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CHAPTER 45.

 COUNTY TREASURERS AND COLLECTION OF TAXES

**SECTION 12‑45‑10.** Appointment, oath and bond of county treasurer.

The Governor shall by and with the advice and consent of the Senate, appoint for each county in the State a county treasurer. Before entering upon the duties of his office he must take and subscribe the oath of office prescribed by the Constitution. The Governor may require from such officer such bond as he may deem necessary, not less, however, than twenty thousand dollars, except as otherwise in this chapter expressly provided.

**SECTION 12‑45‑15.** County treasurers; continuing education requirements.

(A) A county treasurer annually shall complete satisfactorily a minimum of eighteen hours of continuing education courses that the department establishes or causes to be established. Failure to complete satisfactorily these courses in any year results in the treasurer forfeiting one thousand dollars of his state salary supplement for the year as is provided in the annual general appropriations act. The content, cost, and dates of the courses must be determined by the department.

(B) The department, for reasonable cause, may excuse a county treasurer from attending these courses for any year. If excused, the treasurer does not forfeit one thousand dollars of his state salary supplement for that year.

**SECTION 12‑45‑20.** Term of office; failure to complete term.

The county treasurer shall hold office for four years and until his successor is appointed or elected and qualified. His term of office shall commence on the first day of July following his appointment or election. When any treasurer for any reason fails to complete his term of office, his successor shall be appointed initially for the unexpired portion of the term for which his predecessor was appointed.

**SECTION 12‑45‑30.** Suspension and removal from office.

A county treasurer shall be subject to suspension and removal from office by the Governor upon the same grounds and in the same manner as prescribed in Section 12‑39‑30 in relation to county auditors, and all the provisions of said section are made applicable in cases of suspension and removal of county treasurers.

**SECTION 12‑45‑35.** Deputy treasurer.

(A) A county treasurer may appoint an employee in his office to be his deputy. The appointment must be filed with the department and the governing body of that county. When the appointment is filed, the deputy may act for and on behalf of the county treasurer when the treasurer is incapacitated by reason of a physical or mental disability or during a temporary absence.

(B) If there is a vacancy in the office of county treasurer by reason of death, resignation, or disqualification, the appointed deputy shall carry out the duties of the office until a successor is appointed or elected and qualified.

**SECTION 12‑45‑40.** Publication of notice of certain tax rates.

Immediately upon the receipt of the tax duplicate for the year from the county auditor, the county treasurer shall cause a notice to be inserted in one newspaper in his county stating the rate per cent of the levy for State purposes and the rate per cent for all other purposes on the duplicates for the current fiscal year and, if any special levies have been made on the property of the school or other district not affecting an entire county, the total rate of levies shall also be stated in such notice.

**SECTION 12‑45‑60.** Only taxes on duplicates or ordered by auditor shall be collected.

County treasurers are prohibited from collecting any tax except such as has been first entered upon the tax duplicates of their respective counties or upon the order of the auditors of such counties.

**SECTION 12‑45‑70.** Time for paying taxes; manner of collection; receipts for payment; delegation of collection of taxes.

(A) All taxes are due and payable between the thirtieth day of September and the fifteenth day of January after their assessment in each year. The county treasurer, acting under the direction and supervision of the department, shall collect the taxes in the manner prescribed by law and give receipts for them to the persons paying them. In the receipts and tax notices the real estate paid on must be briefly described including tax map number and an identifiable description. The value and a description of the personal property paid on must be stated, together with the time the taxes are paid, the amount paid, and the township in which the property is located.

(B) The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in a county may delegate the collection of the property taxes to a bank or a banking institution, if the institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. The institution must remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12‑37‑2650, must contain the name and office of the treasurer or tax collector of the county and the name of the banking institution to which payment was made.

(C) The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the Department of Public Safety. Each institution shall certify to the Department of Public Safety that the taxes have been paid, and the Department of Public Safety may accept certification instead of the tax receipt given to the taxpayer if that certification contains the information required in Section 12‑37‑2650.

**SECTION 12‑45‑75.** Installment payments of property tax.

(A)(1) The governing body of a county may by ordinance allow each taxpayer owning a parcel of taxable real property within the county the option to pay property taxes in installments as provided in this section. An installment election is not allowed for taxes paid through an escrow account.

(2) A taxpayer electing to pay ad valorem taxes in installments or electing to opt out of paying in installments, must notify the county treasurer in writing no later than January fifteenth of the tax year for which the installment payments are applicable, and no earlier than December first of the preceding tax year. If the treasurer does not receive written notification from December first to January fifteenth, the taxpayer must pay ad valorem taxes in the same manner as the previous taxable year.

(3) The treasurer must notify the county auditor and county assessor of each taxpayer electing the installment payment option or electing to opt out of paying in installments. If the county assessor determines the property has diminished in value, an estimated property tax obligation must be adjusted to reflect the reduced value. Upon being notified of an adjustment for reduced value from the assessor, the county treasurer must notify the property owner of the adjusted estimated property tax obligation.

(B) An installment payment is based on the total property tax due for the previous property tax year, after applying all applicable credits and adjustments reflecting reduced value as determined by the county assessor. An amount equal to sixteen and two‑thirds percent of the estimated property tax obligation must be paid to the county treasurer in each of five installments according to the following schedule:

In the case of the following estimates, the due date is on or before:

 First February 15

 Second April 15

 Third June 15

 Fourth August 15

 Fifth October 15

The remaining balance is due on or before January fifteenth of the following taxable year in accordance with Section 12‑45‑70. The treasurer must notify the county auditor of the amount of a property owner’s payments received no earlier than October fifteenth and no later than November fifteenth. A notice of the remaining tax due and other authorized charges and information must then be prepared and mailed to the property owner.

(C) If a taxpayer electing to pay in installments does not timely make each payment pursuant to the schedule in subsection (B), the county may refuse to accept all other installment payments. If the county refuses to accept other installment payments, the remaining balance is due in accordance with Section 12‑45‑70.

(D) Estimated property taxes paid in installments during a property tax year are a credit against the total property tax due on the real property for the property tax year. The estimated property taxes paid in installments during a property tax year must be deposited by the county treasurer in an interest bearing account. The interest is to be retained by the treasurer to offset the administrative expenses of installment payments. Once final payment is made, and no later than January fifteenth of the following taxable year, the installment payments must be credited to the accounts of property taxing entities in the county in the same proportion that millage was imposed by such entities in the previous tax year with the necessary adjustments made to reflect current tax year millage impositions when property taxes for the current year are paid.

(E) If the credit allowed for estimated property tax paid during the property tax year results in an overpayment of property tax, the overpayment must be refunded to the taxpayer together with the actual interest earned by the county treasurer, running from the later of the due date of the installment resulting in the overpayment, without regard to additional amounts paid, or the actual date the overpayment was received by the county treasurer, to the date the refund is issued. Except that if the overpayment is issued to the taxpayer within forty‑five days of the installment payment that resulted in the overpayment, the treasurer may retain the interest earned.

(F) Every tax notice for real property, for which the installment payment option has been elected, must contain a calculation of any estimated property tax due and a payment schedule and return envelopes for these payments.

(G) The payment of estimated property tax as provided in this section and the credit allowed arising from these payments in no way alters the due date, penalty schedule, and enforced collection of property taxes as provided by law.

**SECTION 12‑45‑78.** Refund of overpayments.

If a homestead exemption is granted pursuant to Section 12‑37‑250 or a residential classification is made pursuant to Section 12‑43‑220(c) after payment of the property tax for that year, a resulting overpayment must be refunded to the owner of record at the time the exemption is granted or the classification is made.

**SECTION 12‑45‑80.** County treasurer may attend at convenient places to collect tax.

The county treasurers of the respective counties may attend at certain safe and convenient places for the purpose of collecting taxes. They shall give twenty days’ public notice of the days when they will be at the places designated.

**SECTION 12‑45‑90.** Media of payment.

Taxes are payable in the following kinds of funds and no other: silver coin, United States currency, United States postal money orders, and checks subject to collection. A third‑party administrator may be used for the collection of taxes through electronic media if there is no cost borne by the county. Other media of payment may be accepted as payment for taxes upon approval of the governing body, and if costs are incurred by the county in the acceptance of a payment media, approval of the county governing body must be obtained. Electronic or other media of payment are subject to collection, and in the absence of an agreement among the taxing entities to share the costs of collection of property taxes, costs must be apportioned among the taxing entities on a pro rata basis. The county governing body may impose a uniform surcharge as a condition of acceptance of a particular medium of payment, not to exceed the cost of accepting charge cards, debit cards, or electronic forms of payment including discount or merchant fees. Jury certificates and per diem of witnesses in the circuit court and all county claims which have been approved and certificates issued by the governing body of the county are receivable for taxes due the county in which the services were rendered or the claims approved, not including school taxes.

**SECTION 12‑45‑115.** Institution of collection proceedings when check for payment of taxes or fees is returned unpaid.

If an uncertified check is accepted by a county treasurer as payment for taxes or fees and the check is returned to the county treasurer unpaid for any cause, the county treasurer may institute proceedings pursuant to Section 34‑11‑70 to collect on the check, including all applicable service charges or fees.

**SECTION 12‑45‑120.** Procedure in case of delinquent chattel tax where taxpayer resides or has property in another county.

If, after the return of any chattel tax by any county treasurer as delinquent, the county treasurer shall know or be informed that the person against whom it is charged resides in some other county in this State or has property or debts due him therein, he shall make out and forward to the treasurer of such other county a certified statement of the name of the person against whom such taxes are charged, the value of the property on which such taxes were levied, the amount of the taxes and penalties assessed thereon and that they are delinquent, and to the aggregate of such taxes and penalties he shall add twenty‑five per cent as collection fees. Upon the receipt of such certificate the treasurer of such other county shall collect such delinquent taxes and penalties, with the twenty‑five per cent collection fees as provided in this section, for which purpose he shall have all rights, powers and remedies conferred upon the treasurer of the county in which such taxes were assessed and be allowed the same fees for distraint and sale of property as if such taxes had been levied in his own county and, upon collection made, may retain one half of such twenty‑five per cent collection fees, and shall transmit the balance collected by him to the treasurer of the county from whom he received such certified statement by mail. But if the treasurer to whom any such statement is sent cannot collect the amount therein named, or any part thereof, he shall return such duplicate, so endorsed, with reasons for such noncollection.

**SECTION 12‑45‑140.** Apportionment of taxes and costs in case of transfer subsequent to assessment.

When the title or an interest in real or personal property, or any part thereof, shall have become transferred to or vested in any person not the owner at the time such property was assessed for taxation, the county auditor, upon the application at any time prior to sale under tax execution of the person acquiring such title or interest subsequent to assessment, shall apportion the share of taxes and costs due by the original owner upon that portion of or interest in the property acquired subsequent to assessment by the person so applying, and thereupon the county treasurer, county sheriff, county tax collector, town or city tax collector or any officer charged with the collection of taxes shall accept from the person so applying the proportionate share of taxes and costs upon such part of or interest so acquired since assessment as estimated by the auditor and give receipt therefor, which shall discharge such portion or interest from the taxes and costs so assessed.

**SECTION 12‑45‑150.** Apportionment, prior to sale under tax execution, in case of mortgaged property.

Upon application at any time prior to sale under tax execution of any person holding a mortgage upon any real or personal property which is assessed for taxation the county auditor shall apportion the share of taxes and costs due by the owner thereof upon that portion of or interest in the property mortgaged, and thereupon the county treasurer, county sheriff, county tax collector, town or city tax collector or any officer charged with the collection of taxes shall receive from the mortgagee the proportionate share of the taxes and costs upon such portion or interest mortgaged as estimated by the county auditor and give receipt therefor, which shall discharge such portion or interest mortgaged from all taxes and costs assessed against the owner.

**SECTION 12‑45‑160.** Procedure in apportionment cases.

The rights granted by Sections 12‑45‑140 and 12‑45‑150 shall exist after property has been advertised for sale under tax execution if the applicant shall also pay the prorata cost of the advertisement and in any such case the sale shall continue as to the remaining property. When the segregation and payment of taxes as segregated are made after the tax has gone into execution and before advertisement, the officer charged with the enforcement of the execution shall return it to the treasurer or officer issuing it and thereupon the treasurer or other officer shall receive the old execution and give credit for the entire amount of the taxes represented thereby and shall issue a new execution against the property specified in the old execution upon which the tax has not been paid and charge the sheriff or other officer charged with the enforcement thereof with the amount of the new execution, which shall be the unpaid portion of the old execution, and no additional costs shall be allowed by reason of the issuance of the new execution.

**SECTION 12‑45‑170.** Apportionment applies to municipal taxes.

Whenever any property shall be discharged in the manner provided in Sections 12‑45‑140 or 12‑45‑150 from taxes assessed against it, it shall likewise, upon payment of a like proportionate share of any taxes assessed by any city or town, be discharged from all municipal taxes assessed against it.

**SECTION 12‑45‑180.** Penalties on delinquent taxes; collection; execution.

(A) When the taxes and assessments or any portion of the taxes and assessments charged against any property or person on the duplicate for the current fiscal year are not paid before the sixteenth day of January or thirty days after the mailing of tax notices, whichever occurs later, the county auditor shall add a penalty of three percent on the county duplicate and the county treasurer shall collect the penalty. If the taxes, assessments, and penalty are not paid before the second day of the next February, an additional penalty of seven percent must be added by the county auditor on the county duplicate and collected by the county treasurer. If the taxes, assessments, and penalties are not paid before the seventeenth day of the next March, an additional penalty of five percent must be added by the county auditor on the county duplicate and collected by the county treasurer. If the taxes, assessments, and penalties are not paid before the seventeenth day of March, the county treasurer shall issue his tax execution to the officer authorized and directed to collect delinquent taxes, assessments, penalties, and costs for their collection as provided in Chapter 51 of this title and they must be collected as required by that chapter. The United States postmark is the determining date for mailed payments. If the county treasurer determines by proper evidence that the mailing of a tax payment was improperly postmarked, and this error results in the imposition of a penalty provided in this subsection, then the penalty imposed may be waived by the county treasurer.

(B) If title to real property is transferred during a tax year and the records of the county indicate that the tax notice was mailed or otherwise forwarded to the prior owner and the current owner received no timely notice of the tax due on the property, the treasurer shall waive any penalties imposed pursuant to subsection (A) of this section.

**SECTION 12‑45‑185.** Waiver of penalties.

Notwithstanding the provisions of Section 12‑45‑180, the county treasurer may waive the penalties imposed pursuant to that section if the taxpayer provides clear and convincing evidence to the county treasurer that the taxpayer delivered the timely payment to the United States mail or that the taxpayer otherwise timely delivered or caused to be delivered the payment. The request for waiver must be in the form of an application in writing to the county treasurer that includes documentation sufficient for the treasurer to conclude that the taxpayer made timely payment of the taxes. Waiving penalties is within the sole discretion of the county treasurer and the treasurer’s denial of a waiver is not subject to appeal.

**SECTION 12‑45‑220.** Investments by county treasurers.

(A) A county treasurer may invest or reinvest any sum of money not necessary for current expenses in:

(1) obligations of the United States and its agencies;

(2) general obligations of this State or any of its political subdivisions;

(3) savings and loan associations if their deposits are insured by an agency of the federal government;

(4) certificates of deposit where the certificates are collaterally secured by securities of type described in items (1) and (2) of this subsection held by the third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but the collateral is not required to the extent the certificates of deposit are insured by an agency of the federal government; or

(5) no load open‑end or closed‑end management type investment companies or investment trusts registered under the Investment Company Act of 1940, as amended, where the investment is made by a bank or trust company or savings and loan association or other financial institution when acting as trustee or agent for a bond or other debt issue of that county treasurer, if the particular portfolio of the investment company or investment trust in which the investment is (i) limited to obligations described in items (1) and (2) of this subsection, and (ii) have among its objectives the attempt to maintain a constant net asset value of one dollar a share and to that end, value its assets by the amortized cost method. The portfolio may also consist of repurchase agreements when collateralized by obligations described in items (1) and (2) of this subsection.

(B) The governing body may delegate the investment authority provided above to the county treasurer who shall assume full responsibility for the investment transactions until the delegation of authority terminates or is revoked.

(C) The State Treasurer may assist local governments in investing funds that are temporarily in excess of operating needs.

(D) All interest and other earnings, when collected, must be added to the fund and paid out as other funds of the same sort are paid.

**SECTION 12‑45‑260.** Monthly report to county supervisor.

The county treasurer shall, on the fifteenth day of each month, report to the chief administrative officer of the county the amount of funds received for and on account of the county and the character of the funds.

**SECTION 12‑45‑280.** Monthly report to county superintendent of education; books shall be open to public; violations.

The county treasurer shall on the fifteenth day of each month report to the chief executive officer of each school district an itemized statement of the amount of receipts and disbursements, by school districts, made by him for the previous calendar month and the balance remaining in his hands to the credit of each school district from each fund. His books must at all times be open to public inspection at all reasonable hours. Any county treasurer failing or refusing to comply with these provisions is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars, to be used for general school purposes in the county.

**SECTION 12‑45‑300.** Delinquent list; entry information; charge to treasurer.

The auditor shall take from the duplicate previously provided to the treasurer for collection a list of all taxes, assessments, and penalties the treasurer has been unable to collect, describing the property as described on the duplicate, and shall note on it in a marginal column the reasons assigned by the treasurer why the taxes or other charges could not be collected. This list is the delinquent list and must be signed and sworn to by the treasurer before the auditor, who shall record it in a book to be provided for the purpose. In making this list, the delinquencies in each taxing entity must be stated separately. After deducting the amount of taxes, assessments, and penalties returned delinquent, the treasurer shall stand charged with the remainder of the taxes, assessments, and penalties charged on the duplicate.

**SECTION 12‑45‑390.** Procedure for levy, collection and distribution of property taxes in territory annexed by one county from another.

When an area of a county is annexed to another county, property taxes shall be levied based upon the last assessment of property values and levied according to the millage of the annexing county and shall be prorated between the two counties for the taxable year.

Any delinquent taxes on property in the area annexed shall be executed upon by the annexing county and the actual amount of the tax due and the amount of the penalties due at the time of annexation, upon collection, shall be paid to the county from which the area was annexed. All costs of execution and collection shall be deducted and retained by the annexing county.

If the sale of property for payment of delinquent taxes is necessary, the sale shall be held in the annexing county in the same manner as all other such sales are held.

**SECTION 12‑45‑400.** Delegation of duty to seize property of defaulting taxpayer.

When a county treasurer or tax collector is charged by law with the collection of delinquent taxes, the county treasurer or tax collector may delegate in writing to the deputy county treasurer, to the deputy tax collector, or to the county sheriff the duty and responsibility to seize and take possession of so much of the property of a defaulting taxpayer as may be necessary to secure payment of the taxes. Upon this written delegation the officer shall proceed to seize and take possession of the property. The treasurer or tax collector thereafter shall proceed to advertise and sell the property as provided by law.

**SECTION 12‑45‑410.** Application of payments by delinquent taxpayers.

Any taxes paid by a delinquent taxpayer to a county treasurer or tax collector must be applied to the oldest chronological delinquency on the property for which payment was intended. Personal property taxes tendered must be applied to personal property tax delinquencies and real property taxes tendered must be applied to real property tax delinquencies.

**SECTION 12‑45‑420.** Waiver, dismissal or reduction of penalty based on error by county.

Notwithstanding another provision of law, a committee composed of the county auditor, county treasurer, and county assessor may waive, dismiss, or reduce a penalty levied against real or personal property in the case of an error by the county.

**SECTION 12‑45‑430.** Issuance of tax receipt; conditions; acceptance of lesser amount.

A county treasurer may not issue a tax receipt to a taxpayer unless the taxes, any applicable penalties and costs, and all other charges included on the tax bill have been paid in full. However, a county treasurer may accept a lesser amount than the original tax bill together with any applicable penalties, costs, and charges whenever a bankruptcy proceeding authorizes a lesser amount to be paid. The auditor, as authorized by county council, may prepare a tax bill to authorize negotiated taxes as a result of a bankruptcy.