1) If a person has established eligibility for the property tax exemption created under this section, the person shall be exempt from the date the person's eligibility is established regardless of the date the lien for the property taxes attached.

(2) After a person has established eligibility for the property tax exemption created under this section, the person is exempt from property taxes on his or her homestead regardless of where the homestead is located in the state.

(3) Upon request by a county in which a person eligible for the property tax exemption created under this section is claiming an exemption for his or her homestead, a county collector shall provide the information or documentation necessary to demonstrate that the person established eligibility for the exemption created under this section in a county in which the person previously claimed a homestead.

#### **ACA 26-26-310. Certification of amount of property tax reduction.**

(a)(1) On or before March 31 of each year, the county collector of each county shall certify to the Chief Fiscal Officer of the State the amount of the real property tax reduction provided in § 26-26-1118.

(2)(A) After receipt of the certification from the county collectors, the Chief Fiscal Officer of the State shall determine the proportionate share of the total statewide reduction attributable to each county.

(B)(i) At the end of each month, the Chief Fiscal Officer of the State shall determine the balance in the Property Tax Relief Trust Fund and certify it to the Treasurer of State.

(ii) The Treasurer of State shall make distributions from the Property Tax Relief Trust Fund to each county treasurer in accordance with the county's proportionate share of the total statewide property tax reduction for that calendar year resulting from the provisions of § 26-26-1118.

(iii)(a) Effective January 1, 2006, the Treasurer of State shall make a monthly distribution from the Property Tax Relief Trust Fund to each county treasurer.

(b) The distributions for January, February, and March shall be in accordance with the county's proportionate share of the total statewide property tax reduction as of the final county certification of the previous year.

(c) Beginning in April of each year, the distribution from the Property Tax Relief Trust Fund to each county treasurer shall be in accordance with the county's proportionate share of

the total statewide property tax reduction for that calendar year under § 26-26-1118.

(C)(i) If the Chief Fiscal Officer of the State has not received all of the certifications from the county collectors, then the distribution of the Property Tax Relief Trust Fund shall be as follows until all certifications have been received:

(a) The total amount of the Property Tax Relief Trust Fund to be distributed shall equal the total amount in the Property Tax Relief Trust Fund multiplied by the proportion of the previous year's total property assessment, less tangible personal property and property owned by utilities and regulated carriers, of the counties that have certified, divided by the previous year's total property assessment, less tangible personal property and property owned by utilities and regulated carriers in the state; and

(b) Each county that has certified its property tax reduction shall receive an amount of the Property Tax Relief Trust Fund, as adjusted in subdivision (a)(2)(C)(i)(a) of this section, equal to the county's proportionate share of the total property tax reduction of the counties that have certified their property tax reductions.

(ii) However, until all counties have certified their property tax reductions to the Chief Fiscal Officer of the State, no county shall receive more than seventy-five percent (75%) of its certified property tax reduction.

(3)(A)(i) Funds so received by the county treasurers shall be credited to the county property tax relief fund.

(ii) Ninety-six percent (96%) of the funds shall be allocated and distributed to the various taxing entities within the county that levy ad valorem taxes.

(iii) The allocation shall be based on a certification from the county collector of the amount of the real property tax reduction per taxing entity provided in § 26-26-1118.

(iv)(a) The four percent (4%) retained in the county property tax relief fund is the commission of the county collector as authorized under § 21-6-305(a)(4).

(b) This commission shall become a part of the total commission of the county collector.

(v) These funds are subject to § 21-6-305(d).

(B) Funds so received by the various taxing units shall be used for the same purposes and in the same proportions as otherwise provided by law.

(b)(1) Distributions to each county shall continue on a monthly basis from the Property Tax Relief Trust Fund until the full amount certified by the county collectors, as of November 15 of each year, has been paid.

(2)(A) In no event shall the amount distributed to a county during a calendar year from the Property Tax Relief Trust Fund exceed the final amount certified by the county collector as of November 15 as the property tax reduction for that calendar year resulting from § 26-26-1118.

(B) If a county is paid in excess of its proportionate share, the Chief Fiscal Officer of the State may reduce payments made to the county for the subsequent calendar year until the overpayment is recovered.

(C)(i) On or before December 31 of each year, the Chief Fiscal Officer of the State, in cooperation with the Legislative Council and the Legislative Auditor, shall determine that portion of the balance remaining in the Property Tax Relief Trust Fund that is in excess of the required reimbursement

to the counties and shall certify the excess to the Treasurer of State.

(ii) Beginning December 31, 2005, and on December 31 of each subsequent year, the Treasurer of State shall:

(a) Calculate each county's proportionate share of one million dollars (\$1,000,000) based on the proportions used to reimburse the county for property tax reductions under subsection (a) of this section;

(b) Transfer the amount calculated under subdivision (b)(2)(C)(ii)(a) of this section to the county treasurer for allocation to the county assessor for use by the county assessor for the costs of administering Arkansas Constitution, Amendment 79, including without limitation costs for personnel, equipment, services, and postage used in the administration of Arkansas Constitution, Amendment 79;

(c) Distribute two million dollars (\$2,000,000) from the Property Tax Relief Trust Fund to the counties in the state using the formula stated in § 19-5-602(c)(1); and

(d) Distribute two million dollars (\$2,000,000) from the Property Tax Relief Trust Fund to the municipalities in the state using the formula stated in § 19-5-601(c).

(D)(i)(a) For calendar year 2019, by the last business day of each month following April 9, 2019, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the total amount of moneys credited to the Property Tax Relief Trust Fund since April 9, 2019.

(b) For calendar years after 2019, by the last business day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the total amount of moneys credited to the Property Tax Relief Trust Fund for the year.

(ii) The Chief Fiscal Officer of the State shall determine annually the estimated amount needed to fund the distributions required under subdivision (b)(2)(C) of this section for the next year.

(iii) When the amount certified by the Chief Fiscal Officer of the State under subdivision (b)(2)(D)(i) of this section exceeds the amount determined under subdivision (b)(2)(D)(ii) of this section for the year:

(a)(1) By July 1, 2019, the Treasurer of State shall make a one-time transfer of eight million two hundred forty-six thousand five hundred seventy-three dollars (\$8,246,573) to the County Voting System Grant Fund.

(2) The transfer required under subdivision (b)(2)(D)(iii)(a)(1) of this section shall occur as soon as practicable after July 1, 2019, if, by July 1, 2019, the amount certified by the Chief Fiscal Officer of the State under subdivision (b)(2)(D)(i) of this section does not exceed the amount determined under subdivision (b)(2)(D)(ii) of this section by the full amount required for the transfer under subdivision (b)(2)(D)(iii)(a)(1) of this section; and

(b) Except as provided in subdivision (b)(2)(D)(iii)(a) of this section, the revenues credited to the Property Tax Relief Trust Fund in excess of the amount determined under subdivision (b)(2)(D)(ii) of this section shall be transferred from the Property Tax Relief Trust Fund to the Long Term Reserve Fund.

(3)(A) The Legislative Auditor or his or her designee shall audit the books and records of the county assessor, county collector, or any other party as needed to ensure that the

amount of the property tax reduction certified by the county collector is accurate.

(B) The Chief Fiscal Officer of the State may adjust the amount certified by the county collector if it is discovered that the certified amount is incorrect.

(c)(1) On or before June 30 and November 15 of each year, the county collector of each county shall recertify to the Chief Fiscal Officer of the State the amount of the real property tax reduction provided in § 26-26-1118.

(2) The recertification shall reflect the most current total of tax reductions based on corrections and amendments to the records of the county assessor.

(3) After receipt of the recertification from the county collectors, the Chief Fiscal Officer of the State shall redetermine the proportionate share of the total statewide reduction attributable to each county.

#### **ACA 26-26-1115. Realty parcels – Apportionment.**

(a)(1) When a person acquires ownership of a portion of a parcel of realty during the time of year when the county assessor is not making changes in the assessment book, that person may request the county assessor to apportion the current assessment between the remaining portion of the parcel and that acquired by the person making the request; provided, however, that:

(A) All necessary deeds and papers proving ownership of the portion have been filed with the county recorder;

(B) No provision has been made for payment of taxes on the realty at the time the person acquired the portion; and

(C) The request is made at least thirty (30) days before the last day to pay taxes on the assessment year in question.

(2) The request shall be in writing, signed by the owner, and shall include a complete legal description of the entire parcel and a complete legal description of the parcel being conveyed.

(b) The provisions of this section shall not apply to any parcel of realty on which there is an actual tax delinquency at the time the request for allocation is made.

(c) The county assessor shall allocate the assessment within thirty (30) days after the request and shall provide the information included in the allocation to the county collector.

(d)(1) The county collector, after receiving notification of the allocation, shall accept payment in full toward any prior year's taxes currently due according to the values provided in the notification.

(2) Payment may be applied to the current tax bill as a partial payment, or a separate parcel number may be assigned to the portion and receipted to the new number.

(e) Payment shall be considered as satisfying the tax lien for that portion of the prior year's taxes as legally defined in the notification.

#### **ACA 26-26-1114. Methods.**

(a) For any assessment of personal property taxes, a taxpayer may assess the personal property taxes by mail,

by telephone, on any available county-owned or county-affiliated website, or in person.

**ACA 26-34-103 Liability of Executor or Administrator.**

The personal property of any deceased person shall be liable in the hands of any executor or administrator for any tax due on the same by any testator or intestate.

**ACA 26-35-101. Escrow funds for payment of real property taxes.**

(a)(1) All banks, savings and loan associations, and other financial institutions and all persons, firms, or corporations which are holders of escrow funds for payment of real property taxes, within thirty (30) days after sufficient funds have accumulated in each account for the payment of property taxes, shall notify the county collector.

(2) If sufficient funds for the payment of one (1) year's taxes on real estate have accumulated within an escrow account prior to the commencement of the period in which the collector may collect real property taxes for the year in which due, this notification shall be made within thirty (30) days after the collector is authorized by law to commence collecting real property taxes during the year.

(3) Further, those holders of escrow funds must remit payment for property taxes within sixty (60) days of receipt of the tax bills from the collector.

(4)(A) Any bank, savings and loan association, or other financial institution or any person, firm, or corporation holding escrow funds for the payment of real property taxes due on properties belonging to persons for whom the escrow accounts are being held, which fails to pay to the county collector the real property taxes on the property within the time limitation imposed by this subsection, shall be subject to a penalty of ten percent (10%) of the amount of the total taxes due.

(B) The penalties shall be paid from funds belonging to the holder of the escrow account.

(b) In no event shall moneys paid as penalties for late payment of real property taxes under the provisions of subsection (a) of this section be charged against the escrow account.

(c) All penalties collected by the county collector under subsection (a) of this section shall be credited to the various taxing units of the county in the respective proportions that each taxing unit shares in real property taxes collected by the county.

**ACA 26-35-301. Duty to pay taxes.**

(a) Every person shall be liable to pay tax for the lands, town, or city lots of which he or she may stand seized for life, by curtesy, or in dower, or may have the care of as guardian, executor, or administrator, or as agent or attorney, having the funds of the principal in his or her hands.

(b) It shall be the duty of each person holding lands as indicated to pay the taxes which may be assessed thereon each year.

**ACA 26-35-401. Liability generally.**

(a) Every person holding lands as guardian, executor, or administrator and neglecting or refusing to list or pay the taxes upon them, in the manner indicated, shall be liable to an action by his or her ward or devisee for any damage sustained by his or her neglect.

(b) Every person having the care of lands as agent or attorney as indicated having funds of the principal in his hands, for such purpose, and neglecting or refusing to list or pay the taxes on the lands shall be liable in an action to his principal for any damage the principal may have sustained by his neglect or refusal.

**ACA 26-35-506. Credit cards.**

(a) All county collectors may accept payment of county property taxes, penalties, and associated costs by an approved credit card or debit card.

(b)(1) As authorized by subsection (a) of this section, all county collectors may enter into contracts with credit card companies and may pay the fees normally charged by those companies for allowing the county collector to accept their cards as payment.

(2)(A) When a taxpayer pays his or her property taxes by an approved credit card, the county collector shall assess a service fee equal to the amount charged to the county collector by the credit card issuer.

(B) This charge may be added to and become part of any underlying obligation.

**ACA 26-35-602. Tax money to be kept in separate account.**

(a)(1) The Director of the Division of Local Affairs and Audits of the Division of Legislative Audit shall require every county collector of taxes to keep any and all tax money collected in a separate account from all other money which the county collector may have in his or her possession.

(2) A county collector shall have no authority to check on this account except in favor of a treasurer or depository to whom he or she is required to pay the money or to himself or herself for commission or salary already earned.

(b)(1)(A) Failure to comply with this section on the part of a county collector shall be a violation and shall render him or her liable to a penalty of not less than twenty-five dollars (\$25.00).

(B) Each day's failure shall be considered a separate offense.

(2) Upon finding that public funds and private funds are being jointly deposited or improperly disbursed under this section, the director shall notify immediately the bondsmen of the offending officer and the public of the violation.

**ACA 26-35-901. Taxes erroneously assessed and paid.**

(a)(1) When any person has paid taxes on any real property or personal property, erroneously assessed, as defined and described in § 26-28-111(c), upon satisfactory proof being adduced to the county court of this fact, the

county court shall make an order directed to the county treasurer refunding to the person the amount of tax so erroneously assessed and paid.

(2) All erroneous assessment claims for property tax refunds shall be made within three (3) years from the date the taxes were paid.

(3) If an erroneous assessment claim is for erroneous assessments made in two (2) or more tax years, the county court may order that the property tax refund be made in up to two (2) equal annual installments, by December 31 of each year, beginning with the year in which the order is entered.

(4) A clerk of a county court shall not charge a fee for filing a petition with the county court requesting a refund under this section.

(b) The general fund of the county shall be reimbursed by transfer to it from funds of the respective taxing units, and the amount contributed by each taxing unit shall be the amount of the erroneous payment received by the taxing unit.

**ACA 26-36-201. Dates taxes due and payable.**

(a)(1) (A) Except as provided in subdivision (a)(1)(B) of this section, all taxes levied on real estate and personal property for the county courts of this state, when assembled for the purpose of levying taxes, are due and payable at the county collector's office between the first business day of March and October 15 inclusive.

(B) A county collector may open the tax books for payment of taxes before the first business day in March if:

(i) The tax books have been delivered; and

(ii) The real and personal property taxes have been certified for collection.

(2) All taxes unpaid after October 15 are delinquent.

(b)(1) The county collector shall extend a penalty of ten percent (10%) against all delinquent taxpayers that have not paid their taxes within the time limit specified.

(2) The county collector shall collect the penalty provided in subdivision (b)(1) of this section.

(c) The county collector shall extend an additional penalty of ten percent (10%) upon all delinquent taxpayers if the taxpayers' delinquent personal property taxes are not satisfied or paid in full by October 15 following the purchase of a business or the assets, goods, chattels, inventory, or equipment of a business not in the ordinary course of business.

(d) A penalty shall not be assessed against a taxpayer who is a member of the United States armed forces, reserve component of the armed forces, or the National Guard during the taxpayer's deployment plus one (1) tax year after the deployment ends.

(e) When October 15 falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, the taxes shall become due and payable the following business day that is not a holiday observed by the United States Postal Service.

**ACA 26-36-205. List of delinquent officers.**

The collectors shall make a delinquent list of all delinquent clerks and other officers required to pay to the collectors the

amount of revenue received by them, to be called a "list of delinquent officers."

**ACA 26-36-212. Delinquent ad valorem taxes on interests in oil or gas.**

(a)(1) When the ad valorem taxes on working interests, royalty interests, or overriding royalty interests in oil or gas of any taxpayer is delinquent for a period of one hundred eighty (180) days or more, any one (1) or more taxing units which are entitled to a portion of the delinquent taxes when collected shall have a cause of action against the delinquent taxpayer for that portion of the delinquent taxes and costs of collection, including the penalty and interest thereon, to which the taxing units are entitled, plus a reasonable attorney's fee.

(2)(A) Any such action shall be brought in the chancery court of the county in which the delinquent taxpayer resides or in which property of the delinquent taxpayer is situated.

(B) Any judgment awarded a taxing unit in such cause of action shall be enforceable to the same extent and in the same manner as other civil judgments.

(b)(1) Any taxpayer offering to redeem tax-delinquent property after an action has been filed as authorized in this section shall be required to pay costs, including attorney fees, incurred by any taxing unit in pursuing its remedies under this section.

(2) When any judgment rendered against a delinquent taxpayer pursuant to this section is satisfied, the tax liability on the property and the amount required to be paid to redeem the property shall be reduced by the amount of the taxes, penalty, and interest included in the judgment.

**ACA 26-36-213. Delinquent taxes on mineral interests - Certified statement or account.**

(a)(1)(A) If a county collector demands payment of property tax due on mineral interests by a known owner of mineral interests at the taxpayer's last known address and the taxpayer fails to pay the property tax due on mineral interests by October 15, the county collector, after December 1, may:

(i) Present a certified statement or account for taxes to any person who has in the person's possession funds that are:

(a) Derived from the property on which the delinquent taxes are outstanding; and

(b) Due and owing to the delinquent taxpayer; and

(ii) Demand payment of the delinquent taxes plus any penalties and interest.

(B)(i) For property taxes on mineral interests that are delinquent after December 1 and at the time the certified statement or account is presented, an additional penalty of ten percent (10%) of the amount of the delinquent property taxes shall be assessed as an administrative collection fee.

(ii) Upon collection of the delinquent property taxes and any penalties and interest from the person receiving the certified statement or account, the county collector shall pay, upon request, one-half ( 1/2 ) of the penalty assessed

and collected under subdivision (a)(1)(B)(i) of this section to the person making the payment for the administrative costs incurred in collecting and paying to the county collector the delinquent taxes, penalties, and interest.

(iii) A portion of the administrative collection fee retained by the county collector under this section shall represent the interest continuing to accrue for the period of up to ninety (90) days from the date that the certified statement or account is presented until the certified statement or account is returned with payment. No other form of interest is due from the person receiving the certified statement or account.

(C) Before a county collector may initiate collection proceedings under this section:

(i) The county collector shall:

(a) Prepare a list of the delinquent taxes on mineral interests in his or her county; and

(b) Provide the list, including without limitation the following information, to the Association of Arkansas Counties by December 1 of each year:

(1) The name and last known address of the owner of the mineral interests;

(2) The applicable well name, uncontrolled lease name, or unitized area name as recognized by the Oil and Gas Commission;

(3) The county, section, township, and range of the property containing the mineral interests;

(4) Notice of the penalty provided under subdivision (a)(1)(B)(i) of this section; and

(5) Notice that the county collector may seek collection under this section if the property taxes, penalties, and interest remain unpaid after December 1;

(ii) The association shall:

(a) Create a website that is accessible by the public and is dedicated to publishing notice of delinquent taxes on mineral interests; and

(b)(1) Within seven (7) days of receiving a list under subdivision (a)(1)(C)(i)(b) of this section, publish the list to the website created under subdivision (a)(1)(C)(ii)(a) of this section.

(2) The publication required under this subdivision (a)(1)(C) shall be in substantially the following form:

**“DELINQUENT MINERAL INTEREST TAX LIST**

The Real Estate Tax Books of ..... County reflect the following list of mineral interests to be delinquent for nonpayment of taxes for the year ..... (The amount included in the “BASE DELINQUENCY” column may not include all penalties and costs and will not include interest and special improvement assessments that may be due at the time of payment.)

NAME OF OWNER	LEGAL DESCRIPTION	BASE DELINQUENCY
Brown, Bill	pt. W ½ NE SW Sect 6 Twp 17 Rn 5 S 5 Acs	\$44.25
Doe, John	Lot 3 Blk 5 Plainview Add.	\$31.25
Jones, John	W ½ Lot 8 Blk 54 Meriweather Trust	\$42.24
Roe, Richard	SW ¼ SE ¼ Sec 12 Twp 18E Rn 6E 40 Acs	\$37.25

NOTICE IS HEREBY GIVEN THAT said several tracts, lots or parts of lots will be held as delinquent for a one-year period from this date and then certified to the State of Arkansas,

Commissioner of State Lands, for collection or to be sold, unless the delinquent taxes, penalties, and costs are paid before the end of the one-year period.

(Date of Notice) ..... Collector ..... County.”; and

(iii) The county collector shall:

(a)(1) Publish notice in a newspaper that has general circulation in the county or district for which the list is being published.

(2) If there is no newspaper in the county or district, the publication of notice shall be in the nearest newspaper having a general circulation in the county or district for which the list is being published.

(3) The notice required under subdivision (a)(1)(C)(iii)(a)(1) of this section shall provide the website at which the delinquent mineral interest tax list may be found;

(b) Publish notice at the county courthouse; and

(c) Provide notice through the county website.

(2)(A) Except as provided in subdivision (a)(2)(C) of this section, the person to which the certified statement or account for taxes is presented shall pay the county collector the amount of the taxes, penalties, and interest that the delinquent taxpayer owes up to the amount of funds the person has in the person's possession that is due and owing to the delinquent taxpayer.

(B)(i) The county collector shall provide a copy of the county collector's receipt for the payment to the person making the payment under this section and to the delinquent taxpayer at the delinquent taxpayer's last known address.

(ii) The receipt provided under subdivision (a)(2)(B)(i) of this section shall be accepted in the county collector's office and in all courts of the state as payment on the delinquent taxpayer's indebtedness of the amount expressed on the county collector's receipt.

(C)(i) The county collector shall not receive or accept a partial payment of the delinquent taxes, penalties, and interest due.

(ii) If, at the end of the ninety-day period allowed for the return of the certified statement or account, a person to which the certified statement or account for taxes is presented has in the person's possession an amount of funds due and owing to the delinquent taxpayer that is less than the amount of the taxes, penalties, and interest that the delinquent taxpayer owes, the person to which the certified statement or account is presented is not required to pay any amount.

(b)(1) Service of the certified statement or account of the tax under this section shall operate as a levy upon the person served.

(2) The certified statement or account shall:

(A) State the name of the delinquent taxpayer and the delinquent taxpayer's last known address;

(B)(i) Identify the delinquent taxpayer's assessed property interests.

(ii) The county collector shall include in the certified statement or account the identification information provided in the notice of publication made under subdivision (a)(1)(C) of this section and a copy of the tax statements containing the delinquent taxpayer's last known address;

(C) State that the certified statement or account is returnable within ninety (90) days from receipt by the person indebted to the delinquent taxpayer;

(D) State the amount of taxes, penalties, and interest owed;

(E) Be returned with payment of the amount owed and delinquent as reflected on the certified statement or account; and

(F) Be effective until the earlier of the following:

(i) The date the certified statement or account is paid in full; or

(ii) One (1) year from the date the certified statement or account is presented for payment under this section.

(3) A person shall not be compelled to pay the following:

(A) Any amount before it is due and owing to the delinquent taxpayer; or

(B) A greater amount than is owed to the delinquent taxpayer.

(c)(1) A person making a payment to a county collector under this section is not liable to the delinquent taxpayer to which the person is indebted for complying with a demand for payment under this section.

(2) A payment made under this section is considered to be made to the delinquent taxpayer and satisfies any contractual obligation or indebtedness due and owing the delinquent taxpayer by the person making the payment on the certified statement or account for the amount expressed on the county collector's receipt.

#### ACA 26-26-1110. Mineral rights.

(e)(1)(A) Except as otherwise provided in this subsection, if mineral rights are subject to a division order or declaration of interest, the division order or declaration of interest reflecting ownership interest as of January 1 of the assessment year shall be:

(i) In a common electronic workbook format established by the Assessment Coordination Division; and

(ii) Submitted electronically by the distributor of the proceeds derived from the sale of minerals produced from the subject ownership interest to the county assessor annually by March 31.

#### **ACA 26-3-203. Mobile homes and manufactured homes.**

(a) Mobile homes and manufactured homes shall be deemed real property for the purpose of ad valorem property taxation.

(b) Real property taxes and any interest, penalties, or other charges on a mobile home on a leased site in a mobile home park or any other leased site, and any assessment or user fee chargeable to the owner of the mobile home and constituting a lien, shall be assessed and levied against the owner of the mobile home whose name appears on the certificate or other acceptable evidence of ownership, and shall be a lien on the mobile home or manufactured home only.

(c) When the property tax on mobile homes and manufactured homes which are now assessed as real

property become delinquent, the delinquent real property tax shall be attached to the personal property tax of the owner of the mobile home or manufactured home and the collector shall not accept payment of the personal property taxes without collecting payment of the delinquent real property taxes at that time.

#### **ACA 27-14-1602. Registration—Fee for Mobile and manufactured homes.**

(a)(1) An owner of a manufactured home or a mobile home shall register the manufactured home or mobile home with the Office of Motor Vehicle for the purpose of receiving a certificate of title to the manufactured home or the mobile home or for any other purpose.

(2) Subdivision (a)(1) of this section does not apply to:

(A) A manufactured home or mobile home for which a certificate of origin, original document of title, or existing document of title has been cancelled or surrendered under § 27-14-1603; or

(B) A manufactured home or mobile home held for sale or resale by a licensed retailer, financial institution, beneficiary, mortgagee or the mortgagee's attorney-in-fact or trustee, or other holder in due course.

(b) A certificate of title shall be issued upon the payment of a registration fee of twenty-six dollars (\$26.00) and a title fee of ten dollars (\$10.00).

#### **ACA 26-26-1118. Limitation on increase of property's assessed value.**

(a)(1)(A) There is established a homestead property tax credit for each assessment year that reduces the amount of real property taxes assessed on the homestead of each property owner by three hundred seventy-five dollars (\$375).

(B) However, an assessment shall not be reduced to less than zero dollars (\$0.00).

(2) Each property owner shall pay the reduced tax amount to the county.

(3) The homestead property tax credit adopted by this section shall be reflected on the tax bill sent to the property owner by the county collector.

(4) The county and taxing units within the county are entitled to reimbursement of the tax reduction resulting from the homestead property tax credit in accordance with § 26-26-310.

(b)(1) Each county assessor is responsible for identifying the parcels of real property that are used as homestead residences before issuing tax bills.

(2)(A) Each property owner shall register with the county assessor proof of eligibility for the property tax credit if the property owner intends to claim a property tax credit.

(B)(i) The registration may be attached to the deed or other instrument conveying an interest in real property and filed with the circuit clerk, who shall remit the registration to the county assessor.

(ii) The circuit clerk shall not file the registration described in this subdivision (b)(2).

(C) The property owner may submit a registration for the property tax credit directly to the county assessor.

(3)(A) The homestead property tax credit authorized by subdivision (a)(1) of this section is not allowed after October 15 of the year after the assessment.

(B) If October 15 falls on a Saturday, Sunday, or holiday observed by the United States Postal Service, the homestead property tax credit is allowed on, but no later than, the following business day that is not a holiday observed by the United States Postal Service.

(4)(A) A parcel of real property shall qualify as a homestead prior to January 1 of the year after assessment to be eligible for the property tax credit.

(B) Once a parcel of real property is determined to be eligible for the property tax credit, the parcel of real property shall remain eligible for that year regardless of a change in the use of the parcel of real property during the year.

(C) Under no circumstance may a property owner claim more than one (1) homestead property tax credit per calendar year.

(5)(A) The parties to a transfer of real property may prorate, as between themselves, the property tax credit and the benefits of the property tax credit by agreement of the parties.

(B) If a parcel of real property qualifies for the property tax credit, the property tax credit shall apply regardless of who or what entity pays the property tax.

(6)(A) When real property is transferred, the purchaser of the real property shall notify the county assessor of the new use of the real property.

(B) The notification may be by affidavit provided by the purchaser of the real property or on a form provided by the county assessor.

(7) The Division of Vital Records shall send to the county assessor by electronic mail a monthly report listing the residents of that county who have died.

**ACA 26-26-1119. Prohibited conduct - Penalties - Time limitation.**

(a)(1) No property owner shall claim more than one (1) homestead property tax credit for each year.

(2)(A) If the county assessor determines that a property owner has claimed more than one (1) homestead property tax credit in a year, in addition to repayment of the homestead property tax credit, the designated preparer of the tax books shall extend a penalty of one hundred percent (100%) of the amount of the unlawfully claimed homestead property tax credit.

(B)(i) If the property owner has unlawfully claimed a homestead property tax credit in a county other than the county where his or her lawfully claimed homestead property tax credit was claimed, then the property owner shall pay the entire amount of the unlawfully claimed homestead property tax credit and the penalty at the time of payment of the property owner's taxes.

(ii) If the property owner has unlawfully claimed a homestead property tax credit in the same county that he or she lawfully claimed a homestead property tax credit, then the property owner shall elect to either:

(a) Pay the entire amount of the unlawfully claimed homestead property tax credit and the penalty at the time of payment of the property owner's taxes; or

(b) Not claim a homestead property tax credit on any property in the county or on any other property in the state for two (2) years for each year that the credit was claimed unlawfully.

(C) In order to qualify for the homestead property tax credit after repayment of an unlawfully claimed homestead property tax credit and payment of a penalty, the property owner shall register with the county assessor according to § 26-26-1118(b)(2)(A).

(b)(1) Every property owner shall report to the county assessor a change in eligibility to claim a property tax credit or a change in use of the property prior to January 1 of the year following the change.

(2) If the county assessor determines that a property owner has failed to report a change in the eligibility to claim a property tax credit or has failed to register a required change in the use of the property, the designated preparer of the tax books shall extend, in addition to repayment of the unlawfully claimed homestead property tax credit, the correct property tax due along with a penalty of one hundred percent (100%) of the amount of the unlawfully claimed homestead property tax credit.

(3)(A) If the property owner has unlawfully claimed a homestead property tax credit in a county other than the county where his or her lawfully claimed homestead property tax credit was claimed, then the property owner shall pay the entire amount of the unlawfully claimed homestead property tax credit and the penalty at the time of payment of the property owner's taxes.

(B) If the property owner has unlawfully claimed a homestead property tax credit in the same county that he or she lawfully claimed a homestead property tax credit, then the property owner shall elect to either:

(i) Pay the entire amount of the unlawfully claimed homestead property tax credit and the penalty at the time of payment of the property owner's taxes; or

(ii) Not claim a homestead property tax credit on any property in the county or on any other property in the state for two (2) years for each year that the credit was claimed unlawfully.

(c)(1) Penalties assessed under this section shall bind the real property and shall be entitled to preference over all judgments, executions, encumbrances, or liens, whenever created, until the penalties are repaid.

(2) Penalties collected under this section shall be remitted to the county treasurer to be credited to the county general fund.

(d)(1) The debt owed for the repayment of an unlawfully claimed homestead property tax credit assessed under this section shall bind the real property and shall be entitled to preference over all judgments, executions, encumbrances, or liens, whenever created, until it is repaid.

(2) A homestead property tax credit repaid under this section from a person who was not entitled to claim a credit shall be remitted to the Treasurer of State for deposit in the Property Tax Relief Trust Fund.

(e)(1) The property owner may appeal to the county court the determination by a county assessor that:

(A) The property owner shall repay an unlawfully claimed homestead property tax credit;

(B) The property owner shall pay penalties; or

(C) Any other determination that the property owner has violated this section.

(2) To appeal the determination by a county assessor, the property owner must file a petition with the county court within thirty (30) days from the date of the determination by the county assessor.

(3) After the petition is filed, the county court shall set a hearing within thirty (30) days after the filing of the petition.

(4) At the hearing, the property owner and county assessor shall present evidence to support their positions.

(5) The county court shall provide the property owner, county assessor, and county clerk with the county court's decision in writing within ten (10) business days after the hearing.

(6) The property owner or county assessor may appeal the county court's decision to circuit court within thirty (30) days after the date of the decision.

(f)(1) No penalties under this section shall be imposed against a property owner for an unlawfully claimed property tax credit after the expiration of three (3) years from the date the property tax credit was claimed.

(2) No repayment requirement under this section shall be imposed against a property owner for an unlawfully claimed property tax credit after the expiration of three (3) years from the date the property tax credit was claimed.

(3) This section does not alter the property owner's deadline to claim the homestead property tax credit as provided in § 26-26-1118(b)(3).

#### **ACA 26-26-1120. Disabled persons.**

(a) As used in Arkansas Constitution, Amendment 79, the term "disabled person" means a person who:

(1) Is disabled for purposes of Subchapter XIX of the Social Security Act as in effect on January 1, 2003, for any period during the calendar year;

(2) Is a permanently and totally disabled veteran as defined by 38 C.F.R., Part IV, as in effect on January 1, 2003; or

(3) Has received permanent and total disability insurance benefits for any period of time during the calendar year.

(b)(1) When a disabled person or a person sixty-five (65) years of age or older sells his or her real property, the purchaser shall not be entitled to claim any reduction to the real property's assessed value.

(2) On or after January 1 of the year following the date of the sale, the county assessor shall assess the real property at its full market value, unadjusted for assessment limitations required by Arkansas Constitution, Amendment 79.

#### **ACA 26-37-101. Transfer of tax-delinquent lands.**

(a)(1)(A) All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 15, shall be forfeited to the state and

transmitted by certification to the Commissioner of State Lands for collection or sale.

(B) The Commissioner of State Lands may accept an electronic certification of tax delinquent parcels from a county.

(2) Tax-delinquent lands shall not be sold at the county level.

(b) The county collector shall hold all tax-delinquent lands in the county for one (1) year after the date of delinquency, and, if the lands are not redeemed by the certification date, which shall be no later than July 1 of the following year, the collector shall transmit it to the state by certification, after notice as provided in this chapter, indicating all taxes, penalties, interest, and costs due and the name and last known address of the owner of record of the tax-delinquent lands.

(c) Upon receipt of the certification, title to the tax-delinquent lands shall vest in the State of Arkansas in care of the Commissioner of State Lands.

#### **ACA 26-37-102. Publication of notice - Fee.**

(a) The county collector in each county shall, not less than thirty (30) days nor more than forty (40) days prior to the certification of the land, publish in a newspaper of general circulation in the county:

(1) A list of real property not previously redeemed;

(2) The names of the owners of record;

(3) The amount of the taxes, penalties, interest, and costs necessary to be paid to redeem the property;

(4) The date upon which such period of redemption expires; and

(5) Notice that unless the property is redeemed prior to the expiration of the period of redemption, the lands will be forfeited to the state.

(b) Fees for the publication shall be the same as set forth in § 26-37-107.

#### **ACA 26-37-103. Verification by county assessor.**

(a) Prior to certification to the Commissioner of State Lands, the county assessor shall:

(1) Verify the assessment to establish value on all parcels to be certified;

(2) Verify the name and last known address of the owner of record of the tax-delinquent land; and

(3) Determine whether the tax-delinquent land exists.

(b) If the land is found to be nonexistent, the county assessor shall remove the delinquent entry from the assessment rolls.

(c) No tax-delinquent lands shall be certified to the Commissioner of State Lands without the assessor's verification.

#### **ACA 26-37-104. Costs of notices.**

(a) All costs of notice shall be added to the costs to be collected from the purchaser or redeemer.

(b) Costs of notice shall include, but not be limited to, certified mail costs, newspaper and catalog costs, and title work.

**ACA 26-37-105. Collection fee.**

(a) The Commissioner of State Lands may charge a collection fee for each deed issued by the Commissioner of State Lands, whether the land is redeemed or sold.

(b) The collection fee under this section shall be established by rule adopted by the Commissioner of State Lands.

(c)(1) However, the collection fee under this section shall not exceed the costs expended by the Commissioner of State Lands in producing or filing the deed.

(2) As used in subdivision (c)(1) of this section, "costs" means the actual costs expended by the Commissioner of State Lands plus three percent (3%) of the actual costs expended by the Commissioner of State Lands.

**ACA 26-37-106. Recording of delinquent list.**

(a)(1) The county collectors of this state shall cause a list of the delinquent lands in their respective counties, as corrected by the county collectors, to be entered in a permanent record appropriately labeled.

(2) The list shall be a permanent public record and open to the inspection of the public at all times.

(b) The county officer designated by the quorum court under ACA 26-28-102 shall certify that the total amount of tax delinquent lands in the permanent record under subsection (a) of this section is equal to the credit allowed the county collector for tax delinquent lands on the current tax settlement.

(c) The record, so certified, shall be evidence of the facts contained in the list and certificate.

**ACA 26-37-107. Publication of delinquent list.**

(a)(1)(A) The county collectors of this state shall cause the list of the delinquent lands in their respective counties to be prepared and a copy of the list to be delivered to a legal newspaper of the county by no later than December 1 of each year.

(B)(i) Within seven (7) days thereafter, the newspaper shall publish the list.

(ii) The newspaper shall publish the list in at least seven-point type.

(C) If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication.

(2) If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or district for which the list is being published.

(3) The list of delinquent lands shall contain at least the name of the owner and the legal description of the property as was recorded on the tax book.

(b) The publication shall be in substance as follows:

"DELINQUENT REAL ESTATE TAX LIST

The Real Estate Tax Books of \_\_\_\_\_ County reflect the following list of real property to be delinquent for nonpayment of taxes for the year \_\_\_\_\_ (The amount included in the "Tax, Penalty and Cost" column may not include all penalties and costs and will not include interest and special improvement assessments that may be due at the time of payment.)

NAME OF OWNER LEGAL DESCRIPTION BASE DELINQUENCY

Brown, Bill pt. W 1/2 NE SW Sect 6 Twp 17 Rn  
5 5 Acs.....\$44.25

Doe, John Lot 3 Blk 5 Plainview Add. ....\$31.25

Jones, John W 1/2 Lot 8 Blk 54 Meriweather  
Trust.....\$42.24

Roe, Richard SW 1/4 SE frac14; Sec 12 Twp  
18E Rn 6E 40 Acs.....\$37.25

NOTICE IS HEREBY GIVEN THAT said several tracts, lots or parts of lots, will be held as delinquent for a one-year period from this date and then certified to the State of Arkansas, Commissioner of State Lands, for collection or to be sold, unless the delinquent taxes, penalties, and costs are paid before the end of the one-year period.

(Date of Notice) \_\_\_\_\_ Collector \_\_\_\_\_  
County."

(c)(1) The legal fee for each required publication of delinquent real property tax lists shall be one dollar and fifty cents (\$1.50) per tract per insertion.

(2) The fee shall be added as costs of forfeiture and shall be paid by the county collector from any moneys in the county collector's possession derived from the payment of real property taxes.

(3) The receipts for the payment, verified by the certificate of the county clerk as to its correctness, shall entitle the county collector to a credit for the amount so paid.

(d) The requirements of this section do not apply to delinquent taxes on mineral interests, which shall comply with the requirements stated in § 26-36-213.

**ACA 26-37-109. Redemption of lands not transferred.**

(a)(1) A county collector may charge a fee of two dollars and fifty cents (\$2.50) for the issuance of each certificate of land redemption for each parcel of tax-delinquent land redeemed in the county collector's office.

(2) The fee under this subsection shall be deposited into the county general fund.

(b) The county collector shall accept payment for the redemption of tax-delinquent land that has not been transferred to the Commissioner of State Lands.

(c) The county collector shall pay over to the county treasurer on the first of each month or within ten (10) days thereafter all amounts collected under this section. However, upon a certificate of distribution of the amounts collected under this section being prepared by the county clerk or county collector, which certificate of distribution shall be issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds the amount due each fund, such as the county, school, or municipality fund, from the amounts collected under this section.

**ACA 26-37-302. Payment Required.**

(a) To redeem tax-delinquent land with the county collector or the Commissioner of State Lands and to purchase tax-delinquent land at the Commissioner of State Lands' sale the redeemer or purchaser of tax-delinquent land shall pay all delinquent taxes, plus:

- (1) Ten percent (10%) simple interest for each year of delinquency;
- (2) A ten percent (10%) penalty for each year of the delinquency; and
- (3) The costs incurred by the county and the Commissioner of State Lands.

(b) The penalties and interest shall accrue beginning on October 16 in the year of delinquency.

(c) Payment to redeem tax-delinquent land under this section shall be made by cash or certified funds, including without limitation a credit card, debit card, electronic check, escrow check, money order, cashier's check, or certified bank check if the redemption occurs:

- (1) Within thirty (30) days before the date of the scheduled sale; or
- (2) During the redemption period following the sale.

(d) The Commissioner of State Lands may approve additional forms of payment by promulgation of rule.

**ACA 26-37-310. Procedure for redeeming land certified to state.**

(g) The redemption deed shall serve as proof that payment has been received by the Commissioner of State Lands, in accordance with the provisions of § 26-37-302, and does not convey or change the legal ownership to the property redeemed.

(h) Upon receipt of the redemption deed, the county collector shall extend on the tax book against the land or lot the taxes other than state and county for the years that the taxes have not been paid since the sale of the land or lot to the state, and these taxes shall be charged and collected as other taxes.

**ACA 26-37-314. Sale of tax-delinquent severed mineral interests prohibited.**

(a)(1) When severed mineral interests are forfeited to the state and conveyed by certification to the Commissioner of State Lands for nonpayment of property taxes, title to the severed mineral interests shall vest in the

State of Arkansas in the care of the Commissioner of State Lands.

(2) The Commissioner of State Lands shall so notify the owner of record by certified mail at his or her last known address.

(3)(A) Except as provided in subsection (b) of this section, the Commissioner of State Lands shall not sell the severed mineral interests but shall retain the severed mineral interests indefinitely for redemption.

(B) However, the severed mineral interests may be leased by the Commissioner of State Lands if he or she determines that a lease is in the best interest of the state.

(C) All benefits, including royalty and leasehold payments, accruing after title vests in the state and before redemption shall be payable to the Commissioner of State Lands.

(D) Upon receipt of any such benefits, the Commissioner of State Lands shall deposit the funds into financial institutions in this state.

(4)(A) The tax-delinquent severed mineral interests may be redeemed at any time in the manner prescribed for the redemption of tax-delinquent real property.

(B) However, upon redemption the owner shall not be entitled to any payments received by the Commissioner of State Lands before redemption.

(5) All funds derived from redemption shall be held in escrow by the Commissioner of State Lands for one (1) year, at which time they shall be distributed the same as funds derived from the redemption of real property.

(b)(1) After the expiration of the redemption period prescribed by this chapter, the Commissioner of State Lands shall sell the severed mineral interests to the surface owners if the surface owners opt to purchase the tax-delinquent severed mineral interests.

(2) The surface owner purchasing severed mineral interests under subdivision (b)(1) of this section shall be allowed to purchase the severed mineral interests for an amount equal to the delinquent taxes and shall not be required to pay any interest or penalties if the surface owner was not the owner of the severed mineral interests at the time the taxes became delinquent.

(c) All benefits, including royalty and leasehold payments, payable to the Commissioner of State Lands pursuant to this section are not subject to the provisions of § 18-28-201 et seq. and § 18-28-401 et seq.

(d) The provisions of this section shall be applicable to all tax-delinquent severed mineral interests currently forfeited to the state and certified to the Commissioner of State Lands as well as to all tax-delinquent severed mineral interests forfeited to the state in the future.

(e)(1) No deed issued under this section shall be void or voidable on the ground that the assessment of the property taxes on the severed mineral interests was not subjoined to the assessment of the property taxes on the surface realty.

(2) This subsection shall be retroactive to all certifications of delinquent severed mineral interests in the records of the office of the Commissioner of State Lands.

**ACA 26-61-103. Levy of Tax.**

There is levied on all timberlands in this state an annual tax of twenty cents (20¢) per acre to be collected under this chapter for deposit into the State Treasury for credit to the State Forestry Fund as special revenues to be used for the maintenance, operation, and improvement of the Arkansas Forestry Commission in its statewide program for the detection, prevention, and suppression of forest fires.

**ACA 21-6-305 Collector of revenue.**

(a) The collector of revenue shall be allowed commissions for collecting the revenue and for certifying the amount of real property tax reduction to the Chief Fiscal Officer of the State pursuant to § 26-26-310, as follows:

- (1) For the first ten thousand dollars (\$10,000) collected, five percent (5%) in kind;
- (2) For all sums over ten thousand dollars (\$10,000) and under twenty thousand dollars (\$20,000) collected, four and one-half percent (4.5%) in kind;
- (3) For all sums over twenty thousand dollars (\$20,000) collected, four percent (4%) in kind; and
- (4) For the amount of real property tax reduction certified to the Chief Fiscal Officer of the State, four percent (4%) in kind.

(b) All commissions allowed to the collector by this section or any other law shall be paid into the county treasury as general revenues.

(c)(1) Commissions received by the county collector shall be used by the county collector to offset administrative costs.

(2) (A) The county collector may set aside up to ten percent (10%) of the gross commissions collected annually to be credited to the county collector's automation fund:

- (i) To operate the office of the county collector;
- (ii) For administrative costs; and
- (iii) To purchase, maintain, and operate an automated record-keeping system.

(B) The acquisition and update of software for the automated accounting and record-keeping system shall be a permitted use of these funds.

(3) Moneys deposited in this fund may accumulate and shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the county collector.

(d) All moneys not used by the county collector to offset administrative costs or set aside into the county collector's automation fund shall be prorated to the appropriate taxing entities.

**ACA 26-37-201. Publication of notice—Fee.**

(a)(1) The Commissioner of State Lands shall publish a notice of sale of land upon which the ad valorem property taxes have not been paid in a newspaper having general circulation in the county where the land is located.

(2)(A) The publication fee for the notice shall be adopted by rule of the Commissioner of State Lands.

(B)(i) However, the fee under this section shall not exceed the costs expended by the Commissioner of State Lands in producing, filing, or performing the deed.

(ii) As used in subdivision (a)(2)(B)(i) of this section, "costs" means the actual costs expended by the Commissioner of State Lands plus three percent (3%) of the actual costs expended by the Commissioner of State Lands.

(b) The notice shall:

(1) Contain the assessed value of the land;

(2) Contain the amount of taxes, interest, penalties, and other costs due on the land;

(3)(A) Contain the name of the owner, the legal description, and parcel number of the land.

(B) A part or abbreviated legal description shall be sufficient in the notice if the name of the owner and parcel number are listed;

(4) Contain a list of all interested parties; and

(5) Indicate that the land will be sold to the highest successful bidder if the bid is equal to at least the amount of delinquent taxes, penalties, interest, and the costs of the sale.

(c) The successful bidder shall pay all taxes, interest, penalties, and other costs.

(d)(1) Failure of the notice to contain the information required in subsection (b) of this section does not invalidate an auction sale of the land unless an owner or interested party did not receive notice in substantial compliance with § 26-37-301.

(2) Only an owner or interested party that fails to receive notice in substantial compliance with § 26-37-301 may challenge the validity of the publication notice.

(e) As used in this subchapter, "owner" and "interested party" mean the same as defined in § 26-37-301.

**ACA 26-37-202. Procedure to sell.**

(a)(1) Bidders for parcels at a tax-delinquent property auction may bid at the sale or may submit their bid to the office of the Commissioner of State Lands by mail or online.

(2) Bids shall be delivered at the appropriate place or by the appropriate method before the deadline established in the notice of the tax-delinquent property auction.

(3) The Commissioner of State Lands shall conduct a tax-delinquent property auction under this subsection in person under subdivisions (c)(1) and (c)(2) if 1 this section.

(4)(A) An individual or entity whose home of record is outside the United States is prohibited from purchasing tax-delinquent property certified to the Commissioner of State Lands.

(B) Effective July 1, 2021, in the event it is determined that a tax-delinquent parcel previously certified to the Commissioner of State Lands has been purchased by an individual or entity whose home of record is outside the United States:

(i) The deed shall be cancelled by the Commissioner of State Lands within three (3) business days of the determination;

(ii) Any and all moneys originally paid to the Commissioner of State Lands for the parcel are immediately forfeited to the Commissioner of State Lands; and

(iii) The parcel is immediately considered certified to the Commissioner of State Lands as tax-delinquent.

(b)(1)(A) If at the scheduled tax-delinquent property auction a person or entity does not bid at least the amount of delinquent taxes, penalties, interest, and the costs of the sale, the Commissioner of State Lands may sell tax-delinquent land at an unsold-property auction.

(B) The Commissioner of State Lands may conduct an unsold-property auction under subdivision (b)(1)(A) of this section online.

(2)(A) If tax-delinquent land is offered at an unsold-property auction within the first two (2) years following the tax-delinquent property auction under subsection (a) of this section, the tax-delinquent land shall be offered for at least the amount of the delinquent taxes, penalties, interest, and the costs of the sale.

(B)(i) If tax-delinquent land is offered two (2) years or more following the tax-delinquent property auction under subsection (a) of this section, the sale of the tax-delinquent land may be negotiated at a price the Commissioner of State Lands determines to be in the best interest of the state and the local taxing units.

(ii) The Commissioner of State Lands may conduct a negotiated-price sale under subdivision (b)(2)(B)(i) of this section online.

(3) The Commissioner of State Lands shall submit quarterly reports to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, listing all tax-delinquent land sold at an unsold-property auction or a negotiated-price sale under this section.

(c)(1) Except as provided in subdivision (c)(2) of this section, when the Commissioner of State Lands conducts an in-person tax-delinquent property auction, the in-person tax-delinquent property auction shall take place in the county where the land is located.

(2) If the Commissioner of State Lands determines that sufficient parcels of land located in one (1) county do not exist to justify an in-person sale in one (1) county, the Commissioner of State Lands may hold an in-person tax-delinquent property auction or in one (1) location and sell land located in more than one (1) county if the counties are adjoining counties.

(3) Unsold-property auctions and negotiated-price auctions are exempt from subdivisions (c)(1) and (c)(2) of this section.

(d) The auctions under this section shall be conducted on the dates specified in the notices required by this subchapter.

(e)(1) After a sale of the land by the Commissioner of State Lands, regardless of whether the sale occurred at a tax-delinquent property auction, an unsold-property auction, or a negotiated-price sale, the Commissioner of State Lands shall notify the owner and all interested parties of the right to redeem the land within ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the date of the sale by paying all taxes, penalties, interest, and costs due, including the cost of the notice.

(2) The notice under subdivision (e)(1) of this section shall be sent by regular mail to the last known address of the owner and all interested parties.

(3) If the land is not redeemed, a limited warranty deed shall be issued by the Commissioner of State Lands to the purchaser.

(f) As used in this section, "owner" and "interested party" have the same meaning as in § 26-37-301.

(g) The Commissioner of State Lands shall promulgate rules to carry out the provisions of this section.

#### **ACA 26-37-203. Conveyance to purchaser – Contest.**

(a) If the tax-delinquent land is sold, the Commissioner of State Lands shall convey the tax-delinquent land by issuing a limited warranty deed to the land.

(b)(1) Except as provided in subdivision (b)(2) of this section, an action to contest the validity of a conveyance under this section or a negotiated-price sale under § 26-37-101 is barred if not commenced within ninety (90) days after the date of the conveyance.

(2) A cause of action by a person suffering a mental incapacity, a minor, or a person serving in the United States Armed Forces during time of war during the ninety-day period under subdivision (b)(1) of this section is barred if not commenced within two (2) years after the disability is removed, the minor reaches majority, or the person is released from active duty with the United States Armed Forces during time of war.

(c) A deed issued after January 1, 1987, by the Commissioner of State Lands is not void or voidable on the ground that the county did not strictly comply with the laws governing tax-delinquent land.

(d) This section does not prevent a taxpayer from contesting the validity of a deed issued by the Commissioner of State Lands on the ground that taxes have actually been paid.

For further information regarding the real property tax, see the Arkansas Assessment Coordination Department "Property Tax Synopsis 2013" at <http://www.arkansas.gov/acd/publications/Synopsis2013.pdf>

#### **ACA 26-26-304. Ration Assessed value to market value.**

(2)(A) The preparer of the tax books shall file a report with the division showing the percent of true market or actual value at which the county equalization board has equalized the assessed values of the property of the county under the county equalization board's jurisdiction for the year, together with an abstract of the adjusted assessment by total of items and value.

#### **ACA 19-2-505. Approval by Arkansas Legislative Audit.**

(a) A financial institution desiring to provide public entities with images of canceled checks as provided in this subchapter shall provide a sample of imaged documents in one (1) or more of the following formats to Arkansas Legislative Audit for review:

(1) Stored on a CD-ROM or similar tangible digital media;

- (2) Accessible through the internet; or
- (3) On paper.

(b) Upon receipt of imaged documents submitted under subsection (a) of this section, Arkansas Legislative Audit shall immediately review and notify the financial institution whether or not the imaged documents are in compliance with this subchapter.

**ACA 19-2-506. Digital images or copies of documentation.**

(a) After a financial institution has received written notification from Arkansas Legislative Audit that the submitted samples of its imaged documents under § 19-2-505 comply with this subchapter and upon agreement with the public entity, the financial institution may provide the public entity canceled check images in the format and quality approved by Arkansas Legislative Audit.

(b) The canceled check images of financial transactions provided to the public entity by the financial institution under this subchapter shall be legible and show both the front and back images of the canceled checks.

(c)(1) If a financial institution provides canceled check images on tangible digital media under this subchapter, the images shall be provided on a read-only CD-ROM or other agreed upon digital media that would provide a permanent and tamper-proof record.

(2)(A) If particular software is needed to view or search the digital images provided under this subchapter, the financial institution shall provide the software to the public entity and, upon request, to Arkansas Legislative Audit.

(B) Software provided under subdivision (c)(2)(A) of this section shall make canceled check images clear and readable.

(3) Before delivery of a CD-ROM or other tangible digital media to a public entity, a financial institution shall perform random verification of the legibility of the contents of the data.

(d)(1) If a financial institution provides canceled check images to a public entity through internet access to online banking documents under this subchapter, the financial institution may provide Arkansas Legislative Audit read-only internet access to the public entity's online banking documents.

(2) Read-only internet access granted under subdivision (d)(1) of this section shall permit viewing and copying of each public entity's bank statements, canceled check images, deposit slips, and other financial transaction documentation made available to the public entity.

(3)(A) If particular software is needed to view or search images made available under this subsection, the financial institution shall provide the necessary software to the public entity and, upon request, to Arkansas Legislative Audit.

(B) Software provided under subdivision (d)(3)(A) of this section shall make canceled check images clear and readable.

(4) An online banking document made available to a public entity under this subsection shall be available for read-only internet access for at least five (5) years after the document is made available to the public entity online.

(e) If a financial institution provides canceled check images on paper under this subchapter, the images shall be of such clarity and size that the details may be read without the aid of a magnifying device.

(f)(1) If a financial institution provides canceled check images under this subchapter, the financial institution shall implement one (1) of the following procedures to provide verification of the authenticity of the records retained by the public entity:

(A) A duplicate copy of the check images on paper and statements mailed to Arkansas Legislative Audit on a monthly basis;

(B) The use of an identifying mark unique to the financial institution on the paper images of checks sent to the public entity;

(C) The delivery of a duplicate copy of the check images stored on tangible digital media, conforming to the digital imaging specifications stated in this subchapter, to Arkansas Legislative Audit on a monthly basis;

(D) The provision to Arkansas Legislative Audit of read-only internet access to the public entity's online banking documents in accordance with the requirements of this subchapter; or

(E) Any other authenticating method approved by Arkansas Legislative Audit.

(2) A financial institution may elect which of the procedures listed in subdivision (f)(1) of this section it shall implement to provide authentication of images relating to the accounts of each public entity.

(g) A financial institution shall be able to, and, at the request of Arkansas Legislative Audit, shall provide duplicate copies of any checks and statements delivered to a public entity:

(1) With the same clarity and size as the imaged documents previously delivered; and

(2) In the format requested by Arkansas Legislative Audit if the format is currently available to the financial institution.



## Chapter Seven - IMPROVEMENT DISTRICTS GENERALLY

### ACA 8-6-212. County solid waste management systems.

(a)(1) Each county of the state is authorized to provide and shall provide a solid waste management system adequate to collect and dispose of all solid wastes generated or existing within the boundaries of the county and outside the corporate limits of any municipality in the county.

(2) By agreement or contractual arrangement, the county may assume responsibility for solid wastes generated within municipalities whether within its county or other counties.

(3) A county may enter into agreements with other counties, one (1) or more municipalities, a regional solid waste management district, governmental agencies, private persons, trusts, or with any combination thereof, to provide a solid waste management system for the county or any portion thereof, but the agreement shall not relieve the parties to the agreement of their responsibilities under this subchapter.

(b)(1)(A) A county government may levy and collect the fees and charges and require the licenses that are appropriate to discharge the county's responsibility for a solid waste management system or any portion thereof. Each fee, charge, and license shall be based on a fee schedule contained in an ordinance.

(B)(i) A county may provide by ordinance that responsibility for payment of the fees and charges rests on the occupant of the property.

(ii) The ordinance shall provide that the owner of the property is the occupant unless, before the fifth day of the month of service, the owner registers with the county the name and address of the tenant occupying the property and either the date that the lease is to expire or that the lease is month to month.

(2)(A)(i) A county government may collect its fees and service charges by using its own system of periodic billing or by entering the fees and service charges on the county tax records and then collecting the fees and service charges annually with the personal property taxes.

(ii)(a) If a tenant has been registered as an occupant under subdivision (b)(1)(B)(ii) of this section, then the tenant is responsible for paying the fees and charges, and the county may collect the fees and charges annually from the tenant's personal property taxes.

(b) The county may also assess an additional annual fee of ten percent (10%) for invoicing and collecting the delinquent fees and charges from the tenant rather than the owner.

(iii) If a tenant has not been registered as an occupant under subdivision (b)(1)(B)(ii) of this section, then the owner is responsible for paying the fees and charges, and the county may collect the fees and charges annually from the owner's personal property taxes or real property taxes.

(B) Further, a fee or service charge billed periodically by the county that is more than ninety (90) days

delinquent or is delinquent as of the date set by the quorum court by ordinance may be entered on the tax records of the county as a delinquent periodic fee or service charge and may be collected by the county with personal property taxes or with real property taxes from the owner of the property in accordance with a county ordinance, except as provided in subdivision (b)(1)(B)(ii) of this section.

(C)(i) A county collector shall not accept payment of property taxes if an annual fee or service charge or a delinquent periodic fee or service charge appears on the county tax records of a taxpayer unless the fee or service charge due is also receipted.

(ii) These funds shall be receipted and deposited into an official account of the county collector, who shall settle the account at least quarterly.

(iii) The amount of the fees and service charges collected shall be paid to the county treasurer by the county collector, less four percent (4%) to be retained by the county collector. In addition, when the county collector maintains a separate tax book for the fees and charges, the county collector may charge an additional two dollars and fifty cents (\$2.50) for collection.

(3)(A) In counties in which the fees are entered on the tax records for yearly collection or if the periodic fees and service charges are more than ninety (90) days delinquent or are delinquent as of the date set by the quorum court by ordinance, the fees and service charges shall be entered on the tax records of the county by the county clerk and shall be collected by the county collector with the personal property taxes or with real property taxes from the owner of the property in accordance with a county ordinance, except as provided in subdivision (b)(1)(B)(ii) of this section.

(B) The fees and service charges to be collected shall be certified to the county clerk by December 1 each year by an appropriate municipal official or the mayor.

(4) Annual fees and service charges or the delinquent periodic fees and service charges which remain unpaid after the time other property taxes are due shall constitute a lien on the real and personal property of the taxpayer which may be enforced against such property by an action in circuit court.

(c) A county may accept and disburse funds derived from federal or state grants, from private sources, or from moneys that may be appropriated from any available funds for the installation and operation of a solid waste management system or any part thereof.

(d) A county is authorized to contract for the lease or purchase of land, facilities, and vehicles for the operation of a solid waste management system either for the county or as a party to a regional solid waste authority.

(e) A county shall have the right to issue orders, to establish policies for, and to enact ordinances concerning all phases of the operation of a solid waste management system, including hours of operation, the character and kinds of wastes accepted at the disposal site, the separation of wastes according to type by those generating

them prior to collection, the type of container for storage of wastes, the prohibition of the diverting of recyclable materials by persons other than the generator or collector of the recyclable materials, the prohibition of burning of wastes, the pretreatment of wastes, and such other rules as may be necessary or appropriate, so long as such orders, policies, and ordinances are consistent with, in accordance with, and not more restrictive than, those adopted by, under, or pursuant to this subchapter or any other laws, rules, regulations, or orders adopted by state law or incorporated by reference from federal law, the Arkansas Pollution Control and Ecology Commission, or the regional solid waste management boards or districts, unless:

(1) There exists a fully implemented comprehensive area-wide zoning plan and corresponding laws or ordinances covering the entire county; or

(2) The county has made a request to the regional solid waste management board or district to adopt a more restrictive rule, regulation, order, or standard and no public hearing has been held within sixty (60) days or the request has not been acted upon within ninety (90) days.

#### **ACA 14-14-711. Subordinate districts – Administration.**

(a) GENERALLY. A subordinate service district may be administered directly as a part of the office of the county judge, as a part of a department with or without an advisory or administrative board, or as a separate department with or without an advisory or administrative board.

(b) BUDGET. The budget for each subordinate service district shall be appropriated as other funds of the county.

(c) TAX LISTS. Upon request, the county assessor shall provide the quorum court with the assessed or taxable value of all property in a proposed established subordinate service district and a list of property owners and residential structures based on the last completed assessment roll of the county.

(d) SERVICE CHARGES.

(1)(A) Service charges for subordinate service districts shall be entered on tax statements by the county sheriff or county collector pursuant to § 26-35-705 and shall be collected with the real and personal property taxes of the county.

(B) No collector of taxes shall accept payment of any property taxes if the taxpayer has been billed for services authorized by a subordinate service district unless the service charge is also receipted.

(C) If a property owner fails to pay the service charge, the service charge shall become a lien on the property.

(2) A subordinate service district may choose to forgo county collection of its annual service charges and instead collect its service charges on a suitable periodic basis if the subordinate service district provides its own billing and collection service.

(e) USE OF FUNDS. Funds raised through service charges for a subordinate service district may be used only for subordinate service district purposes. These public funds shall be maintained in the county treasury and accounted for as an enterprise fund. Disbursements of all

subordinate service district funds shall be made only upon voucher or claim presented to and approved by the county judge, acting in his or her capacity as the chief executive officer of the county, unless otherwise provided by ordinance establishing the district.

#### **ACA 14-20-108. Dues for volunteer fire departments.**

(a)(1)(A) The quorum court of each county, upon request filed with the quorum court by one (1) or more volunteer fire departments in the county, may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas in the county.

(B)(i)(a) When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure.

(b)(1) The issue may be placed on the ballot at a special election by order of the quorum court in accordance with § 7-11-201 et seq.

(2) The special election shall be held by August 1.

(c) If an attested petition is filed with the 7 county clerk and signed by a majority of registered voters in the volunteer 8 fire department district voting in the immediately preceding general 9 election, then the quorum court by ordinance shall dispense with a special 10 election on the issue of the levy of volunteer fire department dues.

(d)(1) If the levy of volunteer fire department dues is approved by a majority of those voting on the issue or the county clerk determines that the number of signatures of registered voters is sufficient and the quorum court dispenses with a special election, the volunteer fire department dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.

(2)(A) The county collector shall report delinquencies to the volunteer fire department for collection.

(B) A volunteer fire department may collect volunteer fire department dues that have become delinquent and may enforce collection by proceedings in a court of proper jurisdiction.

(ii) The cost of the election shall be borne by the volunteer fire department that requested the levy.

(2) The ordinance enacted by the quorum court shall set forth the terms and conditions on which the volunteer fire department dues are to be collected by the county and for the remission of the volunteer fire department dues to the volunteer fire department.

(3) However, an active member of a volunteer fire department whose annual volunteer fire department dues are collected in this manner may be exempt from the annual volunteer fire department dues at the discretion of

the volunteer fire department in consideration of providing services to the volunteer fire department.

(b)(1) The quorum court by majority vote may designate the geographical area that a volunteer fire department serves.

(2) Upon request by a volunteer fire department, the quorum court of each county involved may authorize a volunteer fire department to extend its geographical service area across the county boundary lines.

(c) The quorum court may establish its own countywide fire department, either regular or voluntary.

(d) This section does not change the authority of intergovernmental cooperation councils to enter into reciprocal agreements or to distribute funds under § 14-284-401 et seq. and § 26-57-614.

(e)(1) If approved by ordinance by the governing body of an incorporated town or a city of the second class on the signed request of the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department, an incorporated town or a city of the second class located in the volunteer fire department district that is not served by a fire department may be included in the fire protection area with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(2)(A) The governing body of the incorporated town or city of the second class by ordinance shall call for an election on the ordinance under subdivision (e)(1) of this section.

(B) The issue may be placed on the ballot at a special election by order of the governing body in accordance with § 7-11-201 et seq., and the special election shall be held by August 1.

(C) If the issue is approved by a majority of those voting on the issue, the incorporated town or city of the second class shall be served by the volunteer fire department district with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(D) The cost of the election shall be borne by the governing body of the incorporated town or city of the second class that called for the election.

(3) If an attested petition is filed with the city or town recorder and signed by a majority of registered voters in the volunteer fire department district voting in the immediately preceding general election, then the governing body of the incorporated town or city of the second class by ordinance shall dispense with a special election on the levy of volunteer fire department dues.

(f) At the discretion of a volunteer fire department, a church served by a volunteer fire department may be exempt from volunteer fire department dues if the church is exempt from real property taxes.

(g)(1)(A) By December 15 of each year or upon the creation of a volunteer fire department, a volunteer fire department that uses or intends to use the county collector for collection of the volunteer fire department dues shall file an annual report with the county clerk in any county in which a portion of the volunteer fire department is located.

(B) The county clerk shall not charge any costs or fees for filing the annual report.

(C) The volunteer fire department shall deliver a filed copy of the annual report to the county collector within five (5) days of filing.

(2) The annual report shall contain the following information as of December 15 of the current calendar year:

(A) Identification of the volunteer fire department board members and contact information;

(B) The contact information for the volunteer fire department chief;

(C) Information concerning to whom the official designated to remit the volunteer fire department dues is to pay volunteer fire department dues; and

(D) The amount of the annual dues charged by the volunteer fire department by parcel or on each residence or business having an occupiable structure.

(h) The official designated to remit the volunteer fire department dues under this section shall not remit the dues collected by the county collector to any volunteer fire department until the annual report has been filed.

(i) A volunteer fire department that is required to file a report under § 14-86-2102 is not required to file a separate report under this section.

(j) This section applies to all volunteer fire departments, however organized.

**ACA 14-284-204. Establishment by petition and adoption of ordinance.**

(a)(1)(A) If petitions containing a description of the territory for a proposed fire protection district, along with an accurate map of the proposed fire protection district boundaries, and containing the signatures of ten percent (10%) or more total of the qualified electors within the proposed fire protection district are filed with the county clerk and quorum court of a county in which the proposed fire protection district is to be located to request a public hearing and the establishment of a fire protection district in the county, then the:

(i) County clerk or clerks, if the proposed fire protection district is located in more than one (1) county, shall determine the sufficiency of and certify the signatures; and

(ii) Quorum court or quorum courts, if the proposed fire protection district is located in more than one (1) county, shall conduct a public hearing to determine the support for the proposed fire protection district.

(B)(i) The signatures and sufficiency of the petition shall be certified by the county clerk within sixty (60) days of receipt of the petition under subdivision (a)(1)(A) of this section.

(ii) The quorum court shall respond in writing to the petitioners within the sixty-day period under subdivision (a)(1)(B)(i) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (a)(1)(B)(i) of this section.

(2)(A) The quorum court shall set the time for the hearing to be held not less than thirty (30) days nor more than sixty (60) days after the petitions are certified and shall set the place for the hearing to be held by the quorum court on the

proposed fire protection district, but in no event shall the quorum court delay the time for the hearing beyond sixty (60) days.

(B) When a time and place for the hearing are set, the quorum court shall publish notice of the hearing in a newspaper of general circulation in the county.

(3)(A) Before setting the hearing on the adoption of an ordinance to establish a fire protection district, petitions filed with the quorum court shall be filed with the county clerk of the county where the proposed fire protection district is to be located.

(B) It shall be the duty of the county clerk or clerks, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency in writing to the quorum court as provided under this section.

(C) The petitions shall indicate the elector's name, address, and signature and shall contain a verification of the signatures pursuant to § 7-9-109.

(b)(1) After the petitions are certified, the quorum court shall conduct a public hearing and adopt an ordinance to establish the fire protection district and to levy assessments on property or the landowners, or both.

(2) The ordinance shall set the boundaries of the fire protection district.

**ACA 14-284-216. Assessments–Time for payment–Failure to pay.**

(4)(A) The collector shall add to the amount of the delinquent assessment a penalty of ten percent (10%) and shall collect the delinquent assessment in the same manner as delinquent ad valorem real property taxes.

(B)(i) The collector may return delinquent assessments for collection after January 1 each year.

(ii) A delinquent assessment that existed before January 1, 2020, is deemed uncollectible.

**ACA 14-86-103. Reporting–Definition.**

(b)(1) Upon creation, on or before April 1, 2022, and annually thereafter, the district shall file with the clerk of the county court in whose jurisdiction any property of the district is located an Annual Report for the preceding fiscal year that includes:

(A) The name of the district;

(B) The date on which the district was formed;

(C) The statutory or other legal authority under which the district was formed;

(D) A description of the district's boundaries and a map of the district;

(E) The names, phone numbers, addresses, and email addresses of the district's directors or commissioners and the district's officers, if any, and their respective terms of office;

(F) An identification of any vacancy on the district board or district commission;

(G) The date, time, and location of the district board's or district commission's next annual meeting or, if the annual meeting is unscheduled, the date, time, and location of the district board's or district commission's next meeting;

(H) A general description of the district's current and future maintenance and repair needs;

(I) A list of contracts, the identity of the parties to the contracts, and the obligations of the district;

(J) Any indebtedness, including bonded indebtedness, and:

(i) The reason for the indebtedness; and

(ii) The stated payout or maturity date of the indebtedness;

(K) The total existing delinquent assessments and the party responsible for the collection;

(L) The contact information for the district assessor, including name, phone number, address, and email address;

(M) If the county collects for the district, information concerning to whom the county treasurer is to pay district assessments;

(N) An explanation of the statutory penalties, interest, and costs;

(O) The method used to compute district assessments; and

(P) A statement itemizing the income and expenditures of the district, including a statement of fund and account balances of the district for the most recent fiscal year.

(2) Within thirty (30) days of receipt, the clerk of the county court in whose jurisdiction any property of the district is located shall forward a file-marked copy of all reports filed under this subsection to the Arkansas Natural Resources Commission and the Division of Emergency Management.

(c)(1) The county judge of the county or the mayor of the municipality in which all or a portion of the district lies shall appoint an administrator of the district to act as the board of commissioners if the district fails to perform any of the requirements of subsection (b) of this section.

(2) The administrator appointed under subdivision (c)(1) of this section:

(A) Is subject to the applicable laws of the district;

(B) Shall provide evidence of his or her economic viability;

(C) Shall receive such payment for his or her services as the county judge or the mayor may allow;

(D) Shall serve at the pleasure of the county judge or mayor and until such time as the county judge or mayor determines the administrator is no longer necessary; and

(E) Is not liable for damages in connection with the district unless the administrator acted with corrupt and malicious intent.

**ACA 14-86-2102. Annual improvement district or protection district filing.**

(a)(1)(A) Beginning April 1, 2022, or upon the creation of an improvement district or protection district and on April 1 of each year thereafter, an improvement district or protection district that uses or intends to use the county collector for collection of improvement district assessments or protection district assessments shall file an Annual Report with the county clerk in any county in which a portion of the improvement district or protection district is located.

(B) The report shall be available for inspection and copying by assessed landowners in the improvement district or protection district.

(C) The county clerk shall not charge any costs or fees for filing the report.

(D) The improvement district or protection district shall deliver a filed copy of the report to the county

collector, county assessor, and county treasurer within five (5) days of filing.

(E) Within thirty (30) days of receipt, the county clerk shall forward to the Arkansas Natural Resources Commission and the Division of Emergency Management a file-marked copy of the report filed by a levee district, drainage district, or levee and drainage district that is a district as defined in § 14-86-103.

(2) The report shall contain the following information for the preceding fiscal year:

(A) Identification of the primary statute under which the improvement district or protection district was formed;

(B) A general statement of the purpose of the improvement district or protection district;

(C) A list of contracts, the identity of the parties to the contracts, and the obligations of the improvement district or protection district;

(D)(i) Any indebtedness, including bonded indebtedness, and the reason for the indebtedness.

(ii) The stated payout or maturity date of the indebtedness, if any, shall be included;

(E) The total existing delinquent assessments and the party responsible for the collection;

(F) Identification of the improvement district or protection district directors or commissioners and improvement district or protection district officers, if any, and contact information, including names, phone numbers, addresses, and email addresses;

(G) The date, time, and location for any scheduled meeting of the improvement district or protection district for the current year;

(H) The contact information for the improvement district or protection district assessor, including name, phone number, address, and email address;

(I) Information concerning to whom the county treasurer is to pay improvement district or protection district assessments;

(J) An explanation of the statutory penalties, interest, and costs;

(K) The method used to compute improvement district or protection district assessments; and

(L) A statement itemizing the income and expenditures of the improvement district or protection district, including a statement of fund and account balances of the improvement district or protection district for the most recent fiscal year.

(b)(1) The county judge of the county or the mayor of the municipality in which a portion of an improvement district or protection district is located shall appoint an administrator of the improvement district or protection district to act as the board of commissioners if the improvement district or protection district does not comply with subsection (a) of this section.

(2) The administrator appointed under subdivision (b)(1) of this section:

(A) Is subject to the applicable laws of the improvement district or protection district;

(B) Shall provide evidence of his or her economic viability;

(C) Shall receive such payment for his or her services as the county judge or the mayor may allow;

(D) Shall serve at the pleasure of the county judge or mayor and until such time as the county judge or mayor determines the administrator is no longer necessary; and

(E) Is not liable for damages in connection with the improvement district or protection district unless the administrator acted with corrupt and malicious intent.

(c)(1) On or before December 15 of each year, the improvement district or protection district shall file its list of special assessments for the following calendar year with the county clerk in any county in which a portion of the improvement district or protection district is located.

(2)(A) After filing the list of special assessments, the improvement district or protection district shall deliver a copy of the filed list of special assessments to the preparer of the tax books.

(B) If the county collector is not the designated preparer of the tax books, the improvement district or protection district shall deliver a copy of the filed list of special assessments to the county collector.

(3) (A) A list of each parcel with an assessment levied against it within the improvement district or protection district; and

(B) The contact information for the improvement district assessor or protection district assessor, including name, phone number, address, and email address.

(4) The list of special assessments shall not include assessments on parcels that otherwise would not appear on the tax books for the following year.

(5) After the December 15 deadline to file the list of special assessments, the county collector shall reject an assessment submitted by the improvement district or protection district for inclusion in the list of special assessments.

(6) If an improvement district or protection district has failed to file the annual report required under this section, the county treasurer shall withhold disbursement of any funds collected through assessments until receipt of the most recent annual report required under this section.

#### **ACA 14-86-2202. Record retention and public examination of records.**

(a) A district covered under this subchapter shall retain all financial records, bank statements, and contracts relating to the bonds, notes, or other evidences of indebtedness undertaken by the district during the existence of the district and for five (5) years following dissolution of the district.

(b) Any person who negligently violates any of the provisions of this subchapter is guilty of a Class C misdemeanor for each violation.

(c) Any person who purposely violates any of the provisions of this subchapter is guilty of a Class B misdemeanor for each violation.

(d) The Freedom of Information Act of 1967, § 25-19-101 et seq., applies to records retained under this subchapter.

#### **ACA 14-86-2203. Subsequent Indebtedness.**

(a)(1) After the initial creation, bonding, and indebtedness of a district, but before subsequent bonds, notes, or

indebtedness is incurred under the authority of this subchapter, a majority of the owners of record in the district, including no less than a majority of the total number of real property owners in the area affected if the majority of owners owns more than half of the acreage affected, shall be required to authorize the issuance of bonds or the incurring of notes or indebtedness by a vote called by the governing body of the district for that purpose.

(b) The governing body shall not require a vote if:

(1) The indebtedness is necessary to fulfill directives of a regulatory governmental agency;

(2) The district has one thousand (1,000) or more owners of record;

(3) The bonds, notes, or indebtedness does not include the assessed property as specific collateral for the bonds, notes, or indebtedness; or

(4) The indebtedness is incurred for the refunding of outstanding bonds, notes, or indebtedness of the district for the purpose of reducing debt service and creating economic savings.

(c) Before incurring the indebtedness, the secretary or other administrative officer of the governing body shall:

(1) Give notice of the required action and improvement by publication one (1) time per week for two (2) weeks in a newspaper published and having a general circulation in the county; and

(2) Transmit a copy of the notice by certified mail to each owner of real property within the boundaries of the district.

#### **ACA 14-88-505. Records of Meetings.**

(a) The commissioners of a municipal improvement district shall maintain on file for inspection and copying a record of regular and special meetings of the municipal improvement district board.

(b) The records kept under subsection (a) of this section shall include without limitation:

(1) Meeting notices with date, time, and location;

(2) Meeting agendas;

(3) Detailed minutes of meetings;

(4) Financial reports with supporting bank statements; and

(5) Actions taken by the board with supporting documentation and plans, if any.

#### **ACA 14-89-1402. Filing required.**

(a)(1)(A) All improvement districts in any city or incorporated town in this state established for the purpose of making improvements for municipal purposes shall file an annual financial report with the city clerk or recorder of the city or town on or before March 1 of each year, covering the financial affairs of the districts for the preceding year.

(B) The filing under subdivision (a)(1)(A) of this section shall include without limitation a complete itemization of revenues and expenditures and status of district projects.

(2) All improvement districts in any city or incorporated town in this state established for the purpose

of providing electric utility services for municipal purposes shall file an annual financial report with the city clerk or recorder of the city or town on or before June 1 of each year, covering the financial affairs of the districts for the preceding year.

(3) The annual financial report may be included with the report required by § 14-86-2102.

(b) The annual financial report shall be certified and filed as provided in this section by the commissioners of each district.

#### **ACA 14-89-1501. Quarterly financial reports.**

(a)(1) All improvement districts in any city or incorporated town in this state established for the purpose of making improvements for municipal purposes shall meet at least four (4) times per year or quarterly.

(2) Notice of each meeting, including without limitation each quarterly meeting under this section, shall be given by the improvement district to all record owners of property in the district no more than thirty (30) days before the meeting date and no less than ten (10) days before the meeting date.

(b)(1) At each quarterly meeting of the improvement district, a financial report shall be included as an item on the agenda.

(2) The financial report shall be provided to any member of the public who requests a copy of the report.

(3) The financial report required under this section shall include without limitation:

(A) Supporting documentation;

(B) Bank statements;

(C) Operating budget;

(D) Projected budget; and

(E) Itemization of revenues and expenditures.

#### **ACA 14-92-602. Taxes; election to collect.**

(a)(1) Any eligible district may elect to collect the taxes levied by it pursuant to the provisions of §§ 14-92-228 and 14-92-239. This election shall be made by resolution of the board of commissioners of the eligible district.

(2) Certified copies of the resolution shall be filed with the county clerk and county tax collector of each county in which any of the territory of the district is located, not later than July 15 of the year immediately preceding the first year in which the district will collect the taxes.

(b) Once the election is made and so long as it continues in force, the clerk shall not extend the district taxes upon the county tax books, and the collector shall not collect the district taxes. The district shall be solely responsible for collecting the district taxes, which shall be due and payable on or before October 15 of each year.

(c)(1) Once an eligible district makes the election provided for in this section to collect its own taxes, the election shall continue in effect and the district shall collect its own taxes unless and until the election is revoked.

(2)(A) The election may be revoked by resolution of the board of the district, and the filing of certified copies thereof with the clerk and collector of each county in which

any of the territory of the district is located, such filing to be made on or before July 15 of any year.

(B) The revocation shall be effective as to taxes to be collected in the year immediately succeeding the year in which the revocation is filed.

**ACA 14-92-603. Collection of delinquent taxes.**

(a) If an eligible district has elected to collect its own taxes under § 14-92-602, the district is responsible for and may take action for collecting taxes that have become delinquent.

(b)(1) An eligible district that has not elected to collect its own taxes under § 14-92-602 may elect to assume sole responsibility for the collection of the eligible district's taxes that have become delinquent.

(2)(A) An election under subdivision (b)(1) of this section shall be made by resolution of the board of commissioners of the eligible district, and a certified copy of the resolution shall be filed with the county tax collector of each county in which any of the territory of the eligible district is located, prior to October 15 of any year.

(B) The election shall be effective for taxes becoming delinquent in the year of filing.

(c)(1) If an eligible district has responsibility under this section for collecting the delinquent taxes of the district, or if the eligible district elects to assume this responsibility, the county collector shall take no action to enforce collection of delinquent taxes.

(2) If the eligible district has elected to collect only delinquent taxes, the county collector shall report delinquencies to the board of the eligible district.

(d) If it is the responsibility of the eligible district to collect delinquent taxes, the district shall add to the amount of the tax a penalty of twenty-five percent (25%) and shall enforce collection by civil proceedings in the circuit court of the county and in the manner provided by §§ 14-121-426 – 14-121-432.

(e)(1) Once an eligible district makes the application to collect the delinquent taxes of the district, the election continues in effect until revoked.

(2)(A) Revocation shall be by resolution of the board and the filing of certified copies of the resolution with the collector of each county in which any of the territory of the eligible district is located.

(B) A filing under subdivision (e)(2)(A) of this section shall be made on or before October 15 of any year and shall be effective as to taxes becoming delinquent in that year.

**ACA 14-120-113. Delinquent levies.**

(a)(1)(A) A county collector may certify all delinquent levies to a drainage or levee improvement district for collection after January 1 of each year.

(B) The county collector shall maintain a list of all certified delinquent levies of a drainage or levee improvement district.

(2)(A) A county collector shall accept payment of a delinquent levy after certification to a drainage or levee improvement district if the payor is paying:

(i) In person; and

(ii) By separate check from the payment of ad valorem taxes.

(B) The county collector may:

(i) Forward the certified delinquent levy list to the drainage or levee improvement district for collection; or

(ii)(a) Forward the certified delinquent levy list in the drainage or levee improvement district to the Commissioner of State Lands for delinquency procedures under § 26-37-101 et seq.

(b) The certified delinquent levy list under subdivision (a)(1)(B) of this section may only be forwarded to the Commissioner of State Lands if the parcel for which the delinquent levy is owed is also certified for nonpayment of ad valorem taxes.

(C)(i) The county collector is not required to provide a receipt for the payment of the delinquent levy.

(ii) The payor is responsible for obtaining a receipt for payment of the delinquent levy from the drainage or levee improvement district.

(b) A county collector who collects and remits delinquent levies to the drainage or levee improvement district after certification under subdivision (a)(2)(B)(i) of this section shall impose penalties against the payor on behalf of the drainage or levee improvement district under § 14-120-229.

**ACA 14-126-101. Resolution required.**

(a) This chapter shall not be in force as to any levee district until:

(1) A proper resolution to that effect is adopted by the board of directors of the levee district; and

(2) A copy of the resolution is published in a newspaper in each county that in whole or in part is embraced in the levee district.

(b) If the board of directors of a levee district chooses to adopt this chapter by resolution, its provisions shall be supplemental to other laws under which the levee district is established and operates.

(c)(1) The board of directors of a levee district may rescind a resolution adopted under this chapter.

(2) If a resolution is rescinded, a notice to that effect shall be published in a newspaper in each county that in whole or in part is embraced in the levee district.

**ACA 14-126-102. Alternative method of assessments.**

(a) The board of directors of a levee district that includes more than two (2) counties may, at a regular meeting or at a special meeting called for the purpose, adopt a resolution providing for assessments as provided in this section.

(b)(1) The board of directors of a levee district that includes more than two (2) counties may provide by resolution for an annual assessment under this section upon:

(A) All real estate subject to overflow in the district;

(B) All improvements on real estate subject to overflow in the district; and

(C) Telephone, electrical light and power lines, and pipelines subject to overflow within the district.

(2)(A) The board of directors of a levee district may assess a tax on the real estate subject to overflow in the district in the amount of thirty cents (30¢) per acre or city lot.

(B) The board of directors of a levee district may assess a millage upon all improvements to real estate subject to overflow in the district in an amount not to exceed twenty (20) mills on the dollar of the assessed value as the property is assessed for state and county tax purposes.

(3) The millage assessed upon telephone, electrical light and power lines, and pipelines subject to overflow within the district shall not exceed twenty (20) mills on the dollar of twenty percent (20%) of the assessed valuation of the utility company based on calculations by the Arkansas Public Service Commission that are provided to the tax assessor in each county within the levee district.

(c) The board of directors of a levee district may assess a tax on a railroad, its right-of-way, and roadbed subject to overflow within the district in an amount not to exceed two hundred fifty dollars (\$250) per mile within the district.

(d) The alternative assessments under this section shall be in lieu of assessments required by other laws under which the levee district is established and operates.

#### **ACA 14-126-103. Review of alternative assessment.**

(a)(1) A person aggrieved by an alternative assessment under this chapter may petition to have the assessment reviewed by the board of directors.

(2) A petition for review shall be filed within thirty (30) days from the date when the assessment becomes effective.

(3) The board of directors may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the petition.

(4) The amount and legality of an assessment made by a district, in the absence of a petition for a review, is conclusive.

(b)(1)(A) Within thirty (30) days of the conclusion of a review by the board of directors, an appeal may be filed with the county equalization board of the county in which the:

(i) Property is situated; or

(ii) District has its domicile if the property involved is in more than one (1) county.

(B) A copy of the appeal shall be delivered to the:

(i) President of the levee district; or

(ii) Chair of the board of directors of the levee district.

(2)(A) An appeal before the county equalization board shall be heard on the evidence introduced before the board of directors.

(B) Additional or different evidence shall not be admissible except on an issue of corrupt purpose or

fraudulent action on the part of the board of directors resulting in a wrongful and discriminatory assessment.

(3) The right of review is part of the administrative remedy for relief from wrongful or erroneous assessments.

(4)(A) The county equalization board shall hear the petition as expeditiously as possible.

(B) The county equalization board may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the appeal.

(C) As soon as the county equalization board determines the proper assessment under a petition pending before it, the county equalization board shall promptly certify the assessment to the district, and the district shall modify the assessment as necessary.

(c)(1)(A) Within thirty (30) days of the conclusion of an appeal to the county equalization board, an appeal may be filed with the circuit court of the county in which the:

(i) Property is situated; or

(ii) District has its domicile if the property involved is in more than one (1) county.

(B) A copy of the appeal to the circuit court shall be delivered to the:

(i) President of the levee district; or

(ii) Chair of the board of directors of the levee district.

(2)(A) Review shall be heard on the evidence introduced before the board of directors.

(B) Additional or different evidence shall not be admissible except on an issue of corrupt purpose or fraudulent action on the part of the board of directors resulting in a wrongful and discriminatory assessment.

(3) The right of review is part of the administrative remedy for relief from wrongful or erroneous assessments.

(4)(A) The circuit court shall hear the petition as expeditiously as possible.

(B) The circuit court may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the appeal.

(5) As soon as the circuit court determines the proper assessment under a petition pending before it, the clerk of the circuit court shall promptly certify the assessment to the district, and the district shall modify the assessment as necessary.

(d)(1)(A) An appeal may be filed from the assessment fixed by the circuit court with the Supreme Court.

(B) The transcript shall be filed with the Clerk of the Supreme Court within sixty (60) days from the issuance of the decree of the circuit court.

(2) The Supreme Court shall advance the appeal on its docket as involving a matter of public interest.

#### **ACA 14-284-112. Assessment; collection; revision.**

(a) The original assessment record, or any reassessment record, shall be filed with the county clerk, whose duty it shall be to extend the annual benefit assessment annually upon the tax books of the county until the district is dissolved.

(b) It shall then be the duty of the collector to collect each year the annual benefit assessment extended upon the book along with the other taxes, and the taxes shall be paid by the collector over to the depository of the district at the same time that he pays over the county funds.

(c)(1) If there is any change in the annual benefits assessed, a certified copy of the revised assessment shall be filed with the county clerk who shall extend the revised assessment annually upon the tax books until a new assessment is made, which shall be extended upon the tax books in a similar manner. The power to reassess and extend the assessment upon the tax books shall be a continuing power as long as the district continues to exist. It shall be the duty of the county collector to collect the taxes so extended.

(2) In lieu of filing the reassessment, the assessors may make the changes in the assessments in red ink on the assessment already on file, or the assessment record may contain many columns, at the head of which the year shall be designated and, in the column, the new annual benefits may be shown in red ink which will indicate any increase or decrease in the original annual benefits extended. When the change is made, a red ink line shall be drawn through the figures showing the original annual benefits extended.

**ACA 14-284-113. Assessment; payment; enforcement.**

(a)(1) All annual benefits extended and levied under the terms of this subchapter shall be payable between the third Monday in February and the third Monday in April of each year.

(2) If any annual benefit assessments levied by the board in pursuance to this subchapter are not paid at maturity, the collector shall not embrace the assessments in the taxes for which he shall sell the lands, but he shall report the delinquencies to the board of commissioners of the district who shall add to the amount of the annual benefit assessment a penalty of ten percent (10%).

(b) The board of commissioners shall enforce the collection by chancery proceedings in the chancery court of the county in the manner provided by §§ 14-121-426 – 14-121-432.

(c) The owner of property sold for taxes thereunder shall have the right to redeem it at any time within two (2) years from the time when his lands have been stricken off by the commissioner making the sale.

**ACA 14-284-215. Recording and collection of assessments.**

(a) The original benefit assessment or flat fee assessment or any reassessment shall be filed with the county clerk of each county within which the district is located, and it shall be the duty of the county clerk to extend the annual benefit assessment or flat fee assessment annually upon the tax books of each county for the property within the fire protection district as located within that county until the district is dissolved.

(b) It is the duty of the collector each year to collect the annual benefit assessment, flat fee assessment, or reassessment so extended, along with the other taxes.

(1) The collector shall deduct three percent (3%) of the assessments collected, shall retain one-half (1/2) thereof as his fee for collecting the benefits, and shall pay over the remaining one-half (1/2) of this amount to the clerk of the county, or to the appropriate county official who extended the assessment, as his fee for extending the assessments on the assessment records.

(2) The collector shall remit the remainder of the assessments collected to the secretary-treasurer of the district at the same time the collector remits tax collections to the county treasurer.

(3) Upon receipt of the assessed benefits, the secretary-treasurer of the district shall execute a receipt for the funds, deliver it to the county collector, and shall deposit the funds so received in a bank or banks that are located within the district or a bank or banks designated by the board of commissioners if no bank or banks are located within the district, with said funds to be used solely and exclusively for district purposes.

(c)(1) If there is any change in the annual assessments, a certified copy of the revised assessment shall be filed with the county clerk, who shall extend the revised assessment annually upon the tax books until a new assessment is made, which shall be extended upon the tax books in like manner. The power to reassess and extend the assessment upon the tax books shall be a continuing power as long as the district continues to exist. It shall be the duty of the county collector to collect the taxes so extended.

(2) In lieu of filing the reassessment, the assessors may make the changes in the assessment in red ink on the assessment already on file, or the assessment record may contain many columns, at the head of which the year shall be designated, and, in the corresponding column, the new annual assessment may be shown in red ink which will indicate any increase or decrease in the original annual assessment extended. When the change is made, a red ink line shall be drawn through the figures showing the previous annual assessment extended.

**ACA 20-13-305. Financing by service charges.**

(a) Emergency medical services to be provided the residents of any county or any designated area of the county pursuant to the provisions of this subchapter may be financed by service charges levied in the ordinance establishing the service.

(b)(1) The service charges may be assessed and collected on a per capita, per household, or per unit of service basis or a combination of any of these, as may be determined by the quorum court, and shall be collected in such manner as may be prescribed by ordinance of the quorum court.

(2) If the quorum court elects by ordinance to have the service charges entered on ad valorem tax notices and collected by the county collector at the time of collecting real and personal property taxes, the collector shall not accept payment of any ad valorem taxes unless the taxpayer at the same time pays any service charges billed to him or her to finance emergency medical services.

(c) All funds derived from the levy of service charges to support the furnishing of emergency medical

services in the county or designated area shall be used only for the purposes for which levied, and a separate account shall be maintained in the county treasury in which all funds shall be deposited.

(d)(1) The funds shall be expended only on appropriation of the quorum court and shall be subject to the same accounting and disbursement procedures and requirements as other county funds.

(2) A quorum court may expend the funds directly to an emergency medical services provider selected for the area without observing the accounting requirements of other county funds if:

(A) The quorum court appropriates the funds for that purpose;

(B) The voters of an emergency medical services district have approved the collection of service charges by placement of those fees on the ad valorem tax notices; and

(C) The quorum court determines by resolution that the annual cost of providing emergency medical services to the district exceeds the annual amount collected as service charges by the placement of the service charges on the ad valorem tax notices.

**ACA 7-5-902. Uncounted votes.**

(a) If for any reason a vote, including an absentee vote and a provisional vote, is not counted under this chapter, the county board of election commissioners shall promptly notify the person who cast the vote.

(b) Notification under subsection (a) of this section shall be written notification and shall state the reason or reasons the vote was not counted.

**ACA 7-5-903. Voter notification.**

(a) Except as otherwise provided under federal law and Arkansas Constitution, Amendment 51, the county clerk shall send written notification to a person when:

(1) A person registers to vote for the first time;  
(2) The voter registration of a person becomes inactive; and  
(3) A person is removed or purged from a voter registration list.

(b) If a person is removed or purged from a voter registration list under subdivision (a)(3) of this section, he or she has thirty (30) days to challenge the removal.

**ACA 7-5-904. Election commissioners.**

(a) A member of the State Board of Election Commissioners or a county board of election commissioners shall not serve as a poll worker or a poll watcher on behalf of an individual candidate, political party, or ballot initiative.

(b) A person shall not simultaneously serve on the State Board of Election Commissioners and a county board of election commissioners.

## Chapter Eight - COLLECTOR'S COMMISSIONS AND FEES

### ACA 21-6-305. Collector of Revenue.

(a) The collector shall be allowed commissions for collecting the revenue and for certifying the amount of real property tax reduction to the Chief Fiscal Officer of the State pursuant to § 26-26-310, as follows:

(1) For the first ten thousand dollars (\$10,000) collected, five percent (5%) in kind;

(2) For all sums over ten thousand dollars (\$10,000) and under twenty thousand dollars (\$20,000) collected, four and one-half percent (4.5%) in kind;

(3) For all sums over twenty thousand dollars (\$20,000) collected, four percent (4%) in kind; and

(4) For the amount of real property tax reduction certified to the Chief Fiscal Officer of the State, four percent (4%) in kind.

(b) All commissions allowed to the collector by this section or any other law shall be paid into the county treasury as general revenues.

(c)(1) Commissions received by the county collector shall be used by the county collector to offset administrative costs.

(2)(A) The county collector may set aside up to ten percent (10%) of the gross commissions collected annually to be credited to the county collector's automation fund:

(i) To operate the office of the county collector;

(ii) For administrative costs; and

(iii) To purchase, maintain, and operate an automated record-keeping system.

(B) The acquisition and update of software for the automated accounting and record-keeping system shall be a permitted use of these funds.

(3) Moneys deposited in this fund may accumulate and shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the county collector.

(d) All moneys not used by the county collector to offset administrative costs or set aside into the county collector's automation fund shall be prorated to the appropriate taxing entities.

### ACA 21-6-305. School District Accounts - Collector's Commission.

Formula for rate of commission under Act I20 of 1941

\$ 10,000.00 - 5%	\$500.00
20,000.00 - 4%	800.00
\$ 30,000.00	\$1,300.00

### ACA 21-6-104. Determination of Fee Where No Fixed Fee.

In all cases where any officer or other person is required to perform any duty for which no fees are allowed by any law, he or she shall be entitled to receive such pay as would be allowed for similar services.

### ACA 14-90-913. Municipal Improvement District - Fees of Collector.

(a) For services in extending the annual installments, the municipal improvement district shall pay the county clerk one and one-half percent (1 ½ %) of the total amount extended.

(b) For services in collecting the annual installments, the district shall pay to the county tax collector one and three-eighths percent (1 ¾ %) of the amount collected by him, which he may withhold.

(c) For services in disbursing the moneys, the district shall pay the county treasurer one-eighth of one percent ( ⅛ of 1%) of the amount received by him from the collector, which he may withhold.

### ACA 14-92-230. Suburban Improvement District - Collection of Taxes - Commission Of Collector.

(b)(1)(A)(i) It shall then be the duty of the tax collector of the county to collect each year the taxes extended upon the books along with the other taxes until the entire levy is exhausted.

(ii) For his or her services in making the collections, including prepayments, the collector shall receive a commission of one and one-half percent (1.5%). In the case of prepayments, the maximum commission shall be the lesser of one and one-half percent (1.5%) or fifty dollars (\$50.00).

(B) The taxes shall be paid over by the collector to the depository of the district at the same time he or she pays over the county funds.

(2) In counties operating under the unit tax ledger system, the collector shall receive a commission of one and one-half percent (1.5%) for extending the taxes and a commission of an additional one and one-half percent (1.5%) for collecting the taxes.

(c)(1) County clerks and tax collectors are authorized to employ additional deputies to do the increased work imposed by the terms of this subchapter.

(2) They may pay the deputies' salaries up to the sum of three thousand three hundred dollars (\$3,300) per annum. However, the salaries shall never exceed the receipts from the commissions allowed by this subchapter.

(d) A property owner shall be required to pay applicable suburban improvement taxes provided in this subchapter as a prerequisite to paying his or her ad valorem real property taxes.

### ACA 14-284-121. Fire Protection District - Fee of Collector.

The county collector, in collecting annual benefit assessments and taxes in fire protection districts shall deduct one percent (1%) of the annual benefit assessments or taxes, retain one-half of one percent (1/2 of 1%) as his fee for collecting, and pay over the remaining one-half of one percent ( ½ of 1%) of the assessments or taxes collected to

the county clerk of the county as the fee of the county clerk for extending on the assessment records of the county the annual benefit assessments or taxes.

**ACA 14-284-215. Fire Protection Improvement District (Outside of Cities and Towns) – Fee of Collector.**

The county collector, in collecting annual benefit assessments and taxes in fire protection districts outside of cities and towns, shall deduct three percent (3%) of the benefits collected, and shall retain one-half (1/2) thereof (or one and one-half percent (1.5%)) for collecting the benefits. He or she shall pay over the remaining one-half (1/2) of this amount to the clerk of the county, or to the appropriate county official who extended the assessment, as his fee for extending the assessments on the assessment records.

**ACA 14-86-1303. Improvement Districts – County Collector's Fee – One Receipt Issued For Lands Redeemed In Counties Of More Than 150,000 Population.**

(a) Any person, firm, or corporation having an interest in any property which has been certified by the county tax collector's office prior to the enactment of this section for delinquent assessments in any improvement district and which property has not been sold for the delinquent assessments prior to the enactment of this section may pay the assessments or redeem the property within the time and in the manner provided by law. However, one (1) receipt or certificate of redemption shall be issued to the person, firm, or corporation embracing all of the property in the improvement district on which assessments are then paid or redemption then made by the person, firm, or corporation, regardless of the number of calls describing the property or the number of years of delinquency.

(b)(1) For the receipt or certificate of redemption, the collector shall be entitled to a fee equal to ten percent (10%) of the combined tax and penalty collected.

(2) On all delinquent improvement district property certified by the collector's office subsequent to the enactment of this section, the collector's cost for redemption shall be a fee equal to ten percent (10%) of the combined tax and penalty collected on each call or twenty-five cents (25¢) per call, whichever is greater.

**ACA 14-86-903. Additional Deputy Clerks.**

County clerks are authorized to employ additional deputies to handle the additional work load imposed. They may pay the deputies salaries up to the sum of three thousand six hundred dollars (\$3,600) per annum. However, these salaries shall never exceed the receipts from the commissions allowed by this subchapter.

**ACA 14-86-904 & 14-86-905. Tax Collector's Commission For Extending And Collecting Improvement District Taxes.**

The tax collector shall, in counties operating under the Unit Tax Ledger System, receive a commission of two percent (2%) for extending the improvement district taxes and an additional two percent (2%) for collecting them. County tax

collectors shall be authorized to employ additional deputies subject to the limitations in § 14-86-903.

**ACA 14-86-1001. Collection of Delinquent Improvement District Taxes or Assessments Transferred To County Tax Collector.**

The county collector shall be entitled to receive a fee for the collection of delinquent taxes and assessments of improvement districts.

**ACA 20-17-1118. Cemetery Improvement District – Tax Collector's Fee.**

The county collector shall deduct one percent (1%) of the annual benefit assessments or taxes collected in the cemetery improvement district and shall retain one-half of one percent (1/2 of 1% or 0.5%) as the fee for collecting the taxes and shall pay over the remaining one-half of one percent (1/2 of 1% or 0.5%) to the county clerk.

**ACA 26-28-307. Records – Commissions.**

Under the system provided for in this subchapter:

(1) The county collector shall maintain a permanent record of all taxes collected and the tax book reflecting all valuation changes and the receipt number, date, and amount of collection under the authority of this subchapter; and

(2) The preparer of the tax books shall receive a commission of two percent (2%) for extending the improvement taxes, and the county collector shall receive a commission of two percent (2%) for collecting them.

**ACA 26-78-106. Collection of Vehicle Tax.**

(a) The County and Municipality Vehicle Tax in the case of a levy by the county shall be collected by the county collector and may be collected at the time personal property taxes of the county are due on personal property of the taxpayer, or may be collected at any time the quorum court determines is reasonable and expedient for the collection of the tax.

(b) The county collector's commission for collecting the tax shall be three percent (3%) of the total amount collected.

(c) Consecutively numbered receipts, printed in duplicate, shall be used by the county collector to acknowledge payment of the tax. Each receipt shall have printed on it:

- (1) The name of the county;
- (2) The name of the tax;
- (3) The year of the tax;
- (4) Space for indicating:
  - (A) The name and address of the taxpayer;
  - (B) The date of payment;
  - (C) The amount of tax;
  - (D) The amount of penalty;
  - (E) The total amount collected;
  - (F) The make and year model of the vehicle; and

(G) The state motor vehicle license number at the time attached to the vehicle; and

(5) Space for the signature of the county collector.

(d) At the time of issuing his or her receipt, the county collector shall also deliver to the taxpayer a windshield sticker, metal tag, or other type of identification to be attached to the vehicle by the owner.

(e) A new series of receipts shall be issued for each year's tax. A separate receipt shall be issued for each vehicle, the original of which shall be given to the taxpayer at the time of payment of the tax. The duplicate receipt shall be retained by the county collector for accounting and auditing purposes.

(f) In the case of municipalities levying the tax, the municipal officer designated by ordinance shall collect the tax and shall follow insofar as practicable the same procedure as set forth in this section with reference to collection by the county collector for the county.

**ACA 26-61-107 – 26-61-110. Classification As Timberland Collection.**

The county tax collector shall receive a two percent (2%) commission for the collection of timberland taxes.

The special taxes levied under this chapter shall be paid by the respective owners of timberlands at the time real property taxes are paid but in no event later than October 15 of the year next following the year in which the taxes were extended on the tax records.

If the tax is not paid within the time provided in this chapter, a penalty of up to twenty-five percent (25%) as determined by ordinance of the county quorum court of the amount shall be added thereto and shall be collected at the time delinquent real property taxes thereon are paid. Any delinquent taxes under the provisions of this chapter shall be collected in the same procedures as provided by law for the collection and payment of taxes on real estate. These taxes shall be transmitted monthly by the county collector to the county treasurer for deposit with the Arkansas Forestry Commission as provided in this chapter.

**ACA 26-36-206. Fees Allowed Collector For Distraint.**

The county collector shall receive a 25% penalty for the county school fund and the same fees allowed for a sheriff under 21-6-307 for each delinquent taxpayer.

**ACA 26-76-103. County Privilege And License Taxes – Blank Licenses Signed, Counter-Signed, and Filled In.**

The county collector in granting every license shall fill in and countersign one (1) of the blank licenses delivered to him or her by the clerk of the county court. No license, unless thus signed, authenticated, and countersigned, shall authorize or avail any person to act under it.

The county collector shall be entitled to a five percent (5%) commission on each license for the amount collected, to be paid by the person receiving the license.

**ACA 26-37-109. Redemption of Lands Not Transferred.**

(a)(1) A county collector may charge a fee of two dollars and fifty cents (\$2.50) for the issuance of each certificate of land redemption for each parcel of tax-delinquent land redeemed in the county collector's office.

(2) The fee under this subsection shall be deposited into the county general fund.

(b) The county collector shall accept payment for the redemption of tax-delinquent land that has not been transferred to the Commissioner of State Lands.

(c) The county collector shall pay over to the county treasurer on the first of each month or within ten thereafter all amounts collected under this section. However, upon a certificate of distribution of the amounts collected under this section being prepared by the county clerk or county collector, which certificate of distribution shall be issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds the amount due each fund, such as the county, school, or municipality fund, from the amounts collected under this section.

## **Chapter Nine - DESCRIPTION OF RECORD FILES - (BOOKS)**

This section was included to assist newly elected county collectors by describing the commonly kept record files in the office of the collector. The following is a description of the records that are kept in some collectors' offices around the state. These records are not necessarily required by law to be kept in this format, but are kept in this manner as a practice of good office management.

### **RECORD FILES OR BOOKS**

**Mortgage and Loan Company List** - A list of each mortgage or loan company paying real estate taxes in the county needs to be maintained. The list should include the name and address of the loan company and the parcel number of each piece of property that the company pays taxes on. A note should also be made if certain parcels are VA exempt.

**Veterans Administration Exemption List** - A file of all property owners who are allowed either total or partial exemption from personal and real estate taxes should be maintained. This involves keeping a list of letters for the Department of Veterans Affairs stating the percentage of determined disability. A letter has to be on file before any exemption can be granted.

**Delinquent Personal Tax Book** - This book lists all persons who are delinquent in paying their personal taxes. The book is prepared after the deadline of October 15. It is listed by city and school district and alphabetically by taxpayer's last name.

**Delinquent Improvement District Book** - This book lists all improvement districts in the county and which taxpayers are delinquent in their taxes.

**Ledger** - This is kept by the collector and lists all accounts that collect tax revenue in the county. This includes school districts, improvement districts, cities etc. Accounts are posted by month to show a monthly collection amount as well as a year-to-date total.

**Journal** - The journal lists the date, control number range for check out, amount for each check out, and which account the money was deposited in. Every account is listed, totaled, and balanced at the end of the month.

**Delinquent Improvement Redemption Certificates File** - When a taxpayer is delinquent in real estate taxes, he has to redeem his property when the taxes are paid. A redemption certificate has to be completed and back taxes paid to complete the process of redeeming property.

## Chapter Ten - RECORDS MAINTAINED BY COLLECTOR

### **ACA 14-25-102. Accounting procedures – Bank Accounts.**

All county officials of this State who receive public funds, by virtue of their office, shall maintain all such public funds in depositories approved for such purposes by law. Such funds shall be maintained in these depositories in the name of the county office, with the official's name appearing secondarily to the name of the county office.

### **ACA 14-25-103. Accounting procedures – Deposit of funds.**

All funds received by a county official, by virtue of his official position, shall be deposited intact to the accounts authorized in ACA 14-25-102 of this Act. This Section shall apply to all public funds coming into the hands of the official, including but not limited to the following: fines, fees, taxes, trust funds, federal funds, etc. Public funds received by one county official, and required by law to be transferred to another county official, shall be deposited into the account of the first official receiving such funds, and then a check shall be written upon that account to properly transfer the funds.

### **ACA 14-25-104. Accounting procedures – Pre-numbered checks.**

(a) All disbursements of county funds, except as noted in § 14-24-121, § 14-25-105, and § 14-25-112(b)(2), shall be made by prenumbered checks drawn upon the bank account of that county official.

(b) The checks shall be of the form normally provided by commercial banking institutions and shall contain as a minimum the following information:

- (1) Date of issue;
- (2) Check number;
- (3) Payee;
- (4) Amount both in numerical and written form; and
- (5) Signature of authorized disbursing officer of the county office.

(c) The county official shall maintain printers' certificates as to the numerical sequence of checks printed.

(d) The county official shall retain all voided checks for audit purposes.

(e) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

### **ACA 14-25-105. Accounting procedures – Petty cash funds.**

County officials are hereby permitted to establish Petty Cash Funds, so long as such funds are maintained on the basis set forth in this section. The establishment of such fund must be approved by the Quorum Court. In establishing such a fund, a check is to be drawn payable to "Petty Cash". That amount may be maintained in the county offices for the handling of small expenditures for such as light bulbs, delivery fees, etc.

A paid-out slip is to be prepared for each item of expenditure from that fund, and signed by the person receiving the moneys. These paid-out slips shall be maintained with the Petty Cash. When the fund becomes depleted, the county official may then draw another check payable to "Petty Cash" in an amount which equals the total paid-out slips issued, and at that time, the paid-out slips shall be removed from the "Petty Cash Fund," and utilized as invoice support for the check replenishing Petty Cash.

### **ACA 14-25-106. Accounting procedures – Fixed asset records.**

(a)(1) All county officials shall establish by major category and maintain, as a minimum, an itemized listing of all fixed assets owned by, or under the control of, their offices.

(2) Each county official shall maintain the listing unless the quorum court designates one (1) county official or employee of the county to be responsible for maintaining the list for the county.

(3) Each county official shall total the listing by category with a total of all categories. The categories of fixed assets may include without limitation:

- (A) Land;
- (B) Buildings;
- (C) Motor vehicles; and
- (D) Equipment.

(4) The listing shall contain as a minimum:

- (A) Property item number, if used by the county;
- (B) Brief description;
- (C) Serial number, if available;
- (D) Location of property;
- (E) Date of acquisition; and
- (F) Cost of property.

(b) Fixed asset records shall constitute a part of the general records of the county and, accordingly, shall be made available for utilization by the auditor at the time of audit.

### **ACA 14-25-107. Accounting procedures – Reconciliation of bank accounts.**

(a) All county officials maintaining bank accounts as prescribed in § 14-25-102 shall reconcile, on a monthly basis, the bank balance to the book balance.

(b) The reconciliations shall take the following form:

County of \_\_\_\_\_  
Date \_\_\_\_\_  
Amount Per Bank Statement Dated \_\_\_\_\_ \$ .00

ADD: Deposits in transit (Receipts recorded in Cash Receipts Journal not shown on this bank statement).

<u>DATE</u>	<u>RECEIPT NO.</u>	<u>AMOUNT</u>
		\$ .00
		.00
		.00 .00

DEDUCT: Outstanding Checks (Checks issued and dated prior to date of bank statement per Cash Disbursements Journal not having yet cleared the bank).

<u>DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>
		\$ .00
		.00
		.00 .00
RECONCILED BALANCE		<u>\$ .00</u>

This reconciled balance shall agree to either the cash balance as shown on the official's check stubs running bank balance, or the official's general ledger cash balance, whichever system the official employs.

**ACA 14-25-108. Pre-numbered receipts.**

(a)(1) All items of income, except as noted in subsection (b) of this section, are to be formally receipted by the use of pre-numbered receipts or mechanical receipting devices such as cash registers or validating equipment.

(2) In the use of pre-numbered receipts the following minimum standards shall be met:

(A) Receipts are to be pre-numbered by the printer and retained for audit purposes. The certificate shall state the date printing was done, the numerical sequence of receipts printed, and the name of the printer;

(B) The pre-numbered receipts shall contain the following information for each item receipted:

- (i) Date;
- (ii) Amount of receipt;
- (iii) Name of person or company from whom money was received;
- (iv) Purpose of payment;
- (v) Fund to which receipt is to be credited;
- (vi) Signature of employee receiving money;

(C) The original receipt should be given to the party making payment. One (1) duplicate copy of the receipt shall be maintained in numerical order in the receipt book and made available to the auditors during the course of annual audit. Additional copies of the receipt are optional with the county office and may be used for any purposes it deems fit; and

(D) All copies of voided receipts shall be retained for audit purposes.

(3) A county may use an electronic receipting system that accomplishes the same purpose as pre-numbered receipts if the system is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(b) This section shall not apply to the county collector's office in regard to the collection of property taxes. However, this section shall apply to the collector's office for receipting of all other moneys.

**ACA 14-25-113. Accounting procedures – County collectors – Salary basis.**

(a) The collector, in addition to following the procedures and requirements of §§ 14-25-101 – 14-25-108, shall establish and maintain a system of bookkeeping that meets the minimum requirements of a cash receipts

journal and a cash disbursements journal for the recording and disbursing of tax collections.

(b)(1) Checks written shall be recorded in a cash disbursements journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursements journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

- (A) Date of the receipt;
- (B) Identification of payor;
- (C) Receipt number;
- (D) Total amount received; and
- (E) Classification of receipts.

(2) If mechanical receipting devices such as cash registers are used, the cash receipts journal shall indicate the:

- (A) Date of collections;
- (B) Tape number, if applicable;
- (C) Total amount collected; and
- (D) Classification of collections.

(d)(1) The cash disbursements journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e) The collector shall be required to maintain such books and records as prescribed by this chapter and shall keep all books and records posted on a current basis, making an entry into the cash receipts journal for all items of cash receipts and an entry into the cash disbursements journal for each disbursement made.

**Cash Receipts and Disbursement (Disbursements)**

**Journal Detail:**

Set up Columns in the Journal as follows:

1. Date
2. Explanation (Include receipt numbers collected or payees (payee's name))
3. Check number
4. & 5. Cash Receipts (In & Out)
6. & 7. Bank Account (In & Out)

Revenue Section:

8. Taxes Collected
9. Penalties Collected
10. Costs Collected

Disbursement Section:

11. Paid to County
12. Paid to Cities
13. Paid to Improvement Districts

**ACA 14-90-905. Municipal improvement districts – Certification of list of delinquency.**

Within thirty (30) days after the expiration of the period allowed for the payment of the municipal improvement district first annual special assessment, the county tax collector shall provide a list of the lands which have become delinquent by reason of the non-payment of the first annual special assessment within the time specified under ACA 14-90-903. On such list the county collector shall show the name of the supposed owner as it appears on the tax books, describe the delinquent lot, block, or parcel of land, and indicate after each description the amount of the delinquent installment and the year in which such installment became due.

**ACA 14-90-908. Municipal improvement districts – List of lands delinquent certified to clerk of chancery court – Contents.**

Within thirty (30) days after the expiration of the period allowed for the payment of the municipal improvement district first installment of general taxes, the county tax collector shall certify a list of the lands which have become delinquent by reason of the non-payment of the annual installments within the time specified under ACA 14-90-907. However, in counties where collections are made in more than thirty-five (35) improvement districts, the collector shall have ninety (90) days within which to make the certification. Separate lists shall be made for each district if the county collector collects the annual installments of more than one district.

On that list, the collector shall show the name of the supposed owner as it appears on the tax books, describe the delinquent lot, block, or parcel of land, and indicate after each description the amount of the delinquent installment and the year in which the installment became due.

Until such time as the collector has certified the list of the lands which have become delinquent, the collector may continue to receive payment of the delinquent annual taxes in the same manner and to the same effect as if said payment had been made prior to the time it became delinquent.

**ACA 20-17-1113. Cemetery improvement districts – Maturity date of annual benefits – Penalty for delinquency.**

(a)(1) All annual benefits extended and levied under this subchapter shall be payable between the third Monday in February and the third Monday in April of each year.

(2) If any annual benefit assessments levied by the board of commissioners under this subchapter are not paid at maturity, the collector shall not embrace the assessments in the taxes for which he or she shall sell the lands, but he or she shall report the delinquencies to the board of commissioners of the district who shall add to the amount of the annual benefit assessment a penalty of ten percent (10%).

(b) The board of commissioners shall enforce the collection by equitable proceedings in the circuit court of the county in the manner provided by §§ 14-121-426 – 14-121-432.

(c) However, the owner of property sold for taxes thereunder shall have the right to redeem it at any time within two (2) years from the time when his or her lands have been stricken off by the commissioner making the sale.

**ACA 22-6-119. Custody of records.**

(a) Books, accounts, records, papers, maps, and documents relating to the functions and powers of the Commissioner of State Lands, including the records and documents used by the historical predecessors of the Commissioner of State Lands, are the property of the state and shall remain in the custody of the Commissioner of State Lands.

(b)(1) Except for a temporary loan or temporary measures to preserve, protect, or display a deed, map, document, survey, or other record of the Commissioner of State Lands, the deed, map, document, survey, or other record shall not be removed by any person from the office of the Commissioner of State Lands.

(2)(A) Upon request by an interested party, the Commissioner of State Lands shall deliver to the interested party a certified copy of a document or record described in subdivision (b)(1) of this section.

(B) The certified copy shall be treated the same as an original document.

(c) This section does not apply to a document or record:

(1) That has been conveyed, transferred, or bestowed by the state in the normal course of business or another lawful disposition; or

(2) In which the state no longer has an interest.

**ACA 26-25-106. Use of voluntary tax for other purposes.**

Whenever the electors of any county of this state may levy a voluntary tax, it shall be unlawful for the county judge, the county court, or any other county official to use or allocate any moneys derived from any voluntary tax for purposes other than for which it was levied and collected. Any county official violating the provisions of this section shall, upon conviction, be removed from office.

**ACA 26-28-108. Tax books – Delivery of tax books to collector.**

On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the county collector with the preparer of the tax books' warrant attached, under his or her hand and the seal of his or her office, authorizing the county collector to collect the taxes. The county collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county. An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section.

**ACA 26-28-204. Unit tax ledger system – Recorded real estate transfers certified to collector – Necessary forms authorized.**

In all counties in the State of Arkansas wherein the unit tax ledger system is installed, the county recorder of deeds, immediately upon recording any instrument of any kind that transfers or conveys title to real property from one (1) person, firm, corporation, organization, state, county, or municipality to another, or whenever title to real property, by whatever means, passes on to another, shall certify to the county collector the names and addresses of the grantors or devisors when known or when they can be ascertained and the name and address of the grantee or devisee when known or when he or she can be ascertained the book number of the record and the page on which the instrument is recorded, the kind and character of the instrument, and the date thereof. Accordingly, all necessary forms and records required to perfect the installation of the tax system contemplated by this subchapter are authorized, and all laws and parts of laws relating to the manner of handling real and personal property taxes are amended, to conform to such system insofar as the collection thereof is concerned, in the counties which, through their county quorum courts, shall adopt the terms and provisions of this subchapter.

**ACA 26-35-604. Death of a Collector Tax receipts – Triplicate receipts of successor.**

(a) Whenever any county collector dies after he or she has received the tax books for any year and before he or she has collected the taxes charged therein, his or her legal representative shall hand at once to his or her successor, as soon as he or she is appointed and qualified, the tax books and pay at once all moneys, less his or her commission, which have been collected by the deceased county collector from all sources then in his or her hands.

(b)(1) The new county collector shall execute receipts in triplicate, to be attested by the county clerk, for the tax books so delivered and showing the amount already collected upon them and the amount uncollected.

(2)(A) The new county collector shall also execute receipts in triplicate for the amount of taxes collected by the deceased county collector from all sources and paid over to him or her by the executor or administrator, one (1) of which shall be certified by the county clerk to the Auditor of State, who shall charge the new county collector with the balance of the state taxes due on the tax book and the amount paid over to him or her by the executor or administrator of the deceased county collector.

(B) Another receipt shall be filed with the county clerk, who shall charge the new county collector with the balance of taxes due on the tax books and with the amount paid over by the executor or administrator.

(c) The third receipt shall be given to the executor or administrator of the deceased county collector.

**ACA 26-35-603. Tax receipts – Form of receipt for tax books.**

(a)(1) Any county collector who shall resign, be removed, or be disqualified shall pay over all moneys, which may be in his or her hands, due the state, county, city, town, or school district, to his or her successor in office and take duplicate receipts therefor.

(2) One (1) of the receipts shall be filed with the county clerk and the other retained by the county collector.

(b) The county clerk shall certify to the Auditor of the State the amount of the receipt, and it shall be the duty of the county collector charged therewith to pay it into the treasury in the same manner and at the same time as regular revenues are to be paid.

(c) In the receipts, it shall be specified particularly on what account the moneys mentioned were received, whether from taxes or from other sources..

**ACA 26-35-1004. Tax receipts – Form of tax receipts.**

The county collector, whenever any taxes are paid, shall give the person paying them a receipt dated, numbered, and filled out so as to show by whom, on what, and amount of taxes paid, amount of land and personalty, and percentage rate at the foot of the receipts. The receipt shall be prepared for the purpose and, in case of land, distinctly specify it as it is described on the tax books. The receipt may be in the following form:

**TAX RECEIPT FOR 20**

Part s of sec	Sec	Town ship	Range	Acres	100 <sup>th</sup> s	Valuation	No	School District.

Total valuation of real property as valued on tax books.....

Value of personal property as per tax books.....

Total valuation of real and personal property taxed.....\$ \_\_\_\_\_

Dollars	Cents	REMARKS:
State Tax, ½ mill S.S.....		The holder of this receipt is requested to examine it thoroughly, and should there be a mistake in it, return it immediately for correction.
Sinking Fund Tax		
4 mills, cur.....		
General School Tax,		
2 mills, S.S....		
Asylum, ½ mill....		
County General Tax..		
Mills. C.S.....		
Co. Debt. Tax, mills O.C.S. or		
cur.....		
District School Tax, S.S.....		
Corporation Tax, cur		
Assessor's Penalty, S.S...		
Poll Tax, S.S....		

**COLLECTOR'S OFFICE**

\$ \_\_\_\_\_ County, Ark 20\_\_\_\_

Received of \_\_\_\_\_

\_\_\_\_\_ Dollars (100's)

Taxes for the year 20\_\_\_\_, upon the property herein described, as charged upon the Tax Books.

Sheriff and Ex-Officio Collector of Taxes for \_\_\_\_\_.  
\_\_\_\_\_.County, Arkansas.

**ACA 26-35-602. Tax money to be kept in separate account – Restrictions on use – Penalty for violation – Notice of violation.**

(a)(1) The Director of the Division of Local Affairs and Audits of the Division of Legislative Audit shall require every county collector of taxes to keep any and all tax money collected in a separate account from all other money which the county collector may have in his or her possession.

(2) A county collector shall have no authority to check on this account except in favor of a treasurer or depository to whom he or she is required to pay the money or to himself or herself for commission or salary already earned.

(b)(1)(A) Failure to comply with this section on the part of a county collector shall be a violation and shall render him or her liable to a penalty of not less than twenty-five dollars (\$25.00).

(B) Each day's failure shall be considered a separate offense.

(2) Upon finding that public funds and private funds are being jointly deposited or improperly disbursed under this section, the director shall notify immediately the bondsmen of the offending officer and the public of the violation.

**ACA 26-76-103. County privilege and license taxes – Blank licenses signed, countersigned, and filled up – Commission.**

Each blank license shall be signed by the clerk and authenticated by the seal of the county court. The county collector in granting every license shall fill in and countersign one (1) of the blank licenses delivered to him or her by the clerk of the county court. No license, unless thus signed, authenticated, and countersigned, shall authorize or avail any person to act under it. The county collector shall be entitled to a five percent (5%) commission on each license for the amount collected, to be paid by the person receiving the license.

**ACA 14-164-704. Sale of Property**

Before a meeting of municipal officials or county officials or officials of the authority in which action may be taken regarding approval of in-lieu-of-tax payments, the authority, municipality, or county shall give at least ten (10) days' notice of the date, time, and place of the meeting to the:

- (1) Superintendent of each school district in which all or any part of the property that is subject to the lease or contract of sale is located;
- (2) Chief Fiscal Officer of the State; and
- (3) County assessor, county tax collector, and county treasurer of the county in which the property is located.

## Chapter Eleven - RECORD RETENTION SCHEDULE

### **ACA 13-4-201. Electronic reproduction of court records.**

Court clerks and any other public officers whose duty it is to make and maintain court records are authorized to use and employ an approved system of photographic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and any other process that accurately reproduces or forms a durable medium for reproducing the original.

### **ACA 13-4-202. Requirements for format and storage of records.**

When equipment necessary for such methods of recording is used to record court records, it shall meet all of the following requirements:

(1) The information retained shall be in a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect those records against media destruction or deterioration and information loss; and

(4) A retention conversion-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion or recertification at least one (1) time every five (5) years or more frequently when necessary to prevent the physical loss of data or technological obsolescence of the medium.

### **ACA 13-4-204. Destruction of original.**

(a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas State Archives.

(b) If the paper original does not meet these criteria, the electronically stored document shall be considered the "original" document and shall be treated as such when proffered with the recorder's certification.

### **ACA 14-14-111. Electronic records.**

(b)(1) "Administrative rights" means permissions and powers, including without limitation the permissions and powers to access, alter, copy, download, extract, read, record, upload, write, or otherwise manipulate and maintain records kept by a county official;

(c)(1) A county official required by law to maintain public records and who in the normal performance of official duties chooses to keep and maintain the records in an electronic record shall retain complete administrative rights and complete access to all the records.

(2) A contract between a county and an electronic record provider shall:

(A) Include the information under subdivision (c)(1) of this section; and

(B) Require the contractor to provide the county official, at his or her request, with a written list of all file formats in which electronic records are stored.

### **ACA 14-14-112. Bulk copying of public records.**

(a) In the absence of an existing agreement or county ordinance, a county official may negotiate with a commercial, nonpress entity that requests public records in bulk regarding a reasonable fee for mass duplication, copying, or bulk electronic access of public records.

(b) A negotiated agreement authorized by this section is not to the exclusion of any right to a public record a person has under this subchapter or § 25-19-109.

(c) As used in this section, "existing agreement" means a contract, custom, practice, or dealings that were in use as of January 1, 2011.

(d)(1) A county that receives a request for bulk public records by a commercial, nonpress entity shall provide nonencrypted, bulk public records in the format requested, as long as the requested format exists in the software.

(2)(A) If the county contracts with a third-party electronic record provider, the electronic record provider shall enable the county to extract the public records in a common file format that does not disclose the proprietary software code of the third-party electronic record provider and does not impair the accessibility and usability of the data.

(B) As used in subdivision (d)(2)(A) of this section, "common file format" includes without limitation the American Standard Code for Information Interchange and, for large databases, comma separated values.

(3)(A) Electronic public records provided under this subsection shall not include redacted data.

(B) This subsection does not apply to audio or video file formats.

### **ACA 13-4-301. Retention required – Destruction.**

(a)(1) A county shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2)(A) The records named in this subchapter shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private audit is completed and approved.

(B) A record named in this subchapter that is over fifty (50) years old shall not be destroyed before written notice by the custodian of the records and describing the scope and nature of the records in question has been furnished to the Arkansas State Archives, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, except that no

handwritten records over fifty (50) years old shall be destroyed.

(2) A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 – 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before a record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

#### **ACA 13-4-302. Court records.**

If a county of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1)(A) For circuit court, civil and criminal, domestic relations, and probate records:

(i) The county shall permanently maintain:

(a) Complete case files and written exhibits for all courts;

(b) Case indices for all courts;

(c) Case dockets for all courts;

(d) Grand jury reports;

(e) Grand juror lists;

(f) Petit jury lists in criminal cases;

(g) Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

(h) All probate records required to be maintained under § 28-1-108;

(ii) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(a) Records and reports of costs; and

(b) Fees assessed and collected; and

(iii) The county shall maintain for three (3) years, after audit by Arkansas Legislative Audit:

(a) Canceled checks;

(b) Bank statements;

(c) Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and

(d) Served and quashed warrants.

(B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(2) For county court records:

(A) The county shall permanently maintain:

(i) County court records;

(ii) Cemetery permits;

(iii) Statements of receipt and expenditures; and

(iv) County improvement district reports; and

(B) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(i) County court files;

(ii) County general claims dockets;

(iii) County road claims dockets;

(iv) Contracts for lease-purchase on rental payments;

(v) County school board financial reports;

(vi) Solid waste disposal revenue bonds; and

(vii) Allocations of state funds for solid waste disposal; and

(3) For quorum court records:

(A) The county shall permanently maintain:

(i) Ordinance, appropriation ordinance, and resolution registers;

(ii) Records of proceedings;

(iii) Codification of ordinances;

(iv) Registers of county advisory and administrative boards;

(v) Appointments to subordinate service districts; and

(vi) Quorum court minutes; and

(B) The county shall maintain for one (1) year the county treasurer's monthly financial report.

#### **ACA 13-4-303. Tax and assessment records.**

All counties of the State of Arkansas shall maintain county tax and assessment records as follows, if they are currently being maintained:

(1) For tax and assessment records:

(A) Permanently maintain:

(i) Real estate, personal, and mineral tax book;

(ii) Delinquent real estate;

(iii) Personal property list;

(iv) Lands forfeited to the state, and minerals;

(v) Land book of state and federally owned lands;

(vi) Clerk's deed of land sold for taxes;

(vii) Journal of proceedings of the county equalization

board;

(viii) Final settlement of tax books; and

(ix) Original charge for all taxing units and

certification;

(B) Maintain for seven (7) years:

(i) Real estate and personal assessment record;

(ii) Real estate and personal tax receipts recorded in tax books; and

(iii) Redemption certificate;

(C) Maintain for five (5) years after rollback is complete: Certification of tax adjustment for public utilities and regulated carriers (computation of utility tax);

(D) Maintain for three (3) years:

(i) Delinquent personal tax settlement;

(ii) Land redemption report;

(iii) State lands distribution; and

(iv) Monthly tax distribution;

(E) Maintain for one (1) year, after audit by the Division of Legislative Audit:

(i) Valuation of real and personal property of utilities; and

(ii) Real and personal property tax correction forms;

(2)(A) For county assessor's records, maintain for five (5) years:

(i) Real estate appraisal card after reappraisal;

(ii) Lists of names of taxpayers furnished to assessor by school boards; and

(iii) The personal, commercial, and industrial assessment forms; and

(iv) Inactive homestead credit documents.

(B) Prior to destruction of these forms, the documents shall be made available to the county collector;

(3) For county collector's records:

(A) Maintain permanently:

(i) Certified delinquent real estate list with publication certificate;

(ii) Certified delinquent list for real estate forfeited to the Commissioner of State Lands with publication certification;

(iii) Personal property tax book;

(iv) Certified delinquent personal property list; and

(v) Delinquent ad valorem tax lists for oil and gas interests;

(B) Maintain for ten (10) years: Tax settlements;

(C) Maintain for seven (7) years:

(i) Real estate redemption certificates;

(ii) Cash receipts and disbursement journal; and

(iii) Collector's copy of tax receipts; and

(D) Maintain for three (3) years:

(i) Daily collection reports; and

(ii) Distrain of goods and garnishment to pay delinquent personal taxes.

**ACA 13-4-304. Financial records.**

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

- (1) Social Security and federal income tax records maintained per federal regulations;
- (2) State income tax records maintained per state law and rules;
- (3) Wage garnishments maintained until after a lien is satisfied;
- (4)(A) Maintain for seventy-five (75) years:
  - (i) Payroll records and ledger; and
  - (ii) Retirement records;
- (B) Maintain for ten (10) years:

and

- (i) Appropriation journal (record of disbursements);
- (ii) Warrant register or check disbursement record;

(C) Maintain for seven (7) years:

- (i) County general claims certificate or invoice;
- (ii) County road claims certificate or invoice; and
- (iii) County school claims certificate or invoice;

(D) Maintain for five (5) years:

- (i) Unemployment insurance state contribution; and
- (ii) Workers' compensation insurance payment; and

(E) Maintain for three (3) years:

- (i) Warrants or checks, or both, with documentation;
- (ii) Bank records for trust, agency, fee, and court accounts (bank statements and cancelled checks); and
- (iii) Receipt books and disbursement journal;

(5) For county treasurer's records:

- (A) Maintain permanently: account ledgers for all accounts on the books of the treasurer;
- (B)(i) Maintain for three (3) years:
  - (a) Receipt books;
  - (b) Bank statements and cancelled checks;
  - (c) Treasurer's monthly bank reconciliations;
  - (d) Treasurer's monthly financial report to the quorum court and the prosecuting attorney;
  - (e) Delinquent real estate and state land redemption distribution reports;
  - (f) Delinquent personal distribution reports;
  - (g) County officials' monthly reports; and
  - (h) District court monthly reports.
- (ii) Official records of the treasurer that are necessary for audit purposes and are not required under this section may be destroyed three (3) years or more after an audit is completed and approved by Arkansas Legislative Audit or by a private auditor.

**ACA 13-4-305. Recorder's records.**

All counties of the State of Arkansas shall maintain county recorder's records for the county as follows, if they are currently being maintained:

- (1) Maintain permanently:
  - (A) Deeds, mortgages, assignments, and all other conveyance records;
  - (B) Forfeited land records;
  - (C) Timber, mineral, oil and gas deeds and leases;
  - (D) Surveys;
  - (E) Subdivision plats;
  - (F) Lien records;
  - (G) Military discharge records; and
  - (H) Indices to all records; and
- (2) Maintain for ten (10) years: Notary public bonds and official appointment bonds.

**ACA 13-4-306. Voter registration and election records.**

All counties shall maintain county voter registration and election records for the county as follows, if the records are currently being:

- (1) Maintained permanently:
  - (A) Voter registration record files;
  - (B) Maps of election precincts from the county board of election commissioners;

- (C) Certificates of election; and
- (D) Ordinance election results; and
- (2)(A) Maintained for ten (10) years, after canceled, a person's voter registration record and reason for cancellation of a person's voter registration.
- (B) Maintained for ten (10) years:
- (i) Minutes of the board of election commissioners;
- and
- (ii) Election files.
- (C) Maintained for five (5) years:
- (i) Petition, certificate, and notices for ordinance;
- (ii) Political practice pledges;
- (iii) Campaign contribution and expenditure sheets;
- (iv) Code of ethics statements; and
- (v) Financial disclosures.
- (D) Maintained for two (2) years:
- (i) Acknowledgement notices giving the disposition of a person's voter registration application;
- (ii) Precinct voter registration lists prepared for each election;
- (iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;
- (iv) Confirmation return cards received in response to a confirmation notice;
- (v) Absentee ballot applications and lists, except where litigation follows or federal law governs; and
- (vi) Voter registration cards; and
- (E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

**ACA 13-4-307. Marriage records – License and bond records.**

All counties of the State of Arkansas shall maintain county marriage records, licenses, and bonds records for the county as follows, if they are currently being maintained:

- (1) Maintain permanently:
  - (A) Marriage record and index;
  - (B) Clerical licenses and credentials;
  - (C) Medical license for physicians, physical therapists, podiatrists, osteopaths, and chiropractors; and
  - (D) Record of marks and brands;
- (2) Maintain for seven (7) years:
  - (A) Surety bonds for county and township officials (until 1986);
  - (B) County employees blanket bonds;
  - (C) Oaths and bonds of county officials; and
  - (D) Deputies, school supervisors, etc.; and
- (3) Maintain for one (1) year:
  - (A) Notice of intention to wed;
  - (B) Going-out-of-business sale license;
  - (C) Bond for going-out-of-business sale license;
  - (D) Transient merchant license;
  - (E) Transient merchant license bond;
  - (F) Garnishment bonds; and
  - (G) Mercury refiners license.

**ACA 13-4-308. Corporation records.**

All counties of the State of Arkansas shall maintain corporation records for the county, if they are currently being maintained, permanently as follows:

- (1) Articles of incorporation;
- (2) Certificate of business under assumed name;
- (3) Articles of amendment;
- (4) Registration of fictitious names of corporation;
- (5) Articles of merger or consolidation;
- (6) Change of registered office or agent;
- (7) Authorized share of stock;
- (8) Cancellation of shares; and
- (9) Certificate of dissolution of corporation.

**ACA 28-1-108. Records.**

The following records of the court shall be maintained:

- (1) An index in which files pertaining to estates of deceased persons shall be indexed under the name of the decedent, and those pertaining to guardianships under the name of the ward. The file and docket number shall be shown after the name of each file;
- (2) A docket in which shall be listed in chronological order under the name of the decedent or ward all documents filed or issued and all orders made pertaining to the estate, including:
  - (A) The dates thereof;
  - (B) The names and addresses of fiduciaries and of attorneys for parties in interest when and as known to the clerk;
  - (C) Reference to the volume and page of any record which shall have been made of the document or order; and
  - (D) Other data as the court may direct;
- (3) A record of wills, properly indexed, in which shall be recorded all wills admitted to probate with the certificate of probate thereof;
- (4) Other records as may be required by law or the court.

## Chapter Twelve – COLLATERALIZATION

### Collateralization of Public Funds

By: Eddie A. Jones

County Government Consultant

Deposits of “county funds,” for amounts in excess of FDIC insurance, are required to be collateralized. Until 2003 the law simply said that “county officials may require security for the deposit of funds” – but in an amendment to Arkansas Code Annotated 19-8-107 by Act 68 of 2003, the word “may” was changed to “shall.” The code was further amended in 2011 and 2013 to strengthen the wording concerning securing the deposit of public funds.

A.C.A. 19-8-107(c)(1)(2) requires that “county and municipal officials shall require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured by the United States and enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.” [Collateralization is required only on “deposits” as defined in § 19-8-107(c)(1)(A), which is for those amounts in excess of FDIC insurance in a demand deposit, a savings deposit, or a time deposit. If a county purchases an eligible investment security as defined in § 19-1-501, the county actually purchases and owns that investment instrument, and the county’s security is either the full faith and credit of the United States Government or the implied backing of the U.S. government, depending on the investment security purchased].

The general scope of A.C.A. 19-8-107 is the requirement of depository agreements with financial institutions for public funds. The State Board of Finance is required to make available to counties sample depository agreement forms and any necessary supplemental agreement forms required for collateralizing public funds.

The forms must include language necessary to create an enforceable perfected security interest in all collateral pledged for the security of deposits. The law requires the county depository board, the banks or banking institutions to comply with federal law so that the governmental entity or political subdivision, such as a county, would have a valid claim for its deposits if the bank went into receivership. If a bank or other financial institution goes into receivership, it is not the County Official, the Bank, or the Custodian of pledged securities that gets to make the decision of whether or not your deposits have a “perfected security.” FDIC gets to make that decision.

Current FDIC rules say that to perfect security, you must have in place with each bank or financial institution with which you do business:

1. a Depository Agreement [the form we usually refer to as the Security Agreement for Public Funds];
2. a Certificate of Corporate Resolution; and
3. a third party Custodial Services Agreement.

Federal law provides that a depositor’s security agreement, which tends to diminish or defeat the interest of the FDIC in an asset acquired by it as receiver of an insured depository, shall not be valid against the FDIC unless the agreement:

- is in writing;
- was approved by the board of directors of the depository or its loan committee; and
- has been, from the time of its execution, an official record of the depository institution. [The Certificate of Corporate Resolution that lists specific officers who are authorized by the board of directors to execute agreements securing public deposits will meet this requirement].

A county should always have all pledged collateral held at an independent third-party institution outside the holding company of the bank holding the deposit and evidenced by a written agreement [Custodial Services Agreement] in an effort to satisfy the Uniform Commercial Code (UCC) requirement for control. The UCC states that the depositor does not have perfected interest in a security unless the depositor controls it. Control means that swaps, sales, and transfers cannot occur without the depositor’s written approval.

The collateral or security that a bank may pledge to a county is controlled by A.C.A. 19-8-203 [Eligible security for deposits] and A.C.A. 23-47-203 [Securing of deposits] and includes:

- the pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401 [which would include, but not be limited to, direct obligations of the United States Government such as treasury bonds and notes, obligations of agencies and instrumentalities created by Congress; general obligations of the State and political subdivisions such as counties and municipalities; and school bonds];
- a surety bond issued by an insurance company licensed under the laws of the State of Arkansas and rated “A” or better;
- private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and rated “A” or better; or
- an irrevocable standby letter of credit issued by a Federal Home Loan Bank.

Collateral pledged as security for county funds is subject to the depositor’s discretion regarding the suitability of the collateral. Most county officials prefer to accept collateral that has and maintains market value at or near face value.

A.C.A. 19-8-107 is applicable to all county officials. Any county official that maintains bank balances in excess of the FDIC insurance limits must require and maintain perfected security for those funds.

**ACA 19-8-107. Depository agreements.**

(a)(1) After the receipt from the Bank Commissioner of the list of banks or banking institutions eligible for public deposits, the depository boards shall:

(A) Designate the banks or banking institutions into which the funds shall be deposited; and

(B) With each bank or banking institution designated under subdivision (a)(1)(A) of this section, enter into a depository agreement and any supplemental agreements under subsection (c) of this section needed to perfect security of public deposits not fully insured directly by the United States.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state.

(3)(A) All depository agreements and supplemental agreements required for creating an enforceable perfected security in collateral for deposits of public funds shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board as prescribed in this subsection.

(B) Depository agreements and supplemental agreements required to create an enforceable perfected security in collateral for deposits shall be updated at the time a new treasurer takes office.

(C) Except as provided under subdivision (a)(3)(A) of this section, agreements required to be signed by all members of a depository board shall be changed at the time of membership change on the depository board.

(b)(1) The treasurers or other public officials or other persons having custody of public funds shall deposit those public funds into the designated depositories.

(2) The depositing of public funds as required under subdivision (b)(1) of this section into the designated depositories shall relieve the public officer or other person and his or her sureties from any liability for the loss of the public funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely deposit and investment of public funds to earn optimum interest consistent with the prudent investor rule defined by Arkansas law.

(c)(1) County and municipal officials shall:

(A) Require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured directly by the United States; and

(B) Enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.

(2)(A) The Treasurer of State shall make available upon request to any county or municipality fillable depository agreement forms designed for county and municipal governments and any necessary supplemental agreement forms required for collateralizing public funds.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(3) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal laws and regulations so that the governmental entity or political subdivision depositing public funds holds a valid claim in deposits and collateral given for those deposits against, and prevent avoidance of such a claim by, the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(4) All security required under this subsection shall meet the requirements of an eligible security under § 19-8-203 and § 23-47-203(c).

(5) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

**ACA 19-8-203. Eligible security for deposits.**

(a) Whenever, pursuant to any statute of the state, any depository in the State of Arkansas must furnish security for the deposit of any public funds or whenever any security must be granted to any public official in connection with public funds the following shall be considered as eligible security for such purposes and subject to the depositor's discretion regarding the suitability of the collateral:

(1) The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;

(2) A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

- (i) A.M. Best Company, Inc.;
- (ii) Standard & Poor's Insurance Rating Service;
- (iii) Moody's Investors Service, Inc.; or
- (iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;

(3) Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

- (i) A.M. Best Company, Inc.;
- (ii) Standard & Poor's Insurance Rating Service;
- (iii) Moody's Investors Service, Inc.; or
- (iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties; or

(4) An irrevocable standby letter of credit issued by a Federal Home Loan Bank.

(b) The aggregate market value of assets pledged or escrowed or the face amount of the surety bond, private deposit insurance, or letter of credit securing the deposit of funds by any single depositor must be equal to or exceed the amount of the deposit to be secured.

(c) Notwithstanding subdivision (a)(1) of this section, if any political subdivision, school district, improvement district, or other issuer has defaulted on any bonds or other

obligations within the preceding period of ten (10) years, bonds or other obligations of the defaulting political subdivision, school district, improvement district, or other issuer shall not be eligible as security for the deposit of public funds or as security required to be deposited in connection with public funds.

**ACA 23-47-203. Securing of deposits.**

(a) It shall be lawful for any state bank to secure deposits made with it by any of the following:

(1) The United States, the State of Arkansas, any county of this state, any municipality of this state, or any agency, corporate instrumentality, or political subdivision of any of the foregoing;

(2) Any university or college supported by this state;

(3) Any school district of this state;

(4) Any community college district of this state;

(5) Any relief body of the United States or of this state;

(6) Any road, drainage, levee, bridge, street, sewer, paving, or other improvement district organized under the laws of this state;

(7) Any regional water distribution district organized under the laws of this state;

(8) Any federal agency;

(9) The United States Postal Service;

(10) Any receiver of any state or federal court, whether appointed in proceedings pending in this state or elsewhere;

(11) Any referee in bankruptcy;

(12) Any receiver, trustee, or operating officials appointed by any federal court in any bankruptcy, debt-adjustment, or composition proceeding pending within this state or elsewhere;

(13) Any pension or retirement fund for employees of any county or municipality in this state or any agency, corporate instrumentality, or political subdivision of any of the foregoing; and

(14) The Treasurer of State.

(b) It shall be lawful for any state bank to secure the deposit with it of the following described funds:

(1) Any funds deposited into the bank and which are held in trust by the bank, awaiting investment or distribution if not prohibited by the instrument or judgment creating the trust; and

(2) Any funds deposited for such other purposes as are approved by the Bank Commissioner.

(c)(1) A state bank may secure the deposits described in subsections (a) and (b) of this section, subject to the depositor's discretion regarding the suitability of the collateral, by:

(A) The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;

(B) A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:

(i) Rated "A" or better by any one (1) or more of the following rating agencies:

(a) A.M. Best Company, Inc.;

(b) Standard & Poor's Insurance Rating Service;

(c) Moody's Investors Service, Inc.; or

(d) Duff & Phelps Credit Rating Co.; or

(ii) Listed on the then-current United States Department of the Treasury's Listing of Approved Sureties;

(C) Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:

(i) Rated "A" or better by any one (1) or more of the following rating agencies:

(a) A.M. Best Company, Inc.;

(b) Standard & Poor's Insurance Rating Service;

(c) Moody's Investors Service, Inc.; or

(d) Duff & Phelps Credit Rating Co.; or

(ii) Listed on the then-current United States Department of the Treasury's Listing of Approved Sureties; or

(D) An irrevocable standby letter of credit issued by a Federal Home Loan Bank.

(2) The aggregate market value of assets pledged or escrowed or the face amount of the surety bond, private deposit insurance, or letter of credit securing the deposit of funds by any single depositor must be equal to or exceed the amount of the deposit to be secured.

(d) Notwithstanding any other provision of this section, or the provision of any other law requiring security for deposit of funds in the form of the deposit or pledge of securities, security for such deposits shall not be required to the extent that such deposits are insured under the provisions of the Federal Deposit Insurance Act.

(e) The powers herein conferred upon state banks are cumulative to such similar powers as they now may hold under existing laws.

**ACA 23-47-401. Investment powers and limitations.**

(a) A state bank may invest its funds without limitation in the following:

(1) Direct obligations of the United States Government;

(2) Obligations of agencies and instrumentalities created by act of Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States Government;

(3) Obligations the principal and interest of which are fully guaranteed by the United States Government or an agency or an instrumentality created by an act of Congress and authorized thereby to issue such a guarantee;

(4) Obligations the principal and interest of which are fully secured, insured, or covered by commitments or agreements to purchase by the United States Government or an agency or instrumentality created by an act of Congress and authorized thereby to issue such commitments or agreements;

(5) General obligations of the states of the United States and of the political subdivisions, municipalities, commonwealths, territories, or insular possessions thereof;

(6) Obligations issued by the State Board of Education under authority of the Arkansas Constitution or applicable statutes;

(7) Warrants of political subdivisions of the State of Arkansas and municipalities thereof having maturities not exceeding one (1) year;

(8) Prerefunded municipal bonds, the principal and interest of which are fully secured by the principal and

interest of a direct obligation of the United States Government;

(9) The sale of federal funds with a maturity of not more than one (1) business day;

(10) Demand, savings, or time deposits or accounts of any depository institution chartered by the United States, any state of the United States, or the District of Columbia, provided funds invested in such demand, savings, or time deposits or accounts are fully insured by a federal deposit insurance agency;

(11) Repurchase agreements that are fully collateralized by direct obligations of the United States Government, and general obligations of any state of the United States or any political subdivision thereof, provided that the repurchase agreement shall provide for the taking of delivery of the collateral, either directly or through an authorized custodian; and

(12) Securities of, or other interest in, any open-end type investment company or investment trust registered under the Investment Company Act of 1940, and which is defined as a "money market fund" under 17 C.F.R. § 270.2a-7, provided that the portfolio of the investment company or investment trust is limited principally to United States Government obligations and to repurchase agreements fully collateralized by United States Government obligations, and provided further that the investment company or investment trust shall take delivery of the collateral either directly or through an authorized custodian.

(b) A state bank may invest no more than twenty percent (20%) of its capital base in any single investment of the following types:

(1) Corporate debt obligations, including commercial paper, of any corporation that is not an affiliate or subsidiary of the bank;

(2) Revenue bond issues of any state of the United States or any municipality or any political subdivision thereof;

(3) Industrial development bonds for corporate obligors issued through any state of the United States or any political subdivision thereof;

(4) Securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such an investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by United States Government obligations, and provided further that any such investment company or investment trust shall take the delivery of the collateral either directly or through an authorized custodian;

(5) Securities or other interests issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the European Bank for Reconstruction and Development, the Asian Development Bank, or the African Development Bank; and

(6) Uninsured demand, savings, or time deposits or accounts of any depository institution chartered by the United States, any state of the United States, or the District of Columbia.

(c) Subject to such additional restrictions and limitations as may be imposed by the Bank Commissioner, a state bank may invest in any other investment securities which are not described in subsection (a) or subsection (b) of this section to the extent that such investment securities are authorized for national banks.

(d) A state bank may invest in any investment not described in subsections (a) and (b) of this section as may be authorized by State Bank Department rules.

## **Chapter Thirteen – ATTORNEY GENERAL OPINIONS AND COUNTY LINES ARTICLES**

### **Personnel Records:**

The Attorney General's Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General's website: <http://www.arkansasag.gov/opinions/>. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

### **Community Water Associations Records**

See Ops. Att'y Gen. 2001-314 (Customer information)  
See Ops. Att'y Gen. 2004-295 (Privacy act compliance)  
See Ops. Att'y Gen. 2007-192 (Customer information)  
See Ops. Att'y Gen. 99-090 (Federal grant money)  
See Ops. Att'y Gen. 99-157 (Application/Exemption)

### **County Equalization Boards Records**

See Ops. Att'y Gen. 2000-287 (Application/Exemption)

### **Levee District Boards**

See Ops. Att'y Gen. 97-016 (Application/Exemption)

### **Rural Water Districts Records**

See Ops. Att'y Gen. 2002-285 (Customer information)  
See Ops. Att'y Gen. 2007-192 (Customer information)

### **FOIA Generally**

See Ops. Att'y Gen. 2003-006 (Application of ACA 25-19-108 to counties)  
See Ops. Att'y Gen. 2005-298 (Response to absence of records)  
See Ops. Att'y Gen. 2008-162 (Digital pictures of records)  
See Ops. Att'y Gen. 99-134 (Records on county web site/fees)  
See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)  
See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)  
See Ops. Att'y Gen. 2002-092 (Meetings)

### **FOIA – Personnel Records Generally**

See Ops. Att'y Gen. 1999-398 (Job applications and resumes)  
See Ops. Att'y Gen. 2000-058 (Harassment complaints)  
See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)  
See Ops. Att'y Gen. 2000-242 (Suspension letters)  
See Ops. Att'y Gen. 2001-130 (Access)  
See Ops. Att'y Gen. 2001-368 (Employee objections to release)  
See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)  
See Ops. Att'y Gen. 2003-055 (Privacy interests)  
See Ops. Att'y Gen. 2003-352 (Time cards)  
See Ops. Att'y Gen. 99-168 (Notification to subject of records)

Attorney General Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian's decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party's position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is

consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113 the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy. Parties seeking rulings by the AG under must supply the necessary information. Under Attorney General Opinion No. 2012-115 the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. Attorney General Opinion No. 2012-123 the AG determined from submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

Attorney General Opinion No. 2012-112: Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058: Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception".

Attorney General Opinion No. 2012-143: The Workers Compensation Commission determines whether an employer qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to

protect privacy of nonelected employees and is effective August 16<sup>th</sup> as per ATTORNEY GENERAL OPINION NO. 2013-049.

Attorney General Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

#### **Liens, Priorities, and Payments:**

AG Opinion No. 2003-177: Says that the Collector is not authorized to accept partial payments for delinquent taxes. {See also AG Opinions Numbers: 90-040; 90-040A; 94-143; and 96-006.} Ark. Code 26-35-501 allows for acceptance of partial payments or installment payments in respect to current taxes. The AG also opined that there is no statute of limitations on the collection of real or personal property taxes; and that Ark. Code 26-36-209 says the Collector may collect personal property taxes "at any time". The recourse for collection of real property taxes is by virtue of statutory scheme.

AG Opinion No. 2006-148: Ark Code 26-35-601 provides that the transferor of property is required to pay the delinquent personal property, w26-3-hen paying real estate taxes, not current personal property taxes. {See also: Op. Att'y Gen. 2000-118 and 1999-304.}

AG Opinion No. 2008-180: The AG opined that a generally mortgage holder such as a bank is not required to pay the real property owner's personal property taxes, delinquent or otherwise (whether or not the bank has an escrow). The Attorney General cited an earlier opinion which stated: "The clear intent of 26-35-601 is to permit a mortgagee or other lien holder to pay real estate taxes due upon the property that is the subject of the lien regardless of whether personal property taxes are then due from the mortgagor and regardless of whether any personal property taxes then due are simultaneously paid." See: Op. Att'y Gen. 95-289. However, the AG noted that a mortgagee foreclosing on real property and wishing to pay real estate taxes on said property shall be first be required to pay the real property owner's delinquent personal property taxes, but the collector may not require payment of current personal property taxes by the mortgage holder. See also: This is because 26-35-601(c)(3) requires that a Collector accept real estate taxes at the time of a transfer in ownership only if all delinquent personal property taxes have been paid. {See also: Op. Att'y Gen. 2000-118 and 1999-304.}

AG Opinion No. 1994-022: Collectors and Sheriff-Collectors are not authorized to forgive the amount due from a taxpayer. Ark. Code 26-28-111 only authorizes correction of actual and obvious errors; and Ark. Code 26-26-1115 only authorizes apportionment after acquisition of a portion of realty. All taxes assess become a lien upon the property assessed and do not extinguish at the time of death of the taxpayer. Ark. Code 26-35-401, the personal property of the deceased is a liable in the hands of the administrator or executor. Lands conveyed to heirs or devisees are

encumbered with the lien for the delinquent real estate taxes.

AG Opinion No. 2004-347: The purchaser of a motor vehicle in Arkansas has no obligation to ascertain if the property taxes due or delinquent for the subject vehicle have been paid. The only obligation the purchaser has is to perform a search for liens filed against the title. The General Assembly required liens placed on motor vehicles subject to registration in this state to comply with a specific statutory procedure under Ark. Code §§ 27-14-801 through -807 require a copy of the instrument creating and evidencing a lien to be deposited with the Office of Motor Vehicles. A.C.A. § 27-14-802(a) (Repl. 1994). Furthermore, the office will issue a new certificate of title with the lien properly recorded, A.C.A. § 27-14-803 (Repl. 1994), and this new certificate of title serves as constructive notice of all liens and encumbrances against the motor vehicle, A.C.A. § 27-14-805 (Repl. 1994).

AG Opinion No. 2010-143: The obligation to satisfy a property tax lien on a mobile home transfers with a transfer of the property. The seller is responsible to satisfy to the collector that a transfer of ownership of the mobile home has occurred to be relieved of the obligation to satisfy the tax lien on the transferred mobile home. The purchaser shall become responsible for the satisfaction of the delinquent tax lien on the mobile home and the new owner will be subject to ACA 26-3-203 and seller released of the property tax obligation. The Attorney General explained that the law establishing property tax liens is clear. The purchaser should be aware of the tax liens on the property at the time of purchase and accordingly take into account in the purchase price.

AG Opinion No. 2015-149: When a county loses taxpayers' checks, the tax liability is not satisfied until the county actually receives cash in payment of a check under ACA 26-18-503(b). In such a case, however, it would be unfair to collect a delinquency penalty from the taxpayers.

AG Opinion No. 2017-005: A county does not violate Article 12, Section 5's prohibition on the lending of credit when it obtains a lien under §§ 14-54-903 through 904 (grass-cutting liens) and either forecloses or collects the amount after an extended period of time.

AG Opinion No. 2014-117: County courts or officials do not have the authority to exempt or forgive the taxes due on a property owner's property.

## Homestead Credit:

**AG Opinion No. 2004-354:** The Homestead Credit under Amendment 79 should not be permitted where a property owner submits registration for the credit after October 31st of the year after the assessment. The AG said that Ark. Code 26-26-118 sets a deadline for the credit and the taxpayer has only until October 31st to correct the credit.

**AG Opinion No. 2002-030:** After delinquent property is deeded to the state and appears on the tax records as state property, the parcel does not qualify for the Homestead Credit. Ark. Code 26-26-1118 requires the credit be applied to the "of record owner", it is questionable as to whether the delinquent taxpayer (while an owner) remains the owner of record of property in which title has vested in the state pursuant to Ark. Code 26-37-101.

**AG Opinion Nos. 2008-158 & 2005-209:** Homestead under Ark. Code 26-26-1122 means the dwelling of a person used as his or her principal place of residence with contiguous lands, exclusive of lands valued as agricultural, pasture or timber land. Homestead shall also include land owned by a revocable trust.

## Veteran's Exemption:

**AG Opinion No. 2009-054:** Under Ark. Code 26-3-306 a disabled veteran is exempt from property taxes on his or her homestead if he or she qualifies as permanently and totally disabled under 38 CFR §§ 4.16 & 4.17. Although the definition of total and permanent disability is not defined by state law, the term is tied to the federal classification system. See also AG Opinions 2001-213 and 2006-167.

**AG Opinion No. 2005-209:** A spouse of a disabled veteran may claim the exemption if the veteran is in a nursing home or deceased. If the spouse is in a nursing home it may be unclear if there is intent to return to the residence and legislation clarification may be warranted.

**AG Opinion No. 1993-385:** The fact that a veteran holds property in a joint tenancy, or a tenancy by the entirety does not prevent the property from being entitled to the veteran's exemption. If the veteran holds only merely a tenancy in common, or a severable portion of the lands, then the exemption should only apply to the portion of the estate held by the veteran.

**AG Opinion No. 2010-093:** ACA § 26-3-306 provides a homestead and personal property tax exemption for disabled veterans, surviving spouses and dependent children. To be eligible the disabled veteran shall be in receipt of special monthly compensation for the loss of use of one or more limbs, total blindness in one or more eyes or for service-connected one hundred percent (100%) total and permanent disability. The code requires the person claiming the exemption to furnish the county collector a letter from the department verifying eligibility. The law is silent as to whether a single letter is required to be supplied annually. The Attorney General advised that the law is unclear and judicial or legislative clarification may be warranted. He also

indicated that the practice of many collectors may be justified in requiring an annual letter, however, the status of the eligible disabilities as permanent may result in an adverse court ruling.

**AG Opinion No. 2018-142:** Under Ark. Code Ann. 26-3-306, the disabled veteran property tax exemption cannot be applied to two separate properties owned by a married couple, even if both partners are veterans entitled to the exemption.

**AG Opinion No. 2018-137:** declares that a fully disabled veteran is not exempt from paying fees or assessments that a suburban improvement district levies against his real property.

## Public Property Tax Exemption

**AG Opinion No. 2017-067:** The public property-tax exemption under Arkansas Constitution, Article 16, section 5(b) does not take effect until January 1 of the tax year immediately following the tax year in which the property was purchased or otherwise becomes eligible for exemption.

## Property Tax Collection Duties and Authority:

**AG Opinion No. 1997-031:** Distraint of goods and chattels under Ark. Code 26-36-206 and garnishment of assets of delinquent taxpayers under Ark. Code 26-36-207 appear to be Constitutional. The United States Supreme Court commented that: "the power to distraint personal property for the payment of taxes is almost as old as the common law. Notice and demand for the taxes and neglect or refusal to pay are prerequisites. The notice must be reasonably calculated to inform the taxpayer of the impending sale. In regard to garnishments, the person that owes money to the taxpayer shall pay over the amount of taxes, but no more than the amount they owe the taxpayer. The AG says if the creditor and taxpayer refuse to pay the taxes to the Collector, the Collector must file a statement of the amount of taxes with that person and initiate garnishment procedures. Again, notice is a prerequisite that particular funds may be subject to garnishment for payment of delinquent taxes.

**Attorney General Opinion No. 2010-134:** This opinion is of high importance to the counties and delves into the fundamental nature of property tax liens in Arkansas. As a general rule, the Land Commissioner is prohibited from forgiving property taxes. The Land Commissioner is charged to dispose of forfeited lands and the purchaser "shall pay all taxes, penalties and other costs". See: ACA 22-5-207 and 26-37-201. The waiver of taxes, penalties and interest may only be done in the limited circumstances provided under the Urban Homestead Act, ACA20-80-408(a). Also, the notes for ACA 26-37-101 indicate delinquent lands not sold after (2) two years of unsuccessful public auctions may be sold in the best interests of the State and local taxing units.

Also, when a city acquires tax delinquent lands from the Land Commissioner there is no mechanism by which the city can convey land free of any existing tax liens. Property tax liens created under ACA 26-34-101 continue until the property

taxes are paid. Property tax liens may not be foreclosed while in the hands of the city if used for municipal purposes. See: ACA 22-6-501. However, a third party purchaser from a city (such as a Land Bank) buys the land subject to the existing property tax liens, penalties and interests. A city may not convey property free of an existing property tax lien.

The Attorney General also explained that a city may not donate lands to citizens. Cities are constrained to convey lands in accordance with city sale procedures. Also, Article 12, § 5 of the Arkansas Constitution prohibits cities from appropriating money or lending its credit to any corporation, person or association.

**AG Opinion No. 2019-015:** clarifies that Arkansas law provides that taxes assessed upon personal property create a lien against that property and that the lien remains attached irrespective of subsequent conveyances. Additionally, a county collector is not required to file a tax lien against civil aircraft with the FAA; however, recording such liens with the FAA is necessary in order to maintain their priority over other third-party interests.

**VOLUNTARY TAXES Attorney General Opinion Nos: 1991-015; 1991-077;1991-082; 1994-003; 19996-069; AND 1999-231:** The Attorney General has stated in numerous opinions that the collection of a voluntary tax paid by the county to a private non-profit corporation violates the Arkansas Constitution, Article 12, § 5, which prescribes: “No county, city, town or municipality shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual”.

A quorum court may appropriate funds from a voluntary tax for a grant to a public entity such as a conservation district. See: AG Opinions Nos. 1992-083 and 1994-003. In some instances the specific facts may allow for voluntary tax proceeds to be turned over to a public entity or a private entity that is performing a community service grant. In *Gordon v. Woodruff*, 217 Ark. 653 (1950) the Supreme Court upheld an appropriation for a grant to a county fair association was made to aid the construction of buildings on county property. Likewise, a grant to a community college foundation spent to aid a public community college may be considered legal. See AG Opinion No. 1991-082.

Appropriations to a private non-profit corporation for charitable and laudable purposes such as operating shelters, such as shelters for animals or shelters juveniles, are considered illegal. See: AG Opinion No. 1991-015. Appropriations for a non-profit private corporation to a learning center with contracts with the state are not governmental functions of city or county government. See: AG Opinion No. 1992-019. The county collection of money for the benefit of private corporations is a violation of the Arkansas Constitution, Article 12, § 5. See AG Opinion No. 1996-069. Attorney General Opinion No. 1999-231 explains that a quorum court may repeal voluntary taxes; and that taxes voluntarily paid under the common law doctrine of voluntariness precludes refunds of voluntary taxes voluntarily paid.

## **The Nature of Property Taxes as Annual Assessments:**

**AG Opinion No. 1993-087:** Arkansas law does not contain a provision for taxes to be assessed for only a portion of a year in which a taxable person or entity holds property. AG Opinion 1981-022 long ago concluded that if property was taxable on January 1 (actually the first Monday in January), taxes should be assessed for the entire year. See also AG Opinions: 86-494; 87-444; and 92-189. As between a buyer and a seller, the taxes will not attach until the third Monday in February. This applies equally to veteran’s exemptions, if the property is held by a taxable entity on the first Monday in January it is not exempt; if the property is held by a exempt entity on the first Monday in January it is exempt.

**AG Opinion No. 2008-023:** When the state or other exempt entity purchases property from a non-exempt entity after the first Monday in January of a tax year, the real estate is not exempt from the property taxes for the year in which purchased. {See also Attorney General Opinions: Nos. 94-302; 92-189; 81-022}. Arkansas law does not contain a provision which would allow taxes to be assessed only for the portion of the year in which a taxable organization holds the property. If the property was taxable as of January 1, . . . the correct manner in which to proceed is for the taxes to be assessed for the entire year, without regard to a change in the status during the year. There is no provision in the Arkansas Code for the State or its agencies to be relieved of liability for the tax on real property after the lien has attached. There is no authority to prorate the taxes. AHTD is authorized under subsection (a) of A.C.A. § 27-65-138 to collect and remit taxes on whole taxable parcels. If the AHTD does not remit the taxes, the local taxing authorities are confronted with the State's sovereign immunity (Arkansas Constitution, art. 5 § 20) and should not submit the lands for forfeiture to the Land Commissioner. A remedy exists before the General Assembly through presenting a claim for the taxes with interest and penalties to the Arkansas State Claims Commission.

## **Collection for Protection Districts, Improvement Districts, Suburban Improvement Districts:**

**AG Opinion No. 2007-312:** The Land Commissioner’s Office is not involved in the collection of delinquent fire protection fees. The Collector is charged with collecting delinquent fire protection district fees only during the time the property taxes are collected. Delinquent assessments are to be paid to the board and collected by the board through circuit court action as provided by Ark. Code 14-284-216.

**AG Opinion No. 2000-299:** Collection for fire protection districts is governed by Ark. Code 14-284- 101 through 215. After the Collector has attempted collection, they are to report delinquency to the board for them to pursue legal remedies in court in the manner provided by Ark. Code 14-121-426 to 432 which details the requirements for obtaining a judgment for such assessments, as well as drainage improvement districts. Suburban Improvement Districts are authorized to elect to pursue their remedies in court or allow

the delinquencies to be held by the Collector, and it not redeemed, certified to the Land Commissioner for redemption or sale. Under Ark Code 14-92-601 to 603 certain districts of less than 7,000 acres are "eligible" districts which may elect to collect their own assessments and delinquencies, including pursuing delinquencies in court. Property owners improvement districts formed under Ark. Code 14-93-101 likewise are to be reported to the district board upon delinquency for collection in court in the manner provided above.

**AG Opinion No. 2001-049:** Collectors may not refuse to accept payment of property taxes until a patron has paid their rural fire protection district fees.

**AG Opinion No. 2008-141:** Ark Code 14-20-108 provides that a volunteer fire department may hold an election for which if the majority voting approves, the dues shall be listed with the real property taxes and collected in like manner. The collection of fire dues does not involve certification to the state or sale by the Land Commissioner. Ark Code 14-20-108 and 26-36-201 reflect a clear intent that the Collector engage in collection of fire dues in their office between the first business day of March and October 15th.

**AG Opinion No. 2004-224:** Volunteer fire departments organized under 14-20-108 are commonly called "subscription" fire departments. See also: AG Opinions 2002-032 and 1996-114. Such fire departments may by ordinance direct a county official to collect their fire dues. Alternatively, an ordinance may call for an election at the fire department's expense to levy dues. Fire dues levied and to be collected in like manner as taxes are afforded the same penalties and interests of general taxes.

**AG Opinion No. 2013-050:** The AG examined the law on treasurer's commissions on funds handled by the collector for suburban improvement districts; and concluded that the law does not envision the treasurer handling suburban improvement district assessments and does not provide for a treasurer's commission for those funds. Unless otherwise provided by ACA §§ 6-13-701, 6-17-908, 6-20-221, 14-90-913, 14-284-403 and 21-6-104, the county treasurers shall be required to collect as a treasurer's commission two percent (2%) on all funds coming into their hands as treasurers and to be paid out of the respective funds. However, Act 41 of 1941, codified as ACA 14-92-230, contemplates the collector to directly pay the SID and does not contemplate any handling by the treasurer.

**AG Opinion No. 2013-008:** The Attorney General concluded that A.C.A 14-20-108 operates to give a Quorum Court the ability "to pass an ordinance that reports the amount of the fee (fire membership fees or dues) and that requires the fee to be paid". However, the law does not give the authority to the Quorum Court to determine the amount of the membership fees or dues for a volunteer fire department service area (for any type of fire department). Only the fire department itself has the ability to set the amount due by its members. However, all types of fire department can upon adoption of a measure by the Quorum Court hold a special election to allow the County Collector to collect the fees

within the fire departments service district. If the ballot measure carries then all residents and all businesses with an occupiable structure within the fire departments service district are subject to collection of the fee by the County Collector.

**AG Opinion No. 2015-143:** SIDs are subject to FOIA, and a district voter list that a SID keeps is likely subject to FOIA.

A SID does not have the authority to waive an Assessment of Benefits levy if the order providing for the levy of the tax has been entered.

A SID does not actually adjust lot lines or re-zone or re-classify property like a city. But it may well be appropriate, if not necessary, for the SID to consider lot sizes and different use classifications when assessing or equalizing benefits accruing to the real property within the district by reason of the improvements or facilities.

The county collector is responsible for collecting assessments if a SID is less than 5,000 acres. When a SID assessment is delinquent, the SID may certify the delinquency to the Commissioner of Lands or enforce collection through court proceedings. If the SID chooses to go through the court proceedings, a 25% penalty will be applied to the delinquency according to ACA 14-94-122.

**AG Opinion No. 2014-045:** A SID assessment may be prepaid in some instances.

**AG Opinion No. 2014-032:** Act 35 assessments (14-284-201 through -225) are fees, not taxes. These assessment obligations and any increase in assessment caps must be approved by the voters. The authorization to impose flat-fee assessments on parcels contained within a district formed under Act 35 applies only to districts formed after July 3, 1989.

#### **Collection for Solid Waste:**

**AG Opinion No. 2005-179:** The General Assembly mandated that Collectors require payment of solid waste fees and services charges before accepting any payment of property taxes. {Act 1272 of 2005, further amended Ark. Code 8-6-212 to prescribe procedures that may be set forth in ordinances for collection of solid waste, including placement on real property taxes with the proviso that a landowner may register a tenant for the solid waste obligation and collection from personal property taxes.}

**AG Opinion No. 2012-120:** The Attorney General concluded that a county may direct county administrative staff to assist a solid waste district, solid waste board or rural development authority of the subject county. Both solid waste districts and rural development authorities are governmental entities performing county functions with public purposes and using public funds. Directing county staff to assist these public entities on their governmental purposes does not constitute prohibited appropriation of public funds for a private purpose nor prohibited appropriation to a private entity. However, the

AG found under Attorney General Opinion No. 2012-094 that appropriation of Drug Control Funds or federal forfeiture funds under ACA 5-64-505 by a prosecuting attorney for health club membership as training may constitute an illegal exaction prohibited by the Arkansas Constitution, Article 16, Section 13 and Article 12, Section 5.

**Mineral Interests:**

**AG Opinion No. 2012-104:** expounds on the previous opinion of the AG, Attorney General Opinion No. 2012-010, which made clear that mineral interests of churches or cemeteries property are taxable and not exempt under the property tax imposed by the Arkansas Constitution under Article 16, Sections 5; and all laws seeking to exempt property not specifically exempted are void as per Article 16, Sections 6 of the Arkansas Constitution. The AG further explained that producing mineral interests are not exempt from taxation except minerals owned by the United States or

Federal government. State, Local and all other entities such as improvement districts, conservation districts, fire departments, non-profit corporations, charities, etc., are not exempt. Also, the AG made clear a person may not claim exemption of producing mineral interests under the exemptions afforded by the Homestead tax protections under Amendment 79 which applies only to the surface estate used as the taxpayer's principal place of residence, the occupied surface residential premises. Likewise, the AG found that the homestead exemption afforded disabled veteran's under ACA 26-3-306 does not apply to producing mineral interests.

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**County Lines Articles:**

**Smooth, Effective Meetings  
*They don't just happen!*  
By: *Eddie A. Jones*  
*County Government Consultant***

Most likely you've sat in dismay – maybe you've even been appalled or, depending on your position, embarrassed while a meeting tumbled off into nowhere. You know what happened: stories, side issues, chit chat and “stuff” overran the good intentions of those who were trying to accomplish something.

It may be that the Chair and/or the participants were not properly prepared for the meeting. However, the meeting may have started with a clear goal, with a real agenda, and with at least a majority of the participants prepared. But somehow it ended up a failure. Why? The reason is that a meeting can be led or misled from any chair in the room. Individual contributions, or the lack thereof, determine the net result produced in a public meeting – or a meeting of any kind.

During my thirty-plus years in county government work I have attended literally hundreds of quorum court meetings and I have chaired dozens of meetings in various capacities. I have seen the good, the bad and the ugly. Let's take a look at what it takes to have smooth effective meetings. We are talking in particular about quorum court meetings or other county government public meetings. But, most of what we say will be applicable to almost any kind of meeting where business is being conducted. We are going to be looking from both sides of the table. It takes not only a competent and prepared Chair – but participants that are prepared and ready to take care of business in a professional manner.

One of the most difficult tasks for an elected official is being called upon to run a public meeting, be it a County Quorum Court meeting, a Committee thereof, or some other type of county government public meeting or hearing. In Arkansas you must understand not only the Open Meetings Law (Freedom of Information Laws ACA 25-19-101, et seq), but also your own rules of order. Many people are under the misconception that Roberts Rules of Order are the mandatory rules of order in Arkansas county government – but that is not so. Every quorum court in Arkansas is authorized under ACA 14-14-801(b)(12) and ACA 14-14-904(e) to provide for their own organization and management and to determine their own rules of procedure, except as otherwise provided by law. Most counties do find that Roberts Rules of Order is a good starting point and an adequate default in the event that its own adopted rules of procedure do not address an issue. In that case it is imperative that the county actually have a copy of Roberts Rules or Order on hand to serve as a reference and guide.

According to Arkansas law, specifically ACA 14-14-904(d), the county judge is the presiding officer, or Chair, of the quorum court without a vote but with the power of veto. However, in the absence of the county judge, a quorum of the justices by majority vote shall elect one of their number to preside or chair the meeting but without the power of veto. A justice retains the right to vote on a measure even though he or she is serving as Chair. So, it behooves the county judge and each member of the quorum court to be prepared and ready to conduct a great meeting – smooth and effective.

The legalities of the Open Meetings Law and your own rules of procedure are not everything you need to know. There is a part of presiding over a meeting that is not in a law or rule. For lack of a better term it amounts to *style*. American Poet, Robert Frost defined style as “*the mind skating circles around itself as it moves forward.*” Even the most competent elected official armed with a complete knowledge of the Open Meetings Law (FOIA) and Roberts Rules or Order can find themselves on the verge of panic while trying to chair a meeting. One word of advice can aid in avoiding this public calamity – RESPECT. Let me further expand on the term “respect” by using an acrostic.

- R** – Responsibility – The Chair is Responsible for implementing the rules that have been established. Responsibility lies with the Chair to clarify roles and rules, to follow the agenda, to be fair but firm and to keep the meeting moving.
- E** – Ethics – Rightly or wrongly, the Chair is always held to a higher standard than the other members of the body, and projecting the air of a higher Ethical standard is crucial to a cooperative environment.
- S** – Succinct – Often less is more, and making comments and rulings in a direct and Succinct manner helps avoid the sin of sermonizing to members of the body.
- P** – Predictability Principal – Prior Proper Planning Prevents Poor Performance – A successful meeting does not just happen, but rather requires, above all, that the Chair be prepared for what is to come.
- E** – Engage – The Chair is responsible for Engaging ALL of the stakeholders in any public meeting. Leaving any of the stakeholders out of the process is a recipe for discord and disaster.
- C** – Coordinate not Control – The proper goal of the Chair is to Coordinate the rules with the competing interest, not to Control the outcome of the meeting. A controlling Chair will invite stern and vocal opposition and impair the ability of the meeting to accomplish any of its goals.
- T** – Time – In short, starting a meeting late and wasting time during a meeting are both rude. It’s rude to your colleagues, citizens and staff. The Chair has the primary responsibility to call the meeting to order on time and to make sure that the meeting moves forward in a timely manner. Don’t wait on the perpetual tardy. Suggest a new motto: **5 minutes early is the new on-time.** Start every meeting promptly and people will soon realize that you mean what you say.

Following these suggestions will foster respect both for the Chair and for the body as a whole. Ralph Waldo Emerson said, “Men are respectable only as they respect.”

What if you’re a participant and not the Chair – in this case a quorum court member not acting as Chair? Here’s how to make sure that your participation contributes to an effective meeting.

**1) Focus on the issue.**

Avoid stories, jokes, and unrelated topics. These waste time, distract the attendees, and sometimes mislead. Save the fun and trivia for social events when it’s more appropriate and will be appreciated.

**2) Take a moment to organize your thoughts before speaking.**

Then express your idea simply, logically and concisely. People are more receptive to ideas they understand – plus long complex explanations bore people.

**3) Use positive comments in the meeting.**

Negative comments create defensive reactions or even retaliations that take people away from solutions. Negative comments also make you appear mean, uncooperative, weak, or even incompetent.

**4) Test your comments.**

Before speaking, ask yourself, “Does this contribute to an effective meeting?” If you sense it subtracts, keep your mouth shut.

**5) Respect others.**

Different views force us to think. After all, if we were all the same, they would need only one of us. So, accept what others say as being valid from their viewpoint. Work to understand why others are expressing ideas that you find disagreeable.

**6) Take a rest.**

If you notice that you are speaking more than anyone else in a meeting, stop and let others talk. You’re either dominating the meeting with monologues or conducting a conversation with a minority of the participants. In either case, you’re preventing the other attendees from participating.

These are but a few of the things you can do as a quorum court member to contribute to a productive meeting.

I want to discuss a few other things that I have not yet touched on. These tips are primarily for the Chair of the meeting. But, remember that could be a member of the Quorum Court in the absence of the County Judge.

- **Summarize** – After each agenda point, summarize the key decisions, opinions and actions. It’s your job to make sure those decisions and actions are clearly understood and that they are moving in the right direction to accomplish the meeting’s objectives. It is also a good idea, especially when there has been lengthy discussion on a complicated issue, for the Chair to summarize with clarity the question being voted on.
- **Don’t be afraid to say you don’t know** – Hopefully, you’ll have done your research before the meeting starts but there’s always a chance that someone will hit you with an issue you know nothing about. If this happens, remain calm. Use the old trick of repeating the question or using a phrase such as “that’s a very interesting point.” This gives you a few seconds to get your answer straight in your mind, reducing the possibility of stuttering or sounding unsure. If you don’t know the answer, admit it. Say, “I wasn’t aware of that particular issue, does anyone else here have any knowledge about it?” If nobody else speaks up, ask the questioner to see you after the meeting to give you some background. It could well be something important, and even if it’s not, you’ll look good in front of your audience.
- **Thank your audience** – Always thank attendees once the meeting is finished. It is common courtesy and people appreciate it.

Here is something else that is very important – keeping a good and accurate record of the meeting. We call it “taking minutes.” It’s a boring job but someone’s got to do it. Under Arkansas law, the secretary of the Quorum Court is the County Clerk unless the court, through ordinance, decides to hire someone else from the staff of either the County Clerk or the County Judge [ACA 14-14-902(a)(1)(2)(3)(A)(B)(C)].

Taking minutes may not be the most glamorous job in the world, but it’s absolutely necessary to avoid conflict and mixed messages later on. Here’s how to produce a good set of minutes.

Minutes need to be:

- Accurate. They must be a true record of what occurred. That means no drifting off during finer points of discussion.
- Clear and unambiguous. Minutes cannot be open to interpretation or discussion. Otherwise, they’re pointless.
- Consistently structured. Decide on a structure (bullet points or numbers are the most common) and stick to it. Your minutes will be a lot easier to read and they will look a lot more professional.
- Brief. You should summarize discussions and decisions rather than attempt to get them down verbatim.

It’s also vital that whoever takes the minutes understands the subject. A confused note taker will produce confused minutes. If something is not clear, ask for clarification from the speaker or the Chair. It could save a lot of time, confusion or disagreement later on.

The Association of Arkansas Counties has a Justice of the Peace Procedural Manual on their web site under “publications” that contains a Procedural Guide for Arkansas County Quorum Court Meetings. This guide is found in Chapter 6 of the manual and is recommended reading and study for every Quorum Court Justice and every County Judge.

I leave you with this last thought for a smooth and effective public meeting. The “attitude” and “temper” should be checked at the door. Arthur Gordon relates this personal story, “At a turbulent meeting once I lost my temper and said some harsh and sarcastic things. The proposal I was supporting was promptly defeated. My father who was there, said nothing, but that night, on my pillow I found a marked passage from Aristotle: Anybody can become angry – that is easy, but to be angry with the right person and to the right degree and at the right time and for the right purpose, and in the right way – that is not within everybody’s power and is not easy.”

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### ***Fraud and Ethical Lapses – There’s No Place for It***

*By: Eddie A. Jones*

***County Government Consultant***

### **Working for the People is a Public Trust**

Government fraud, in essence, refers to illegal acts that intentionally divest the government of funds through deception or scams. When the government gets swindled, taxpayers pay the price.

In my opinion, government fraud is a serious crime and should be pursued to the fullest extent of the law. In many government fraud cases, both criminal and civil charges are brought against the defendant. As Thomas Jefferson said, “When man assumes a public trust he should consider himself a public property.”

In the past couple of years ethics violations, criminal investigations and criminal charges have become more common in Arkansas government – both at the state and local levels. This should not be! As elected officials and employees of government you are keepers of the public trust – a public trust created by a strict code of conduct that is a part of law.

Since I have a county government background, most of what I say in this article is directed toward county officials and employees – but, in many cases would be applicable to other levels of government.

Arkansas Code Annotated 14-14-1202 establishes in law “ethics for county government officers and employees.” The initial sentence of that law simply says, “The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government.” So, not only are county officials bound by an ethics code – but employees are, too.

This law goes on to set forth the “Rules of Conduct” and establishes the procedure for removal from office or employment. In my opinion, the breach of this “public trust” by an elected official should cause an immediate rendering of a resignation.

There is no place in government, at any level, for anything but the highest ethical standards, a strong work ethic, and a heart for service.

### **Fraud Increases during an Economic Downturn**

One of the most recent reports released by the Association of Certified Fraud Examiners (ACFE) estimated that U.S. organizations lose 5% of their annual revenues to fraud. Workplace fraud schemes occur across all types of organizations including corporations, small businesses, not-for-profit organizations and government.

I do not believe internal fraud or employee theft is widespread in Arkansas county government – because I believe that for the most part county elected officials and county employees are people of integrity. However, sadly it is not uncommon anymore to read the morning paper or hear a news report concerning an elected official or employee who has been charged with some type of fraud crime.

As a county constitutional officer, the last thing you want to have happen under your watch is theft of county funds. Some think, “It would not happen in our community.” Unfortunately, *it* happens. And, when it does occur, it can be traumatic for the community where it occurs. Therefore, to be proactive and prevent theft and fraud, it is important to have sound internal controls in place.

In an economic downturn, studies show that there is an increase in fraud. County officials play an important role in ensuring that proper internal control policies and procedures are developed and consistently implemented to protect tax dollars. You want to implement procedures that reduce the risk of theft and increase the chance of early detection. A county official that has no desire or sees no need in implementing proper internal control policies will bear watching.

It is bad enough when an employee commits fraud – but when an elected official commits fraud, it is the epitome of hypocrisy. A person who runs for office has actually asked the public to vote for them – to put their trust in them. You have both a moral and legal obligation to serve with integrity. Your constituents deserve officials they can trust and depend on to always do the right thing.

### **Types of Theft and What to Watch For**

The most commonly reported offenses in the government and public administration sector, according to ACFE, were billing schemes, skimming, theft of non-cash assets, theft of cash on hand, procurement fraud, payroll fraud and expense reimbursement fraud. Sound familiar?

- In billing schemes, the person causes the government to issue a payment by submitting invoices for fictitious goods or services, inflated invoices, or invoices for personal purchases. An example would include “phantom vendors” – where a person creates a shell company and bills the employer for nonexistent services.
- “Skimming” involves taking cash before it is recorded on the books and records. An example would be an official or employee accepting payment from a customer but not recording the payment and keeping the cash.
- “Theft of cash on hand” cases refer to taking cash kept at the government office.
- “Theft of non-cash assets” includes the taking or use of county property for personal use. This would include taking office supplies, janitorial supplies, equipment, postage, and the list goes on. If it is county property it is not the property of an official or employee for personal use or personal gain.
- An example of “procurement fraud” is a company using bribes to win a contract even when it did not make the lowest or best bid. Or it could include billing the county for incomplete work, inflating the cost of labor or supplies, and issuing kickbacks. [These schemes can get rather elaborate and do not seem to be as prevalent as they were in years past.]

- “Payroll fraud” includes claims of overtime or comp time for hours not actually worked, or the addition of “ghost employees” to the payroll. Payroll fraud can get very complicated and creative. There are counties that can vouch for the creativeness of payroll fraud.
- Expense reimbursement cases include filing false expense reports, claiming nonexistent meals, mileage, etc.

Theft and fraud may take several forms. It may be as simple as an official or employee writing a check to himself/herself, but recording in the county records that the check was written to a vendor. It may involve a failure to deposit all county funds into county accounts. It may involve submitting personal expenses as employee expenses, or altering invoices presented to the county for payment. The most common fraud for small organizations involves check tampering. This occurs when only one individual has access to the checkbook and also the responsibility for recording payments and/or reconciling the bank statements. Small office operations, where a limited staff can make it difficult to segregate duties, can be particularly susceptible to this type of fraud.

You may think these types of things don’t really happen – but they do! Sometimes they happen because – frankly some people are not honest. Others are in dire straits financially and they think they’ll just “borrow” a little for a while. Of course, even these normally trustworthy people have a lapse in “honesty” or they would not steal. As George Knight said, “Dishonesty is never impulsive.”

It has been said many times that we almost force our local and state officials to be dishonest because we pay them so little for what we expect from them. While this may be true anecdotally and low pay in many areas should be addressed – this situation should never be the reason for doing wrong.

### **How Fraud Happens**

An ACFE study confirmed that in fraud, the more authority a person has, the greater the loss. This makes sense because a person with more authority has greater access to resources and the greater ability to override controls in order to conceal the fraud.

The study also found a direct correlation between the length of time an employee has been employed and the size of the loss. An employee’s tenure is likely related both to trust and to opportunity. The more trust placed in an employee, the greater the person’s opportunity to commit fraud. Long-term employees may also be the most familiar with gaps in the office operations and controls, which may help them avoid detection more easily.

Of course, every organization wants to have some long-time, trusted employees – but when the public trust is at stake *everyone* must be accountable.

### **Procedures to Reduce the Risk of Theft**

To reduce the risk of theft, every county should implement basic safeguards. *An environment of accountability should be created.*

***Segregation of Duties.*** Simply put, no official or employee should be in a position to commit an irregularity and then conceal it. To help prevent that from happening, responsibilities in financial transactions should be divided amongst more than one person, or segregated. An example of segregation of duties taken from everyday life is a movie theater, where one person sells tickets and another person collects the tickets. This separation of duties helps prevent the person selling the tickets [the one handling the money] from: (1) collecting the price of the ticket, but allowing entry without a ticket – allowing the ticket seller to pocket the ticket payment without being detected; or (2) allowing entrance without the purchase of a ticket.

Examples of incompatible duties that should be performed by separate individuals are:

- Receipting collections, posting collections and making bank deposits;
- Signing checks and reconciling the bank accounts.

Even with personnel cuts, financial duties should remain segregated. Counties may need to be creative and segregate duties by involving employees who have not previously played a role in financial transactions. For those offices with only two employees – the official and one employee – regularly switch office duties and look over each other’s work. With offices with only one person – well, just remember you have been entrusted to do what is right. Don’t mess it up!

***Internal Control Procedures.*** Many internal control procedures are common-sense methods used to track county funds. Here are a few procedures that may help prevent thefts or allow earlier detection of thefts:

- Have checks written to the county;
- Endorse checks for deposit as they are received;
- Make daily deposits;
- Reconcile receipts with deposits;

- Contact your bank or banks to: prohibit cash withdrawals and check cashing from the county account, and be sure authorized signatures are up-to-date;
- Do not pre-sign any checks;
- Reconcile bank statements regularly. With on-line banking you can do it daily in a matter of minutes; and
- Require detailed original receipts for the reimbursement of employee expenses.

And remember, under Arkansas law, financial institutions must provide government entities either the cancelled checks or optical images of both the front and back of the checks. By comparing the cancelled checks with your financial records, discrepancies may be detected.

Internal control procedures help reduce the opportunity for fraud to be committed.

### **Red Flags in Detecting Theft and Fraud**

Theft can result from poor segregation of duties. Possible indicators of theft, or “red flags”, include instances when an employee:

- Takes records home;
- Takes on duties that should be segregated;
- Works hours when others are absent;
- Refuses to take vacations or time off.

Theft can also result from noncompliance with internal control procedures. Some red flags to watch out for:

- Submitting copies, rather than original invoices for payment, may indicate that an altered document is being submitted;
- Deposits are late;
- Receipts are not reconciling with deposits;
- Checks are written out of sequence.

Most fraudsters in government are first time offenders with clean employment histories. The vast majority of fraudsters in county government had never before been charged or convicted of a fraud-related offense and had never been punished or terminated by an employer for fraud-related conduct. It is noteworthy that most who are charged with some type of theft or fraud displayed one or more behavioral red flags that are often associated with fraudulent conduct. The most commonly observed behavioral warning signs are these:

- Living beyond means;
- Financial difficulties;
- Unusually close association with vendors or customers; and
- Excessive control issues.

Situations involving cash transactions present special risks and require extra diligence. Even small offices or departments must implement basic safeguards to reduce theft.

### **Exposing Fraud**

Frauds are generally ongoing crimes that can continue for months or even years before they are detected. According to the report issued by the ACFE frauds reported lasted a median of 18 months before being detected. Some of you may remember an incident in Arkansas county government that happened a number of years ago. A county official took a large amount of money on a year-end transaction for ten years in a row before being detected by the Division of Legislative Audit. An audit procedure was put in place after that which keeps that type of fraud from going undetected.

The most common method of detecting fraud is by a tip or complaint – when another person becomes suspicious of fraudulent activity and notifies someone. Frauds are also detected by internal and external audit, internal controls, and even by accident. While external audits, such as the ones Arkansas counties are subject to by the Division of Legislative Audit, serve an important purpose and can have a strong preventive effect on potential fraud, their usefulness as a means of uncovering fraud is somewhat limited. In other words, don’t rely on the audit as your primary fraud detection method. Among the most effective internal controls a workplace can employ are *job rotation* and *mandatory vacation*.

The study and report also showed that over half of the tips were from fellow employees. This reinforces the need for county government to maintain open channels of communication so employees are comfortable bringing forward their concerns. I do understand, however, that when the fraud is being perpetrated by the county official the willingness of the employee to come forward is somewhat dampened – but it is still the right thing to do.

Fraud is preventable and can be stopped through strong internal controls and internal and external audits. Fostering an atmosphere of open communication with county staff can also be a strong measure to prevent and detect fraud. I have always heard “honesty pays” – but, according to Kin Hubbard, “it doesn’t pay enough to suit some people.”

And because of that it behooves us all in government to spend the extra time and make the special effort to guard the public treasury in order to preserve the public trust.

### **A Special Note to County Officials**

I served as an elected county official for many years, so I understand the gargantuan responsibility – the load you must bear. Many times without proper compensation for the job and too many times without a sufficient appropriation to properly carry out the functions of your office. But you have sworn to carry out the duties of your office and to uphold the laws of this country, this state and your county. To do that you must know what the laws are.

The laws governing Arkansas county government are expansive and to know the law it takes relentless study. Learning the law and applying the law are two different things. Learning the law is attained knowledge – but it takes wisdom to apply it correctly and efficiently and impartially. It takes effort, but seek wisdom – search for it. Wisdom is simply the proper application of knowledge. Knowing the law that governs you and the laws that you are to administer in the operation of your office will keep you from making ethical missteps and be a reminder of the public trust reposed in you. As Davis Starr Jordan, founding president of Stanford University said, “Wisdom is knowing what to do next; virtue is doing it.”

Serving as an elected county official is a sacred responsibility and your personal and professional integrity should be paramount. Even if you don’t get caught doing wrong – you have still done wrong and broken the trust the people have placed in you. And, as the old saying goes, “Men are not punished for their sins, but by them.” No truer words have ever been spoken than the words of Martin Luther King, Jr. when he said, “The time is always right to do what is right.”

*“Every job is a self-portrait of the person who does it. Autograph your work with excellence.”*

## Chapter Fourteen- FAQs

This section presents the FAQs (Frequently asked questions) in general and specifically for each elected position. Please refer to the Association of Arkansas Counties website for the complete answers to the questions presented. (<http://www.arcounties.org/faq/general-faqs>)

### General FAQs:

#### ***Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?***

Yes, anyone on a county payroll that is otherwise eligible for retirement credit in the Arkansas Public Employees Retirement System should receive credit for a bonus or lump sum payment. The county should pay into the retirement system the contribution percentage that has been set by the APERS Board of Trustees, and the employee, if they are a member of the contributory system, will pay into the retirement system – through payroll deduction – the percentage that has been set by state law.

It has only been since July 1, 2009, that a bonus or lump sum payment has been used in the calculation of compensation for retirement purposes for elected officials and employees of counties. Prior to that time, compensation for retirement purposes was defined in A.C.A. 24-4-101(11)(A) as “recurring remuneration paid a member by public employers for personal services rendered by a member in a position covered by an employer participating in the Arkansas Public Employees’ Retirement System.”

The law does set a limit on the amount of the bonus or lump-sum payment that can be counted as compensation during the last year of an employee’s employment. A.C.A. 24-4-101(11)(B)(iii)(b) says, “The maximum amount of the bonus or lump-sum payment that will be considered to be compensation during the last year of a member’s employment is the lesser of five percent (5%) of the current year’s salary or the amount of the bonus or lump-sum payment that was received by the member during the previous year of employment.”

#### ***Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?***

Arkansas law does not directly answer that question. I cannot point you to an Arkansas code that says that a certain county official or office shall have custody of titles to county owned vehicles and equipment. However, I would like to call your attention to several laws that help us draw a reasonable conclusion. They are:

Arkansas Code Annotated 14-25-106. Fixed asset records.

Amendment 55, Article 3 of the Arkansas Constitution

Arkansas Code Annotated 14-14-1101. Powers of county judge generally.

Arkansas Code Annotated 14-14-1102. Exercise of powers by county judge.

It is my conclusion that the law is definitive that the County Judge exercises the executive power of “custody of county property” and is also the only county official with the authority to “sell or dispose of county property.” Therefore it is reasonable to conclude that the County Judge should maintain custody of all titles to county vehicles and equipment since these are lawful instruments needed to: (1) prove custody; and (2) convey or transfer ownership if the County Judge exercises his or her right to sell or dispose of said county property.

#### ***Is county government exempt from paying sales taxes?***

No. As a general rule, the seventy-five (75) county governments of Arkansas are subject to the sales and use tax laws – paying sales taxes properly billed on invoices and submitting use taxes to the Department of Finance and Administration on purchases made from out-of-state vendors that do not charge, bill and remit out-of-state sales taxes.

There are a couple of exceptions. County government in Arkansas is exempt from paying sales taxes on “motor vehicles” and on “jail food” (or in certain circumstances food for other uses).

***Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all of the cost?***

Yes, a county employee should be paid the per diem compensation for serving as a juror just like any other person. Arkansas Code Annotated 16-34-103(a)(1)(2) says, “Any person who receives official notice that he or she has been selected as a prospective juror or who is chosen as a juror is eligible to receive per diem compensation for service if: (1) The person actually appears at the location to which the juror or prospective juror was summoned; and (2) The person’s appearance is duly noted by the circuit clerk.”

The per diem compensation, as established by A.C.A. 16-34-103(b)(1)(2), is \$50.00 per day for a person who is selected and seated to serve as a member of a grand jury or petit jury. Those who are excused or otherwise not selected and seated as a member of the jury are provided per diem compensation of not less than \$15.00 as established by ordinance of the county quorum court for each day that they are required to appear at the location to which they were summoned.

In addition to the per diem established for jurors and prospective jurors, A.C.A. 16-34-104 establishes an avenue for mileage reimbursement in the event and to the extent that a county quorum court adopts by ordinance a policy for reimbursement of mileage costs for jurors. The mileage reimbursement payment is allowed only to those whose primary place of residence is outside the city limits of the court that summoned them for duty and is paid from and to his or her home by the most direct and practicable route at the rate prescribed by the county.

A county may be reimbursed by the State of Arkansas on a quarterly basis for the \$50.00 per diem fees paid to persons selected and seated to serve as a member of a grand jury or petit jury. The reimbursement process and time-line is set forth in A.C.A. 16-34-106.

The deduction of jury duty fees from the salary of a county employee is prohibited by state law. A.C.A. 21-5-104(a) says, “No state, county, or municipal employer in this state shall deduct from the usual compensation of any employee, all or any part of the fees or compensation received by the employee for appearing for grand or petit jury duty or serving on any grand or petit jury in any court in this state.” In fact, a county employer who violates the provision of A.C.A. 21-5-104 is guilty of a misdemeanor and upon conviction can be fined up to \$250.00 and the violation constitutes grounds for dismissal of the employer from his or her office or position of public employment.

***May a retiring county official or employee keep county health care insurance coverage upon and during retirement? Can they keep dependent coverage and is it mandatory for the county to allow retirees continued health care insurance coverage?***

To summarize and specifically answer your questions – a retiring county official or county employee may elect to continue to participate in the county health care plan if: (1) they are at least 55 years old and vested in the County Division of APERS; or (2) they have 30 or more years of actual service in the County Division of APERS regardless of age; or (3) they have at least 35 years of credited service in the County Division of APERS regardless of age. They must also pay the entire health care plan premium.

The coverage that retirees are entitled to retain under the authority of A.C.A. 24-12-128 is the same coverage that active employees receive. If the county health care plan includes dental, vision, life insurance and dependent coverage, such coverage may be retained by the retiree as long as they pay the entire premium.

It is mandatory on the part of the county to allow the qualifying retiree to participate in the county health care plan. The discretionary term “may” found in A.C.A. 24-12-128 applies to the retiree, rather than the county. This provision leaves the decision as to whether to continue to participate in the county health care plan wholly within the discretion of the qualifying retiree. Because the qualifying retiree has full discretion to choose to participate, it follows that the county is required to permit that retiree to participate.

***Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?***

Counties of Arkansas have operated under the “90% Rule” since 1879 as outlined in Arkansas Code Annotated 14-20-103. A few exceptions to the 90% limitation have been adopted over the years.

The crux of A.C.A. 14-20-103 states, “the county quorum court shall specify the amount of appropriations for each purpose in dollars and cents,.....the total amount of appropriations for all county purposes for any one (1) year shall not exceed ninety percent (90%) of the anticipated revenues for that year.....” The few exceptions to the 90% rule that have been added to the code over the years are:

A county can appropriate 100% of a federal or state grant. However, a county must be able to demonstrate that the state or federal agency issuing the funding characterized the revenues as a grant.

Any county that is declared a disaster area by the Governor or the U.S. government may appropriate in excess of the 90% anticipated.

Any county that has a dedicated sales tax – one that is dedicated by ballot title – may appropriate up to 100% of that dedicated sales tax. [This exception does not apply to dedicated revenues that have been pledged for bonds; or general sales and use tax revenues].

In any county in which the quorum court deems it financially necessary, the quorum court may appropriate for any one (1) year in excess of ninety percent (90%) of the commissions and tax revenues anticipated for that year for the county general fund operation of the offices of assessor, collector, and treasurer (A.C.A. 14-20-103).

The reasoning behind the original law (and the exceptions are not a part of the original law) is at least two-fold: (1) the projected revenues are just that – projected – a calculated estimate based on past and present financial data and trends. The 90% rule allows for some margin of error; and (2) a large percentage of county government revenue is received in the final half of the year. Using the 90% rule allows for a carry-over cash balance which provides cash flow in the first part of the year when actual (current year) revenue received is less.

The “10% set-aside” is not set-aside forever. It does get used. For most counties, the carry-over cash balance of any account becomes a part of the projected revenues for the following year. The carry-over cash balance includes the 10% set-aside, revenues in excess of projections, and revenues remaining from unspent appropriations. Of course, the ideal operation would not even depend on the 10% set-aside for budgeting and actually set those amounts aside as a “reserve” for emergencies.

***On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?***

According to Article 16, Section 5 of the Arkansas Constitution, both real and personal property is taxable.

The maximum rates that can be levied on real and personal property by the county for county use are 5 mills for general use; 3 mills for road purposes; and 5 mills for operation and maintenance of the county library. The county quorum court is required to levy ad valorem tax rates at its regular meeting in November of each year for collection the following year [A.C.A. 14-14-904(b)(1)(A)(i)]. The Director of the Assessment Coordination Department may authorize an extension of up to 60 days of the date for levy of taxes if there is good cause shown resulting from reappraisal or rollback of taxes. The application for extension must be filed by the County Judge and County Clerk. [Note: 1 mill = a tenth of 1%]

The electorate does not have to approve the levy of general and road taxes for the county. The county is given the authority to levy up to 5 mills for general (all) purposes in Article 16, Section 9 of the Arkansas Constitution – “No county shall levy a tax to exceed one-half of one per cent (5 mills) for all purposes.....” Amendment 61 to the state constitution says, “County quorum courts may annually levy a county road tax not to exceed three (3) mills on the dollar on all taxable real and personal property within their respective counties.....” Amendment 61 repealed Arkansas Constitution, Amendment 3, which also allowed a maximum 3 mill road tax, but under Amendment 3 the tax had to appear on the ballot every general election. Every November the quorum court has the authority to levy a county general tax up to 5 mills and a road tax up to 3 mills.

A county is also authorized to levy a county library tax by Amendment 38 of the Arkansas Constitution (amended by Amendment 72 and incorporated into Amendment 38 by amending Sections 1 and 3 and adding Section 5). However, this tax must be voted on by the electors of the county, and the tax rate cannot exceed five mills on the dollar for maintenance and operation of the library (Amendment 38, Section 1). Section 5 of Amendment 38 (added by Amendment

72) provides for an election for a special library tax, in addition to the maintenance and operation tax, to pay bonded indebtedness to finance capital improvements to or construction of a county library or county library service or system.

***What is the proper procedure for the establishment and use of the County Collectors Automation Fund?***

The Collector's Automation Fund, much like the Treasurer's Automation Fund, is funded with a portion of the collector's commission. In accordance with Arkansas Code Annotated 21-6-305(2)(A), "The county collector may set aside up to ten percent (10%) of the gross commissions collected annually to be credited to the county collector's automation fund".

Because the law concerning the establishment of a County Collector's Automation Fund is permissive in nature – the collector may choose whether or not to establish the fund and whether or not to keep funding it. If the collector decides to establish the fund, any percentage of annual gross commissions may be set aside in the County Collector's Automation Fund – up to a maximum of 10%. And, that percentage can change annually at the call of the collector.

The moneys credited to the Collector's Automation Fund are not subject to the excess commission rule and may accumulate from year to year. The funds are to be appropriated by the quorum court at the direction of the collector for the uses designated in A.C.A. 21-6-305(2)(i)(ii)(iii)(B).

The original uses of the fund were to "purchase, maintain, and operate an automated record-keeping system." The acquisition and update of software for the automated accounting and record-keeping system was a permitted use of the original law for this automation fund.

Like other county automation and cost funds, the uses of the County Collector's Automation Fund were liberalized in 2003. The Arkansas Legislature through Act 847 of 2003 added the terms "to operate the office of county collector" and "for administrative costs" to A.C.A. 21-6-305. The new language of this law is very broad in nature. Black's Law Dictionary defines "administrative expenses" or costs as "overhead" which would cover a multitude of expenditures. The language "to operate the office of the county collector" is even broader terminology. No doubt the real focus of the fund should still be "computerization" or "automation" of the collector's office as the moniker of the fund would indicate. But, with the 2003 amendment to the law, the fund can now be spent on virtually any legal expenditure of the collector's office [AG Opinion No. 2009-192].

Unlike some other "automation funds" or "cost funds" where the officials have the discretion to transfer to the county general fund any moneys they deem excess and not needed for the intended purpose or purposes of the Automation Fund or Cost Fund – that is NOT so with the Collector's Automation Fund. Any use of the money in the Collector's Automation Fund, since it is collector commission, taken from local tax entities, it has to be used solely for the expenses of the County Collector's office. The only way that you could transfer any additional collector commission funds or funds from the Collector's Automation Fund to the County General Fund would be if expenditures, clearly tied to the Collector's office, had been paid outside the Collector's budget. [This logic is based on Attorney General Opinion No. 78-112 which cites several court cases and constitutional law, including Article 16, Section 11 – "no moneys arising from a tax levied for any purpose shall be used for any other purpose."]

***Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?***

The beginning of ad valorem taxation in Arkansas starts with the Arkansas Constitution of 1874. Article 16, Section 5 of the Constitution, as amended, provides that: "All real and tangible personal property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the State."

Laws on property taxation in Arkansas have been in constant change throughout the years. Because of a court case in the late 1970's that ruled that ad valorem taxation in Arkansas was not "equal and uniform throughout the State" the court ordered reassessment of all real estate in Arkansas. Amendment 59 to the Constitution was passed by the electorate in 1980 due to the court-ordered reassessment to keep real property taxes from rising exorbitantly. Act 848 of 1981 [A.C.A. 26-26-401 et. seq.] was adopted by the Arkansas legislature as the enabling legislation for Amendment 59.

Each of the 75 counties in the State of Arkansas is now responsible for a cyclical county-wide reappraisal. Each county is required to appraise all market value real estate normally assessed by the county assessor at its full and fair

market value in accordance with Arkansas Code Annotated 26-26-1902. Depending on the real property value growth – a county is either on a 3 year or a 5 year cycle for a complete reappraisal of real property.

The reappraisal is paid for from the Arkansas Real Property Reappraisal Fund – established by Act 1185 of 1999 and codified as A.C.A. 26-26-1907. The proceeds of the fund are used to pay counties and professional reappraisal companies for the reappraisal of real property in lieu of real property reappraisal funding by the local taxing units in each county of the state.

In reality the tax entities are still paying for nearly all of the reappraisal since the funding source of \$14,250,000 of the cost is withheld from state funds that would otherwise flow to schools, counties and cities. The State Treasurer withholds 76% of the amount from the Department of Education Public School Fund Account; 16% of the amount from the County Aid Fund; and 8% of the amount from the Municipal Aid Fund and credits the amounts to the Arkansas Real Property Reappraisal Fund [Act 217 of 2011, Section 7 Special Language – included in the Arkansas Assessment Coordination Department budget act each year]. The other \$1.5 million of the current fiscal year (2012) appropriation of \$15,750,000 for Real Property Reappraisal will come from the State of Arkansas Miscellaneous Agencies Fund [Act 217 of 2011, Section 11 Special Language]. However, the proportion that an entity pays is not necessarily the same proportion that the entity would pay if they were reimbursing the county direct for their share of the reappraisal costs.

Funding to any county for property reappraisal is for actual appraisal cost, up to a maximum of \$7 per parcel, per year. Counties must use other taxing unit sources of revenue to provide for the cost of real property reappraisals if the cost exceeds \$7 per parcel [Act 217 of 2011, Section 9 Special Language – special language of this sort is found in each annual budget Act of ACD].

There is nothing in the law to prohibit a county from charging each tax entity their proportionate share of the cost exceeding \$7 per parcel on a monthly basis in order to keep the County Property Reappraisal Fund from running a negative balance. There is no need for the county to suffer the burden of paying the excess cost of reappraisal until the “final tax settlement” is made in December. Charge each entity their share on a monthly basis.

#### ***How many years can a county legally go back to make a refund of property taxes paid in error?***

As a general rule tax refunds must be made within three (3) years from the date the taxes were paid. Arkansas Code Annotated 26-35-901 is the primary state code dealing with real or personal property taxes erroneously assessed and paid. After providing satisfactory proof to the county court [the county judge in his/her judicial capacity with exclusive original jurisdiction in all matters relating to county taxes / A.C.A. 14-14-1105] the county court issues a county court order directing the county treasurer to refund the person the amount of taxes erroneously assessed and paid. The claim for refund at the county level has to be made within 3 years from the date the taxes were paid. And the claim of erroneously assessed and paid taxes must fall within the definition of “erroneously assessed” as defined in A.C.A. 26-28-111(c).

The refund is normally paid from the general fund of the county and the general fund is then reimbursed by transfer from funds of the respective taxing units. The amount contributed by each taxing unit will be the amount of the erroneous payment received by the taxing unit. All of the pertinent information for the tax refund transaction should be contained in the county court order. [Some counties accomplish the refund by making the appropriate transfers from each tax entity to the Collector’s Unapportioned Account and the county treasurer issues the county check from the Collector’s Unapportioned Account.]

There is a possibility that a refund could be made for up to a five (5) year period. A.C.A. 26-39-220 [Adjustment of errors.] says the county court has the duty to reconsider and adjust the settlement of any county officer for any error discovered within 3 years from the date of the settlement. If the error in a settlement is discovered after three (3) years, but within five (5) years from the date of the settlement, the county judge (county court) has the duty to petition the chancery court (now circuit court under Amendment 80) to obtain an order to correct the error or errors. [See AG Op. #1992-357]

#### ***Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds or money from other county funds to County General to supplement general operations?***

The general answer to the question is “no” – but there are some exceptions to the rule. There is no state law that specifically says you can transfer from General to Road but not vice versa. The law is “unwritten” and is a conclusion of

deductive reasoning using the laws that are written concerning county government accounting practices, Attorney General Opinions, and case law.

The premise is this – the County General Fund is made up of “general” or unrestricted revenues of the county. General revenues of the county can be spent for any legal expenditure of the county. Therefore general funds of the county can be transferred through an appropriated transfer to the Road & Bridge Fund or any other fund of the county where those funds can then be appropriated and spent for whatever purpose the receiving fund is established for.

However, the Road Fund and many other funds on the books of the county are “Special Revenue” funds – which mean they are restricted use funds. They are used to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes. Even general funds of the county that are transferred to a “special revenue” fund take on the persona and expenditure restrictions of that fund. Therefore, “special” or “restricted” revenue funds cannot, as a general rule, be transferred to County General for general purpose expenditures.

The only legal way that Road & Bridge funds (or other special revenue funds) could be transferred to County General would be in the event of an error. Here is an example: A legitimate road expense was inadvertently paid with general fund revenues. Upon discovery of the error a county court order transfer from Road to County General could be made to reimburse the general fund for the legitimate road fund expenditure. The court order should actually be written in such fashion to accomplish a reduction of expenditures in the general fund and an increase of expenditures in the road fund.

As mentioned earlier, there are a few exceptions to the rule. Normally “special revenues” or “restricted funds” are just that – they can be used only for the purposes set out in law. But, in the case of some special revenue funds the law establishing the fund(s) allows for an exception. State law allows an appropriated transfer of funds from a few of the county official special revenue funds to the general fund at the discretion of the official for whom the fund was established. Those exceptions include the:

County Clerk’s Cost Fund [A.C.A. 21-6-413(e)(2)(C)]

County Recorder’s Cost Fund [A.C.A. 21-6-306(c)(2)(B)]

Communications Facility & Equipment Fund [A.C.A. 21-6-307(b)(2)(D)].

***Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?***

As a general rule we think of the duties and responsibilities of the county constitutional officers [county elected officials] being set forth by the Arkansas Constitution and state law as enacted by the state legislature. However, Amendment 55 to the Arkansas Constitution gave some latitude in that area to the quorum court – the legislative body of county government.

Amendment 55, Section 1(a), states that “a county acting through its Quorum Court may exercise local legislative authority not denied by the Constitution or by law.” The enabling legislation of Amendment 55, Act 742 of 1977, sheds quite a bit of light on the question of the authority of a quorum court to add extra duties to an elected official.

Section 69 of Act 742 of 1977, codified as A.C.A. 14-14-801, simply restated Amendment 55, Section 1(a) saying that “county government acting through its county quorum court, may exercise local legislative authority not expressly prohibited by the Arkansas Constitution or by law for the affairs of the county.” There is not a state law or constitutional provision expressly prohibiting a quorum court from prescribing additional duties of elected county officials. Arkansas Code Annotated 14-14-801(b)(10) & (13) go on to say, respectively that the quorum court’s legislative authority includes the power to “provide for any service or performance of any function relating to county affairs;” and to “exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions.”

The authority of a quorum court to add or assign duties to an elected official is more clearly delineated in a couple of other codes – which were also a part of the enabling legislation of Amendment 55. Section 108 of Act 742 of 1977, provisions pertaining to the compensation of elected county officers state that the annual salary includes compensation “for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinances.” And plainly, under A.C.A. 14-14-702(2) [Act 742 of 1977, Section 100] “any function or duty assigned by statute may be reassigned by ordinance.”

How far can a quorum court go in reassigning or adding duties to an elected official? Each case would require consideration of the office and additional duties assigned. There are a couple of things in particular to be concerned about. First, a county quorum court cannot completely reorganize county government by simply reassigning duties. Although Amendment 55, Section 2(b) allows for the reorganization of county government, there is a procedure to follow as set out in Arkansas Code Annotated, Title 14, Chapter 14, and Subchapter 6. Secondly, there would be a limitation based upon the separation of powers doctrine. The Quorum Court is the legislative branch of county government – and as such cannot micro-manage or significantly interfere with executive powers.

***What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?***

When the term “excess commission” is used in the arena of Arkansas county government reference is being made to the amount of commission in excess of the level of commission it takes to cover the expenses of the county collector and county treasurer. For example, if a county collector earns \$250,000.00 in annual commission and the cost for the operation of the office for that year is \$175,000.00 the excess commission is \$75,000.00. The same principal applies concerning the county treasurer.

Until recent years, the term “excess commission” was not found in the Arkansas Code. However, it was dealt with in case law dating back to the early 1900’s and in Attorney General Opinions. Since 1997 the term “excess commission” has been added to four Arkansas codes – three of those additions were made in 2009 and none of them define the term nor do they deal with the calculation or distribution of the excess commissions.

The prevailing authority, for many years, concerning “excess commissions” is Attorney General Opinion No. 78-112 issued during the tenure of Bill Clinton as Arkansas Attorney General. This opinion was based on: (1) case law; and (2) constitutional principal. This is an old AG Opinion – but it has never been refuted or overturned in a court of law.....so it stands as the easily accessible guide concerning “excess commissions” of county treasurers and collectors. It concisely summarizes the case law and constitutional principal by which counties have handled excess commissions for decades.

At least five (5) court cases were cited in AG Op. No. 78-112 as well as Article 16, Section 11 of the Arkansas Constitution which provides that, “No tax shall be levied except in pursuance of the law, and every law imposing a tax shall state distinctly the object of the same; and no moneys arising from a tax levied for one purpose shall be used for any other purpose.” In summarizing the opinion the Attorney General said, “From the foregoing decisions and the cases cited we are of the opinion that the excess commissions over the operating expenses of the collector’s and treasurer’s office should be returned to the taxing units pro rata.” Of course, we know and understand that the Treasurer’s office commissions some accounts that are not taxing units – but nevertheless each account commissioned should get their pro rata share of the excess.

To prorate or pro rata is defined by Black’s Law Dictionary – “to divide or distribute proportionately; according to an exact rate”. In other words, each taxing entity or fund account that is commissioned will receive its share of the excess commission based on that fund’s percentage of the whole commission. Although there is more than one mathematical way to arrive at the correct conclusion – here is an easy way to make the calculation: Total commission earned in accordance with A.C.A. 21-6-302 or A.C.A. 21-6-305 less the actual office expense of the particular office = the Excess Commission. Divide the excess commission amount by the total commission earned (carried to at least 9 places). This factor will be used to multiply against the commission amount charged each entity to calculate each entity’s share of the excess commission.

Now we get down to the question of whose responsibility is it to calculate and distribute the excess commissions. Although you will find it no where in “black letter law” – the same AG Opinion which we have referenced in answering these questions, AG Op. #78-112, says that it is the responsibility of the county treasurer to calculate and distribute the excess commissions. The Attorney General opined, “Since according to Arkansas Statute 84-1401[A.C.A. 21-6-302 - this was prior to the laws being codified and referenced as codes – circa 1987] all funds received by the various county officers including the County Treasurer and County Collector are required to be paid into the treasury, it would appear that the responsibility of returning the excess commissions to the respective units from which they were assessed would inure to the County Treasurer.”

***When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be receipted to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?***

You will find the Unclaimed Property Act codified in Arkansas Law as A.C.A. 18-28-201 through 18-28-230. As you read this code section you will note that after a county (any office or department of county government) submits “unclaimed property” to the State of Arkansas the State tries to find the lawful owner of the property. At least one time each year the State transfers to the treasurer of the reporting county all funds collected from that county that have not been claimed and that have been held for a full three (3) years at the state level [A.C.A. 18-28-213(c)(i)].

The funds received by the county treasurer are to be deposited into the general fund of the county. The county may use the funds for any purpose for which it may use general revenues – which is any legal county expense [A.C.A. 18-28-213(c)(ii)(iii)].

After the State remits the “unclaimed property” from the Unclaimed Property Proceeds Trust Fund to the county, the State is released from any indemnity and the liability of payment to the rightful owner becomes a responsibility of the county. The county receiving the funds must maintain an accounting of the funds in perpetuity, unless payment upon a valid claim is made. If the rightful owner or the owner’s heirs or assigns ever appear and petition the county for the return of the funds, after providing proof of ownership, the county has to pay the rightful owner from the general fund of the county. “Proof of ownership” is defined in the law. The law says that “proof of ownership means a finding by a court of competent jurisdiction that the person petitioning the county is, in fact, the rightful owner, heir or assignee” [A.C.A. 18-28-213(B)(i)(ii)(iii)(iv)].

It is unusual for a claim of ownership to surface after the “unclaimed property” comes back to the county. By then, both the county and state have exercised “due diligence” in trying to find the rightful owner.

Note: The disposition of “unclaimed” or “abandoned” mineral proceeds is handled separately under A.C.A. 18-28-401 through 18-28-403.

All mineral proceeds that are owed by the holder and that have remained unclaimed by the owner for longer than five (5) years after the mineral proceeds became payable are presumed abandoned and are subject to the unclaimed provisions of the Uniform Disposition of Unclaimed Property Act, A.C.A. 18-28-201 et seq., except that funds received by the Auditor of State are deposited in a special trust fund known as the “abandoned Mineral Proceeds Trust Fund” [A.C.A. 18-28-403(a)(1)(A)(B)].

The Abandoned Mineral Proceeds Trust Fund is used by the Auditor of State to pay the claims of persons establishing ownership of any mineral proceeds that are in the possession of the state. At least one (1) time each year, the Auditor of State transfers to the County Aid Fund in the State Treasury all funds in the Abandoned Mineral Proceeds Trust Fund in excess of an amount that the Auditor of State determines to be sufficient to pay the anticipated expenses and claims of the trust fund [A.C.A. 18-28-403(b)].

The funds that are credited to the County Aid Fund are distributed equally among the 75 counties of Arkansas by the Treasurer of State. Upon receipt, the county treasurer credits the funds to the general fund of the county [A.C.A. 18-28-403(c)(1)(2)].

***Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?***

Act 1892 of 2005 amended A.C.A. 26-26-310 to provide that 1% of the certified surplus funds in the State Property Tax Relief Fund would be allocated to the County Assessors for the purpose of administering Arkansas Constitution, Amendment 79. Amendment 79, of course, is the Real Property Tax Relief amendment – currently allowing up to one \$350 homestead credit on an individual’s real estate taxes. A.C.A. 26-26-1122 defines “assessed value” in this instance as “twenty percent (20%) of the appraised value of the real property.”

The pertinent part of Act 1892 of 2005 amended A.C.A. 26-26-310 to calculate 1% of the amount of excess funds in the State Property Tax Relief Trust Fund as of December 31 each year (starting December 31, 2005). Each January, after the calculation is made, each county receives a proportionate share based on the proportions used to reimburse the county for property tax reductions the previous year. These funds are sent to the County Treasurer by the State Treasurer

for “allocation to the County Assessor.” This makes these funds “restricted use” funds. In fact, the law goes on to say that “these funds shall be used by the County Assessor for costs of administering Arkansas Constitution, Amendment 79. These costs include personnel, equipment, services, and postage used in the administration of Arkansas Constitution, Amendment 79.”

Since these are “restricted” or “special revenue” funds, they should be set up in a separate fund on the books of the County Treasurer. These funds are subject to the normal county accounting laws. That means: (1) revenue for the fund should be projected; (2) the funds should be budgeted at no more than 90% of the projected revenue; (3) the funds must be appropriated by the Quorum Court; and (4) the funds must be expended through the normal claims process.

Any fund balance at the end of the year should remain with the fund because the funds are “special revenue” and can be spent only for specific purposes. The funds do NOT inure to County General or any other fund. The carry-over balance will become a part of the projected revenue for the fund for the following year and the process starts all over – project, budget, appropriate and expend.

A “Best Practices” scenario for this funding for the Assessor’s office would include:

- The establishment of a “special revenue” account on the books of the County Treasurer. A good entity title for this account is “Assessor’s Amendment 79 Fund.”
- Appropriate and expend directly from this fund.
- Expenditures from this fund should be restricted to expenditures for the administration of Amendment 79 as outlined in the law to include the costs of “personnel, equipment, services and postage.”
- Any monies not used in any given year should be allowed to accumulate for appropriation and expending in a future year.
- A separate checking account is NOT necessary. These funds can simply be a part of the county’s conglomerated bank balance – but accounted for separately through “fund accounting” just like County General, Road & Bridge, County Recorder’s Cost Fund, County Library, etc.
- DO NOT recoup any expenditure from this fund in the “Final Tax Settlement” [This fund is separate and apart from the general operation of the Tax Assessor’s office which is funded on a pro-rata basis by the taxing entities of the county – so neither should the expenses from this fund be deducted from the general operation expenses of the Assessor’s office when pro-rating expenses during the Final Tax Settlement].

***Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?***

As a general rule the answer to the question is “yes” – personal property taxes should be collected by the collector at the same time real property taxes are collected.

A.C.A. 26-35-601 [Personal property taxes to be collected with real estate taxes] is rather straight forward in subsection (a) in stating that “Each county collector in this state shall be charged with the responsibility of collecting personal property taxes shown to be due by the taxpayer as reflected by the records in the county collector’s office at the time the taxpayer pays the general taxes due on real estate.” In fact, subsection (b) of A.C.A. 26-35-601 imposes a penalty for a collector that willfully accepts payment of general real estate taxes without requiring the payment of personal property taxes due. The law says that the collector, under these circumstances, is deemed guilty of a misdemeanor and, upon conviction, shall be fined.

However, there are some exceptions to the general rule. A.C.A. 26-35-601(c)(1) sets the stage for the exceptions, but first reiterates in even more direct language the intent of the main theme of the law which is “to require the collection of personal property taxes as reflected by the records of the office of the county collector and to prevent a taxpayer from paying and the county collector from receiving payment of general real estate taxes without payment of personal property taxes if any personal property taxes are shown to be due.”

The exceptions to the rule are explained in Subsection (c)(2)-(4) of A.C.A. 26-35-601. They are as follows:

Any person, firm, partnership, or corporation can pay the general real estate taxes on property that is securing the payment of indebtedness due the person, firm, partnership, or corporation. In this type of situation, the lender is allowed to

protect the security of the debt owed to them without paying the personal property taxes of the person who owes the debt. [This exception was a part of the original law.]

A.C.A. 26-35-601(c)(3) addresses the payment of real property taxes at the time of property transfer or conveyance. This exception was made with the passage of Act 994 of 1999 and requires the county collector to accept the payment of real estate property taxes at the time of property transfer as long as the taxpayer transferring title to the property has paid all delinquent personal property taxes. A transferor of property is obligated to pay only delinquent, as opposed to currently due, personal property taxes in conjunction with payment of general real estate taxes upon conveying title to real property. To quote from Attorney General Opinion No. 2000-118 in respect to the transfer of real estate, "On its face, [subsection (c)(3)] absolutely requires the collector to accept payment of general real estate taxes so long as delinquent personal property taxes have been paid. Nothing in the statute authorizes the collector to further demand payment of personal property tax due but not delinquent. Indeed, in my opinion any such demand would directly contravene the statute, which affords the collector no discretion to refuse payment of general real estate taxes when there is no delinquency in personal property taxes."

A purchaser in a foreclosure sale is not responsible for the payment of the personal property taxes required to be paid by A.C.A. 26-35-601(a)(c)(1). This latest exception to the general rule was enacted with the passage of Act 1286 of 2001 which amended A.C.A. 26-35-601 to add subsection (c)(4).

In summary, in accordance with A.C.A. 26-35-601(a), taxpayers must pay their personal property taxes before the collector may accept payment of general real estate taxes with the caveat of the three (3) exceptions listed above.

### ***How do I subscribe to County Lines Magazine?***

County Lines annual subscriptions are available for \$18. County Lines is a quarterly magazine. Interested individuals or organizations are encouraged to contact Christy Smith, County Lines managing editor, at (501) 372-7550 or e-mail her at [csmith@arcounties.org](mailto:csmith@arcounties.org) to start your subscription today!

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Ellen Foote, President

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08/01/2021

## Arkansas Tax Collectors Association State policy regarding Arkansas Disabled Veterans Property Tax Exemption

The Collectors Association is committed to administer all laws equitably across the state, including the Arkansas Disabled Veterans Property tax exemption. Arkansas Code Annotated 26-3-306 does not give specific guidance for the implementation of this law. After many meetings with the legislature and interested parties, the executive board recommends every county follow this consistent policy across the state for the benefit of our disabled veterans.

As tax collectors we want every veteran that is entitled to this benefit to receive the exemption he or she has earned. The determination of eligibility comes from the U.S Department of Veterans Affairs. Each veteran receives a yearly summary of benefits letter, this letter is used by each collector to verify the earned exemption. These determination letters are sent out in January of each year to declare the "current medical" assessment. A 100% total and permanent, loss of limb or blind assessment may change from year to year.

Arkansans pay taxes in arrears. Year 2021 taxes are payable by or on October 15, 2022. This means the collectors will use the 2021 Summary of Benefit letter the veteran receives in January of 2021 as documentation for taxes payable by or on October 15, 2022. The veteran has approximately 22 months to turn in the letter to qualify for the exemption. The current Summary of Benefits letter corresponds to the tax year to be exempted. To qualify for the exemption the Collector must have letter by or on October 15th of the following year.

The tax exemption benefit extends to surviving spouse who remains unmarried and minor dependent children. The U.S. Department of Veterans Affairs continues to send the summary of benefit letter and states this person is in receipt of dependency and indemnity compensation or tax abatement. This documentation verifies the deceased loved ones will continue receiving the tax exemption. The surviving spouse or the dependent is allowed the same amount of time that the veteran would have as mentioned above.

Act 1167 of 2015, codified in Arkansas Code Annotated 26-3-306, requires tax collectors to administer exemptions proration on real estate and personal property based on the date eligibility is established regardless of the date the lien for property taxes attached. The collector's office shall be notified of this change of circumstance. A sample proration schedule is attached to this policy.

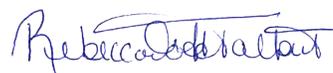
The County Tax Collectors Association Executive Board's goal is that the consistency of these dates will make it easier for all disabled veterans across our state to receive their appropriate tax exemption.

### Executive Board

  
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## Chapter Fifteen - COLLECTOR'S GLOSSARY

These definitions are everyday terms that are used in the operation of the county collector's office. These terms are defined and referenced to the various statutes that describe them.

**Book** - (ACA 26-35-1005) - Either paper or computer storage and retrieval of tax information.

**County Equalization Board** - (ACA 26-27-301 thru 26-27-321) - Composed of qualified electors of the county who are real estate owners, for at least one year, and are familiar with property values who shall equalize the assessed value of all property assessed and subject to taxation.

**Delinquent tax board** - (ACA 14-20-113) - The quorum court in each county shall provide for the collection of delinquent taxes within the county and shall, by ordinance, place responsibility therefor in the office of the county collector or the combined office of sheriff and collector, or may provide for the collection of delinquent taxes by a person designated by a board composed of the county judge, an appropriate representative of the public schools in the county, and the mayor of the county seat or of each county seat in the case of those counties having two (2) county seats. (In any county utilizing the Unit Tax Ledger System, the County Collector may appoint a Delinquent Tax Collector - ACA 26-36-210.)

**District** - any improvement district in Arkansas, including without limitation: Levee, drainage, road, irrigation, watershed, consolidated utility, and river improvement districts. (ACA 14-86-2201).

**Homestead** - includes a dwelling owned by a revocable or irrevocable trust and used as the principal place of residence of the person who formed the trust; and a dwelling owned by an irrevocable trust and used as the principal place of residence of a beneficiary of the trust, as evidenced by submitting a signed, notarized, and file-marked copy of the irrevocable trust to the county assessor. (ACA 26-26-1122).

**Improvement district** - (ACA 14-88-202) - Any council of any city of the first or second class or any incorporated town may assess all real property within such city or town or within any district thereof to pay for any local improvement of a public nature.

**Investment in bonds** - (ACA 26-1-101) - Includes all moneys invested in bonds of whatever kind, or certificates of indebtedness commonly called scrip, whether used (issued) by incorporated or unincorporated companies, towns, cities, townships, counties, states, or other corporations, held by persons residing in this State, either by themselves or by others for them, whether for themselves or as guardians, trustees, or agents.

**Investment in stocks** - (ACA 26-1-101) - Includes all moneys invested in public stocks of this or any other State, or in any association, corporation, joint-stock company or otherwise,

the stock or capital of which is or may be divided into shares, which are transferable by each owner without the consent of the other partners or stockholders, for the taxation of which no special provision is made by this title, held by persons residing in this State, either for themselves or as guardians, trustees or agents, or by others for them.

**Personal property** - (ACA 26-1-101) - A) Every tangible thing being the subject of ownership, whether animate or inanimate, other than money, and not forming a part of any parcel of real property. B) The capital stock, undivided profits, and all other means not forming part of the capital stock of every company whether incorporated or unincorporated, and every share, portion, or interest in the stock, profits, or means, by whatsoever name it may be designated, inclusive of every share or portion, right or interest, either legal or equitable, in and to every ship, vessel, or boat of whatsoever name and description, used or designed to be used exclusively or partially, in navigating any of the waters within or bordering on this State, whether such ship, vessel, or boat shall be within the jurisdiction of this state or elsewhere, and whether it shall have been enrolled, registered or licensed at any county collector's office, or within any county collector's district of this State, or not.

**Real property and lands** - (ACA 26-1-101) - The land itself, whether laid out in town lots or otherwise, with all things therein contained, but also all buildings, structures and improvements, and other fixtures of whatever kind thereon, and all rights and privileges belonging or in anywise appertaining thereto.

**Special assessment** - (ACA 14-86-701) - An assessment levied to pay for the cost of an improvement district.

**Suburban Improvement Districts** - (ACA 14-92-601) - Organized and existing pursuant to § 14-92-201 et seq. with an area of not less than five thousand (5,000) acres and not more than seven thousand (7,000) acres. These districts will be referred to as eligible districts. Applies to taxes collected in 1986 and subsequent years.

**Taxable property** - (ACA 26-3-201) - All property whether real or personal in this state; all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, of persons residing therein; the property of corporations; and the property of all banks or banking companies and of all bankers and brokers.

**Unit Tax Ledger System** - (ACA 26-28-202) - A system of tax accounting that utilizes a ledger account for each unit of real property in the county reflecting a complete tax record for a ten-year period, beginning with the year such system is installed.